

METROPOLITAN AREA PLANNING COMMISSION

**MINUTES
June 18, 2009**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, June 18, 2009, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Darrell Downing, Chair; G. Nelson Van Fleet, Vice Chair; David Dennis; Shawn Farney; David Foster; Bud Hentzen; Hoyt Hillman; Bill Johnson; Ronald Marnell; Don Sherman, Debra Miller Stevens and M.S. Mitchell. Don Anderson and John W. McKay Jr. were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Derrick Slocum, Associate Planner; Bob Parnacott, County Counselor and Maryann Crockett, Recording Secretary.

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1. Approval of the June 4, 2009 MAPC meeting minutes.

MOTION: To approve the June 4, 2009 Minutes as corrected.

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

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB 2009-41: One-Step Final Plat -- BRAUM 1ST ADDITION**, located north of Douglas and on the west side of Seneca.

NOTE: This is a replat of Martinson's 2nd Addition and Joe's Addition. The replat includes the vacation of an unimproved alley.

STAFF COMMENTS:

- A. City of Wichita Water Utilities Department advises that water and sewer services are available.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Engineering requests revisions to the applicant's drainage plan.
- D. Traffic Engineering has approved the access controls. As denoted on the site plan, the plat proposes two openings along Seneca.
- E. The applicant shall guarantee the closure of driveway openings located along Dodge and 1st Street. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- F. Traffic Engineering has requested a 10-foot sidewalk and utility easement along Seneca adjoining the 40-foot right-of-way.
- G. GIS has requested First Street be labeled as "1st St." "Avenue" and "Street" shall be labeled as "Ave" and "St."

- H. The MAPC signature block needs to reference “John L. Schlegel, Secretary.”
- I. The Register of Deeds signature block needs revised to provide a space for the time of day of the plat being recorded.
- J. The Subdivision Committee has required a 5-foot landscape buffer included on the site plan.
- K. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant’s responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Westar Energy has advised that any reconstruction or relocation of existing facilities will be at the applicant’s expense. Black Hills Corporation has requested an additional easement for relocation of the gas line.
- T. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD should be provided. If a disc is not provided, please send the information via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

CHAIRMAN DOWNING said Planning Staff reported that the Storm Water Engineer has approved the drainage plan.

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

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

3. PUBLIC HEARING – VACATION ITEMS

3-1. VAC2009-18: City request to vacate a platted utility-drainage easement.

OWNER/APPLICANT: Palladio Developers, Inc., c/o Gene Vitarelli

AGENT: Ruggles and Bohm PA c/o Chris Bohm

LEGAL DESCRIPTION: The platted 20-foot drainage & utility easements located evenly on both sides of the common, interior, side yard lot lines of Lots 42 & 43, Block 3, and Lots 2 & 3, Block 5, all in the Sierra Hills 2nd Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located midway between 143rd and 127th Streets East, north of Pawnee Avenue, south of Mount Vernon Street, on both sides of Ironstone Street. (WCC #II)

REASON FOR REQUEST: Relocate easements for more room to build

CURRENT ZONING: Subject properties, abutting/adjacent southern, western and northern properties are zoned SF-5 Single-family Residential (“SF-5”). Abutting property located east of the subject properties is zoned SF-20 Single-family Residential (“SF-20”).

The applicant is requesting consideration for the vacation of the described platted drainage & utility easements. The applicant proposes to relocate the 20-foot drainage & utility easements, along the common interior side yard lot lines of larger lots located south of the subject properties. The applicant has provided dedication by separate instrument of the relocated easements; see exhibit. There are no utilities, manholes, sewer or water lines located in the described platted easements. The Sierra Hills 2nd Addition was recorded with the Register of Deeds June 10, 2008.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time May 28, 2009, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the described platted drainage & utility easements and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner, the prayer of the petition ought to be granted.

Considerations (but not limited to) associated with the request to vacate the described platted drainage & utility easements have been identified, therefore, the vacation of the platted drainage & utility easements described in the petition should be approved with conditions:

- (1) Provide Staff with all required additional easement(s) (with original signatures) dedicated by separate instrument, as needed and approved by Public Works; the applicant has provided. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
- (2) Provide Planning staff with the legal description of the vacated easements on a Word document, via e-mail, to be used on the Vacation Petition and the Vacation Order.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide Staff with all required additional easement(s) (with original signatures) dedicated by separate instrument, as needed and approved by Public Works; the applicant has provided. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
- (2) Provide Planning staff with the legal description of the vacated easements on a Word document, via e-mail, to be used on the Vacation Petition and the Vacation Order.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

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

3-2. VAC2009-19: City request to vacate a platted easement

- OWNER/APPLICANT:** Genesis Health Club Man., LLC
- AGENT:** Ferris Consulting, c/o Greg Ferris
- LEGAL DESCRIPTION:** The platted 20-foot utility easement, evenly located along the common lot lines of Lots 1, 3, 4, & 5, all in the Tyler Acres 6th Addition, Wichita, Sedgwick County, Kansas.
- LOCATION:** Generally located east of Tyler Road, north of Central Avenue, on the east side of Socora Street (WCC #V)
- REASON FOR REQUEST:** Expansion of building
- CURRENT ZONING:** The subject properties are zoned GO General Office (“GO”) and SF-5 Single-family Residential (“SF-5”). The site is part of DP-11. Adjacent and abutting properties are zoned SF-5 and GO.

The applicant proposes to vacate the described platted utility easement. There are no utilities, manholes, sewer or water lines in the described utility easement. There is a sewer line that runs (south – north) along the west portion of the described easement; retain the west 10 feet of the described 20-foot wide utility easement. The Tyler Acres 6th Addition was recorded with the Register of Deeds July 5, 1983.

NOTE: This request is associated with ZON2009-19, SF-5 to GO, and CUP2009-13, expansion of DP-11, to take in the SF-5 zoned Lots 3, 4, & 5, all in the Tyler Acres 6th Addition (VAC2009-19 subject properties).

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time May 28, 2009, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the described platted utility easement and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Provide Staff with all required additional easement(s) (with original signatures) dedicated by separate instrument, as needed and approved by Public Works/Water & Sewer/Storm Water. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.

- (2) Provide Planning staff with the approved legal description of the vacated easement on a Word document, via e-mail, to be used on the Vacation Petition and the Vacation Order.
- (3) Retain the west 10 feet of the platted 20-foot wide, located along the west 10 feet of Lots 1 & 3, Tyler Acres 6th Addition.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. If necessary provide franchised utilities with any needed plans for review for location of utilities and retain the easement(s) until utilities are relocated. Provided any needed guarantees for relocation of utilities.
- (5) All improvements shall be according to City Standards and at the applicants' expense.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide Staff with all required additional easement(s) (with original signatures) dedicated by separate instrument, as needed and approved by Public Works/Water & Sewer/Storm Water. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
- (2) Provide Planning staff with the approved legal description of the vacated easement on a Word document, via e-mail, to be used on the Vacation Petition and the Vacation Order.
- (3) Retain the west 10 feet of the platted 20-foot wide, located along the west 10 feet of Lots 1 & 3, Tyler Acres 6th Addition.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. If necessary provide franchised utilities with any needed plans for review for location of utilities and retain the easement(s) until utilities are relocated. Provided any needed guarantees for relocation of utilities.
- (5) All improvements shall be according to City Standards and at the applicants' expense.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

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

PUBLIC HEARINGS

4. **Case No.: ZON2009-16** - Stephanie Myers (applicant)/Shawnel Drouhard (owner) Request County zone change from RR Rural Residential to LC Limited Commercial with a PO Protective Overlay on property described as:

A Tract in the West 40 Acres of the south 120 acres of the Southwest Quarter of Section Thirty-three (33), Township Twenty-eight (28), Range Two (2) West of the 6th P.M., Sedgwick County, Kansas, described as beginning at a point on the west line of the Southwest Quarter at the intersection of the west line of State Highway K-42 with said section line; thence north 296 feet; thence east 296 feet more or less, to the west line of said K-42; thence southwesterly along said highway to the point of beginning; EXCEPT the west 40 feet thereof for road; generally located on the northeast corner of 183rd Street West. and K-42.

BACKGROUND: The applicant requests a zone change from RR Rural Residential (“RR”) to LC Limited Commercial (“LC”), with a Protective Overlay (PO). The approximately 0.73-acre, triangular shaped tract is located on the northeast corner of 183rd Street West and State Highway K-42. The site has an old gas station – store building on it (built 1942), with an attached two-story residence. The applicant proposes to use the site for a flea market, which will be opened Friday - Sunday. The applicant lives on the site.

The surrounding area is zoned RR, and is rural in character. Surrounding property is mostly used for wheat and agricultural fields. Located within a ¼ - mile of the subject site there are a few farmhouses or large tract single-family residences (1930 - 1960s), a small manufactured home park, the Clonmell Coop - grain elevator (next to railroad tracks, located southwest of the site), and Diocese property developed with a church (1991), rectory, parish hall and a small cemetery. One of the houses in the area has a Conditional Use, CU-398, for the sale of agricultural trailers.

CASE HISTORY: The subject site is a RR zoned, unplatted, 0.73-acre tract of land. No case history was found, but the site plan prepared by the applicant does show the location of the gas station’s pump islands and underground gas storage tanks. Local oral history (some provided by the current owner) indicates that a “mom and pop” convenience store with, at times, a small kitchen was also part of the gas station. As shown on Geozone, the old gas station – store building appears to have been built in 1942. There is a two-story residence built onto the gas station – store building. The gas station – store building was built prior to the enactment, in 1985, of county-wide zoning. According to the current owner, the gas station – convenience store stopped operating in the late 1990s.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Agricultural fields, single-family residences, manufactured home park, sale of agricultural trailers
SOUTH:	RR	Single family residence, Coop - grain elevator, agricultural fields
EAST:	RR	Agricultural fields
WEST:	SF-5	Agricultural fields, church, rectory, parish hall, small cemetery

PUBLIC SERVICES: The subject site has frontage/access to 183rd Street West and K-42. 183rd is a paved, two-lane county highway. This portion of 183rd requires 50 feet of ½-street right-of-way (ROW); the site’s frontage is 40 feet. K-42 is a paved, two-lane, state Highway; K-DOT is not asking for additional ROW, nor are they asking for the entrance onto K-42 to be closed, as long as it remains in its current place. The *2030 Transportation Plan* indicates no change to the status of either of these roads. There are no traffic counts available. Municipal water and sewer services are not available to the subject site. The site’s water service is provided by Rural Water District #4. The site has a septic system, which does not meet current County standards for commercial development.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the *Wichita-Sedgwick County Comprehensive Plan* identifies this area as “rural.” The rural classification is outside of any city’s growth area and is intended to accommodate agricultural uses, rural based uses that

are no more offensive than those agricultural uses commonly found in Sedgwick County and predominately large lot residential development. The site was a gas station - convenience store with, at times, a small kitchen until the 1990s. Neither a gas station nor a convenience store with a small kitchen is a permitted use in the RR zoning district. Because the site has not been used for commercial uses since the 1990s, and it was replaced with a less intensive use (single-family residential) it has lost its legal nonconforming use status, thus the requested zone change, per UZC Art.VII, Sec.VII-A-G.

The requested LC zoning fits into the Land Use Guide's "Local Commercial" category. The "Local Commercial" category includes commercial, office and personal service uses that do not have a regional draw. The proposed flea market/second hand store with a PO fits that type of use. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The site is located on the intersection of two arterials. The proposed PO addresses these considerations by eliminating some of the LC zoning district's use which would be more intrusive to the area. The PO also recognizes that the current septic system does not meet current County standards, and cannot, unless the applicant/owner acquires additional land needed to install a system that meets current code.

RECOMMENDATION: The requested LC zoning does not conform to the 2030 Wichita Functional Land Use Guide of the Comprehensive Plan. The history of the site seems to confirm that it was a gas station - convenience store with, at times, a small kitchen from the 1940s to the 1990s. This also means the gas station - convenience store was in operation prior to the enactment, in 1985, of county-wide zoning. The RR zoning district does not permit either a gas station, convenience store, or a restaurant. Until the gas station - convenience store stopped operating and was replaced as a single-family residence the site had legal nonconforming status. The site's location at the intersection 183rd Street West and K-42 does meet the locational criteria for a commercial site and the proposed PO attempts to address potential negative impact on the neighbors. The small size of the site prevents it from having a sewer system that conforms to County standards for commercial use, thus the limited days of operation. In fact the site's size is too small for a residential sewer system, per current County standards. The applicant has been advised of all these considerations and their impact on potential use on the site. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following provisions of a Protective Overlay:

- A. The building shall be used as a flea market/second hand store, operating Friday, Saturday and Sunday. Outside display will be per the LC zoning district. When the sewer system is rebuilt to meet current County Standards for commercial development, those uses permitted in the LC zoning district shall be allowed on the site full time, with the exception of the uses listed below as prohibited.
- B. The following uses shall be prohibited: sexual orientated business; correctional placement residence; recycling collection station; reverse vending machine; night club in the county; recreation and entertainment, indoor and outdoor; tavern and drinking establishment and pawn shop.
- C. No off-site or portable signs shall be permitted on the subject property. No building signs shall be permitted along the north or east face of any building that is adjacent to any property that is zoned residential.
- D. Signs shall be as permitted by the LC zoning district, with the exception of no LED signs.
- E. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any abutting or adjacent properties that are in a residential zoning district. Light poles shall be limited to a maximum height, including the base of the light pole, of 15 feet. Light poles shall not be located within any setbacks.
- F. Outdoor speakers and sound amplification systems shall not be permitted.
- G. At the time of redevelopment no buildings shall exceed one story in height with a maximum building height of 35 feet.
- H. At the time the site is redeveloped the owner shall install and/or maintain a 6-8-foot high cedar fence located parallel to the north property line of the subject site, where it abuts existing residential zoning.

- I. Surface for parking and for entrances shall be per County Standards. Entrances shall remain in their current locations.
- J. Contingent dedication of 10-foot of right-of-way along the site's 183rd Street frontage.
- K. Adjustments or variances to the parking standards can be considered as needed.
- L. All State, County and any other applicable permits, inspections and standards shall be met.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is zoned RR, and is rural in character. Surrounding development is mostly wheat and agricultural fields. Located within a ¼ - mile of the subject site there are few farmhouses or large tract single-family residences (1930 - 1960s), a small manufactured home park, the Clonmell Coop - grain elevator (next to railroad tracks, located southwest of the site), and Diocese property developed with a church (1991), rectory, parish hall and a small cemetery. One of the houses in the area has a Conditional Use, CU-398, for the sale of agricultural trailers.
2. The suitability of the subject property for the uses to which it has been restricted: The site's RR zoning permits agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County and predominately large lot residential development. The site's size, 0.73-acres, is not large enough to meet the current county's standards for sewer, either for a septic, 2-acres, or a lagoon, 4.5-acres, which is what most residences have in this area. The site's small, odd size, its exposed location on the intersection and the old gas station - convenience store building on it make it less attractive for residential use. For long term vitality of the site for either residential or nonresidential use it must get larger.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Allowing the site to operate as a part time flea market/second hand store will have a minimum negative impact on the area. If the time comes when enough land is acquired to allow the site to operate full time with the PO's permitted uses, the site could resume supporting commercial activities that were once part of the area.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identifies this area as "rural." The rural classification is outside of any city's growth area, and is intended to accommodate agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County and predominately large lot residential development. The site was a gas station - convenience store with, at times, a small kitchen until the 1990s. Neither a gas station nor a convenience store with a small kitchen is a permitted use in the RR zoning district. Because the site has not been used for commercial uses since the 1990s and it was replaced with a less intensive use (single-family residential) it has lost its legal nonconforming use status, per Art. VII, Sec. VII-A-G, thus the requested zone change.

The requested LC zoning fits into the Land Use Guide's "Local Commercial" category. The "Local Commercial" category includes commercial, office and personal service uses that do not have a regional draw. The proposed flea market/second hand store with a PO fits that type of use. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The site is located on the intersection of two arterials. The proposed PO addresses these considerations by eliminating some of the LC zoning district's use which would be more intrusive to the area. The PO also recognizes that the current septic system does not meet current County standards and cannot unless the applicant/owner was to acquire the needed additional land to install the appropriate sewer system.

5. Impact of the proposed development on community facilities: Detrimental impacts on

community facilities should be minimal.

FOSTER asked about the need to have the site platted now.

LONGNECKER responded that platting and any dedications would make the site even smaller. He said the applicant had contacted KDOT, and they indicated that they do not need any right-of-way. He said there is a contingent dedication along 183rd Street to be used at the time the County needs it, which is not now. He said the parcel is not large enough for sewer for either residential or commercial development, per the current standards. Platting would happen when the applicant acquired more land on their north side.

FARNEY referred to the underground storage tanks at the site.

LONGNECKER said the applicant knows that they will have to get with the State to find out about having the tanks removed prior to opening for operation.

MOTION: To approve subject to staff recommendation.

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

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5. **Case No.: ZON2009-18** – CBB Northlakes, LLC (Attn: Kurt and Brad Bachman) Owner(s); MKEC Engineering, c/o Brian Lindebak (agent) Request City zone change from SF-5 Single-family Residential to GO General Office and MF-18 Multi-family Residential with a PO Protective Overlay on property described as:

An unplatted tract of land lying in the East Half Quarter, Section 24, Township 26 South, Range 1 West, of the 6th Principal Meridian, Wichita, Sedgwick County, Kansas; said tract being more particularly described as follows:

BEGINNING at a point on the east line of Lot 1, Block 1, The Moorings Tenth Addition, an addition to Wichita, Sedgwick County, Kansas, lying 110.00 feet north of the Southeast corner thereof; thence along said east line on a platted bearing of N01°36'24"W, 45.00 feet; thence along the easterly line of said Block 1, for the next four courses, N29°18'36"E, 360.06 feet; thence N00°46'02"W, 352.85 feet; thence N48°33'38"W, 428.14 feet; thence N41°26'22"E, 415.48 feet to the south line of a Drainage Dedication recorded Doc.#/FLM-PG: 28868254, being a point on a non-tangent curve to the left; thence along the said curve and said Drainage Dedication, 630.03 feet, said curve having a central angle of 28°35'23", a radius of 1262.63 feet, and a long chord distance of 623.52 feet, bearing S67°32'47"E; thence S00°46'02"E, 1048.50 feet to a point 110.00 feet north of the north right-of-way line of Keywest Street; thence parallel with and 110.00 feet north of said north right-of-way, S88°23'36"W, 714.87 feet to the POINT OF BEGINNING; generally located south of 53rd Street North, west of Meridian Avenue, between 51st Street North and Keywest Street.

BACKGROUND: The applicant proposes to rezone approximately 17.10 acres located approximately one-quarter mile south of the intersection of 53rd Street North and North Meridian Avenue. The applicants are proposing to rezone two areas within the 17.10 acres by rezoning 13.36 acres MF-18 Multi-family Residential ("MF-18") and 3.72 acres GO General Office ("GO"), both subject to a Protective Overlay. See the attached map at the end of the report for a depiction of the location of each zoning request within the overall site. The application area is currently zoned SF-5 Single-family Residential ("SF-5"). The application area is sandwiched in between land: approved for LC Limited Commercial ("LC") zoning, subject to DP-311, on the north; approved for NR Neighborhood Retail ("NR") zoning, subject to DP-311, on the east and SF-5 zoned land located to the south and west.

The applicants designed this particular "island" zoning pattern so that a strip of SF-5 zoning, approximately 170 to 200 feet deep, remains along the west and south sides of the proposed application

area. These two strips of land are currently undeveloped and buffer the subject site from existing residences located south of Keywest Street, and west of Sandkey Street.

The application area is currently unplatted and approval of the rezone will be contingent on the platting of the property. Even though access will be addressed through the platting process, the applicants have indicated access will be off of Meridian, through the approved, but not platted, CUP DP-311 located to the north and east. The applicants do not plan to have access off of Keywest or Sandkey. Any development on the subject property will be required to meet the provisions of: the Protective Overlay recommended below; access management regulations; compatibility setbacks dealing with building, height, noise and dumpsters and landscaping and screening. The application area will be subject to the requirements of the Sign Code for the City of Wichita for the MF-18 and GO zone districts.

Property west and south of the subject site is zoned SF-5, and is either undeveloped or developed with single family residences. Property to the north and east of the subject site is currently zoned SF-5 but has been approved for LC Limited Commercial ("LC") zoning and NR Neighborhood Retail ("NR"), and is currently undeveloped. A drainage ditch runs from the northwest to the southeast on the northern tract. Land located directly to the west of the application area is in the same ownership as the subject site, and is currently undeveloped SF-5 zoned land. Land further to the west, across Sandkey, is also zoned SF-5 and is developed with single-family residences. The property located directly to the south is in the same ownership as the subject site, and is currently undeveloped SF-5 zoned land. Land located further to the south, across Keywest, is also zoned SF-5, and is developed with single-family residences.

The area proposed to be rezoned is $\frac{3}{4}$ of a mile from both the Little Arkansas and the Big Arkansas Rivers. This area is a transition from farm activity to more urban uses. The subject site is located in flood hazard zone "X." Flood zone X is the flood insurance rate zone that corresponds to areas outside the 100-year floodplains, areas of 100-year sheet flow flooding where average depths are less than 1 foot, areas of 100-year stream flooding where the contributing drainage area is less than 1 square mile, or areas protected from the 100-year flood by levees. No Base Flood Elevations or depths are shown within this zone.

The applicants and their agent organized a neighborhood meeting on June 10, 2009. During the meeting, some of the questions that were asked included:

- The functionality of the assisted living facility; is it a nursing home or assisted living?
- The pricing of the multi-family units?
- Type of screening between the single-family and proposed multi-family property?
- Future access to 53rd Street?
- There was also talk about the general retail and overall growth due to traffic generated by the new Wal-Mart.
- Type of buildings that might be built along Meridian in the NR parcels (non-related).
- Someone asked about the offsite LC zoning south of their Bachman's office they want Panera Bread (non-related)

CASE HISTORY: The entire application area is currently unplatted and undeveloped. On January 11, 1983, the southern portion of the application was approved for a CUP, The Moorings Community Unit Plan (CUP DP-78). On May 13, 2008, the Moorings Plaza II (CUP DP-311), bordering the east and north side of the subject site, was approved by the City Council. DP-311 was approved for LC and NR zoning, subject to platting. To-date the DP-311 site has not been platted so the site remains zoned SF-5. On June 26, 1990, the southern one-half of the subject site was also approved to permit sand and gravel extraction through the Board of Zoning Appeals. At this time, the subject site is vacant with no signs of extraction or any other developments.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-5" Single-family Residential, approved for LC	Vacant Land
EAST:	"SF-5" Single-family Residential, approved for NR	Vacant Land

SOUTH:	“SF-5” Single-family Residential	Single-family residences
WEST:	“SF-5” Single-family Residential	Single-family residences

PUBLIC SERVICES: North Meridian Avenue is classified as a four-lane, paved principal arterial street. 53rd Street North, west of Meridian, is a paved two-lane collector street, while 53rd Street North east of Meridian, is a paved four-lane minor arterial. Keywest Street is a paved two-lane collector street. The half-street right-of-way for southbound Meridian east of the subject site is 55-feet. Traffic counts, according to the AADT Traffic Count Map revised in May 2007, counted traffic on north Meridian, at the intersection with 53rd Street North at 17,273 ADT’s (Average Daily Trips). Traffic counts along 53rd Street North, at the intersection with north Meridian Avenue are 9,897 ADT’s. The mid-mile traffic count for north Meridian Avenue, between 53rd Street North and I-235 is 11,551 ADT’s, while the count at the intersection of Meridian and I-235 is 22,659 ADT’s. Municipal services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide Map” of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan*, as amended May 2005, identifies this area as appropriate for “urban residential.” The Urban Residential category encompasses all development densities found in the municipality. This category of use encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may be found in this category. The proposed zoning conforms to the future Land Use Guide Map recommendations.

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 provisions of a Protective Overlay:

Protective Overlay Provisions for the GO parcel

1.) Architectural Controls:

All office buildings within the parcel shall share a uniform architectural character, color, and same predominate exterior building material. The building(s) walls shall not utilize metal as a predominant exterior facade material. If developed in conjunction with the adjoining MF-18 parcel, the buildings shall share a uniform architectural character, color, and same predominate exterior building material.

2.) Landscaping for this parcel shall be required as follows:

- A. Landscaped street yards, buffers, and parking lot landscaping/screening, shall utilize a shared palette of landscape materials and shall be in accordance with the City of Wichita Landscape Ordinance.
- B. A landscape plan shall be prepared by a Kansas Landscape Architect for the above referenced landscaping, indicating the type, location, and specifications of all plant material.

3.) Lighting:

- A. The parcel shall share similar or consistent parking lot lighting elements (i.e. fixtures, poles and lamps and etc.).
- B. All lighting shall be shielded to direct light disbursement in a downward direction and directed away from residential areas.
- C. Light poles including above ground base shall be limited to 20 feet tall, except 15 feet tall when within 100 feet of single family residential zoning.
- D. Extensive use of back lit canopies and neon or fluorescent tube lighting on buildings is not permitted.

4.) Screening:

- A. Rooftop mechanical equipment shall be screened from ground level view with screening materials matching the building roof or wall materials.
- B. Trash receptacles, loading docks, and loading areas shall be appropriately and individually screened with materials matching or similar to the building(s) facade hiding them from ground

- view.
- C. Unless otherwise noted Screening shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV and Section III-C.2.b.
- 5.) Setbacks:
Setbacks will be as specified in Article III, Section III-C2.b(2) of the Wichita-Sedgwick County Unified Zoning Code, unless contiguous parcels are developed under the same ownership, including parcels to the east, then setbacks between those parcels will not be required.
- 6.) Building Height:
Shall be as per SF-5 Single-family Zoning District
- 7.) Use Restrictions:
No correctional placement residences, no asphalt or concrete plant limited.

Protective Overlay Provisions for MF-18 parcel

- 1.) Architectural Controls:
Assisted Living buildings within the parcel shall share a uniform architectural character, color, and same predominate exterior building material. The building(s) walls shall not utilize metal as a predominant exterior facade material.
- 2.) Landscaping for this parcel shall be required as follows:
A. Landscaped street yards, buffers, and parking lot landscaping/screening, shall utilize a shared palette of landscape materials and shall be in accordance with the City of Wichita Landscape Ordinance.
B. A landscape plan shall be prepared by a Kansas Landscape Architect for the above referenced landscaping, indicating the type, location, and specifications of all plant material.
- 3.) Lighting:
A. The parcel shall share similar or consistent parking lot lighting elements (i.e. fixtures, poles and lamps and etc.).
B. All lighting shall be shielded to direct light disbursement in a downward direction and directed away from residential areas.
C. Light poles including above ground base shall be limited to 20 feet tall, except 15 feet tall when within 100 feet of single family residential zoning.
D. Extensive use of back lit canopies and neon or fluorescent tube lighting on buildings is not permitted.
- 4.) Screening:
A. Rooftop mechanical equipment shall be screened from ground level view with screening materials matching the building roof or wall materials; and as per Wichita-Sedgwick County Unified Zoning Code.
B. Trash receptacles, loading docks, and loading areas shall be appropriately and individually screened with materials matching or similar to the building(s) facade hiding them from ground view.
C. Unless otherwise noted Screening shall be in accordance with the Wichita-Sedgwick County Unified Zoning Code, Section IV and Section III-C.2.b.
- 5.) Setbacks:
Setbacks will be as specified in Article III, Section III-C2.b(2) of the Wichita-Sedgwick County Unified Zoning Code, unless contiguous parcels are developed under the same ownership, including parcels to the east, then setbacks between those parcels will not be required.
- 6.) Building Height:
Shall be as per SF-5 Single-family Zoning District
- 7.) Use Restrictions:
No asphalt or concrete plant limited.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property west and south of the subject site is zoned SF-5, and is either undeveloped or developed with single family residences. Property to the north and east of the subject site is currently zoned SF-5 but has been approved for LC Limited Commercial ("LC") zoning and NR Neighborhood Retail ("NR"),

and is currently undeveloped. A drainage ditch runs from the northwest to the southeast on the northern tract. Land located directly to the west of the application area is in the same ownership as the subject site, and is currently undeveloped SF-5 zoned land. Land further to the west, across Sandkey, is also zoned SF-5 and is developed with single-family residences. The property located directly to the south is in the same ownership as the subject site, and is currently undeveloped SF-5 zoned land. Land located further to the south, across Keywest, is also zoned SF-5, and is developed with single-family residences.

2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned SF-5, which accommodates moderate-density, single-family residential development and complementary land uses. The site could be developed as presently zoned, however, commercial and nonresidential zoning (CUP DP-311, approved May 2008) have been approved along the eastern and northern boundaries of the subject site, potentially making the site more appropriate for higher intensity uses. This zone request does provide a desired hierarchal zoning from an arterial road. From Meridian west, the zoning is: NR Neighborhood Retail (“NR”), the proposed GO zoning, the proposed MF-18 zoning and SF-5 zoning (more intense to least intense zoning).
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Office zoning and development could have a negative effect on the single-family residential uses south and west of the application area; however, the Protective Overlay, access, road improvements and code requirements for compatibility setbacks, screening, landscaping, and signage limitations should mitigate that impact. Approval of MF-18 zoning (up to 18 dwelling units per acre) would double or triple the density at which the site could be developed, depending on the type of development. However, single-family residences generate more traffic per unit than multi-family residences and the applicants do not propose to have access off of either Keywest or Sandkey, which greatly reduces any possible traffic impacts on the existing developments to the south and west. The minimum standards of the Unified Zoning Code and the proposed Protective Overlay should mitigate any other potential negative effects on the surrounding residential neighbors.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The “2030 Wichita Functional Land Use Guide Map,” as amended May 2005, of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “urban residential.” The Urban Residential category encompasses all development densities found in the municipality. This category of use encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may be found in this category. The proposed zoning does conform to the future Land Use Guide Map.
5. Impact of the proposed development on community facilities: The development will add traffic to the arterial streets and increase potential demand for improvements to the arterial streets with possible acceleration and deceleration lanes in the future. Other municipal services are available or can be extended through platting.
6. Opposition or support of neighborhood residents: There have been inquiries about this application, some opposed to the request and some just wanting additional information.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

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

- 6. **Case No.: ZON2009-19 and CUP2009-13** – Genesis Health Clubs Management, LLC (owner/applicant); Ferris Consulting, Greg Ferris (agent); Baughman Company, P.A., Russ Ewy (agent) Request City zone change from SF-5 Single-family Residential to GO General Office and City amendment to DP-11 to add three lots to the CUP Community Unit Plan and rezone the lots to GO General Office on property described as:

Lots 1, 3, 4 and 5, Tyler Acres Sixth Addition, Wichita, Sedgwick County, Kansas; generally located north of Central, east of Socora (854 N. Socora).

BACKGROUND: The applicant is requesting an amendment to the Tyler Acres Community Unit Plan to expand the boundaries of the CUP and of Parcel 7. The proposed new portion of Parcel 7, which includes Lots 3, 4 and 5 of the Tyler Acres 6th Addition, is proposed for a zone change from SF-5 Single-family Residential (“SF-5”) to GO General Office (“GO”) to permit all uses currently permitted in Parcel 7. Genesis Health Clubs Management LLC plans to expand their existing health club facility to include a new indoor tennis facility. This new facility is proposed to be constructed as an extension to the existing Genesis structure on Parcel 7, which allows this particular use as a “Personal Improvement Service.” The applicants are proposing to expand the CUP by increasing the size of Parcel 7 with the addition of the three lots because the proposed tennis facility, as currently designed, will cross over onto those three lots, which are owned by Genesis.

The existing provisions of CUP DP-11 (landscaping and screening, lighting, signage, access, setbacks, etc.) will not be affected by the action of this proposed amendment. Also, the existing screening wall that runs through lots 3, 4 and 5 will not be affected by this amendment or the proposed construction of the indoor tennis facility and will remain in place. The CUP and Parcel 7 will both increase by approximately 42,000 square feet and the proposed zone change to GO will match the existing zoning of the applicant’s current location. Specifically for Parcel 7, the existing provision state:

Parcel 7 (Existing):

- Net Area: 701,465 sq. ft. or 16.10 acres
- Max. Land Coverage shall not exceed 23% of the net land area or 160,000 sq. ft.
- Max. Gross Floor Area: 180,000 sq. ft.
- Floor Area Ratio: 26%
- Maximum building heights as per zoning ordinance except that portion north of line as shown on the plan which shall not exceed 35 feet in height.
- Number of Buildings: 10
- Building Setbacks:
 - Central 75 feet
 - Socora 35 feet
 - Northerly Line 30 feet
 - School Circle 30 feet
 - East Line 30 feet
 - Woodchuck 35 feet
 - Southerly line 30 feet
- Parking ratio as per zoning ordinance
- Access Points:
 - 2 to Central
 - 1 to Woodchuck (see General Provision #9)
 - Complete access control to School Circle

Proposed Uses:

General offices, personal improvement service, professional offices, medical facilities, laboratories, optician, and other similar uses, hotel and motel as permitted in “BB” zoning district under city ordinance; no residential use is permitted except a retirement center associated with a nursing home.

For this proposed amendment, the proposed provisions for Parcel 7 would state:

Parcel 7 (Amended):

Net Area: 743,568 sq. ft. or 17.07 acres

Max. Land Coverage shall not exceed 23% of the net land area or 171,021 sq. ft.

Max. Gross Floor Area: 193,328 sq. ft.

Floor Area Ratio: 26%

Maximum building heights as per zoning ordinance except that portion north of line as shown on the plan which shall not exceed 35 feet in height.

Number of Buildings: 10

Building Setbacks: See Drawing

Parking ratio as per *Unified Zoning Code*

Access Points:

2 to Central

1 to Woodchuck (see General Provision #9)

Complete access control to School Circle

Proposed Uses:

General offices, personal improvement service, medical facilities, laboratories, optician, and other similar uses, hotel and motel as permitted in GO zoning district; no residential use is permitted except a retirement center associated with a nursing home.

Currently there is a 20-foot utility easement that runs along the boundary of Parcel 7 and the three lots in question. The applicant will have to have this easement vacated before any construction is to take place that involves the existing utility easement.

The area is surrounded by many types of uses from residential to commercial to office uses. Property located north of the site is developed with single-family residences on property zoned SF-5. To the east is more residential development also zoned SF-5. Property south of the subject site is developed with a mixture of medical offices and dental offices all zoned GO, and a little further south, fronting Central Avenue, is property developed with retail strip stores zoned LC Limited Commercial (“LC”). The property to the west is developed with a place of worship, day care center, bank, retail and restaurants zoned SF-5, GO and LC, respectively.

CASE HISTORY: The application area is platted as Lots 3, 4 and 5 of the Tyler Acres Sixth Addition (recorded July 5, 1983). The Tyler Acres CUP DP-11 was approved on May 17, 1966. There have been a significant number of adjustments to the CUP, which include the reconfiguration of parcel boundaries, the adjustment of building setback lines, the elimination of residential storage units, the addition of “assisted living” as allowable uses and adjustments to sign spacing.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Residences
SOUTH:	GO	Medical Offices
EAST:	SF-5	Residences
WEST:	GO, SF-5, LC	Vacant/Church/ Bank

PUBLIC SERVICES: This part of Parcel 7 is accessible from Socora Street, which is designated as a residential street and used as a point of access for other uses in the CUP. Municipal water and sewer services are currently provided to this site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this site as appropriate for local commercial types of use. This category of use encompasses areas that contain concentrations of predominantly commercial, office, and personal service uses that do

not have a predominantly regional market draw. The range of uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities.

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

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

1. Revise the provisions of Parcel 7 to read:
Net Area: 743,568 sq. ft. or 17.07 acres
Max. Land Coverage shall not exceed 23% of the net land area or 171,021 sq. ft.
Max. Gross Floor Area: 193,328 sq. ft.
Floor Area Ratio: 26%
Maximum building heights as per zoning ordinance except that portion north of line as shown on the plan which shall not exceed 35 feet in height.
Number of Buildings: 10
Building Setbacks: See Drawing
Parking ratio as per Unified Zoning Code
Access Points:
2 to Central
1 to Woodchuck (see General Provision #9)
Complete access control to School Circle
Proposed Uses:
General offices, personal improvement service, medical facilities, laboratories, optician, and other similar uses, hotel and motel as permitted in "GO" zoning district, no residential use is permitted except a retirement center associated with a nursing home.
2. Vacate the 20-foot utility easement that runs along the boundary of Parcel 7 and the three lots in question before any construction encroaches the easement.
3. The CUP plan shall be revised to show changes that have been made on the CUP by previous administrative adjustment and amendments. A "cleaned up" version of the CUP will be required when the applicant submits the 4 revised copies of the CUP to the Metropolitan Area Planning Department.
4. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
5. Any major changes in this development plan shall be submitted to the Planning Commission and to the governing body for their consideration.
6. 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.
7. The applicant shall submit 4 revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area is surrounded by many types of uses from residential to commercial to office uses. North of the site is developed with single-family residences on property zoned SF-5. To the east is more residential development also zoned SF-5. Property south of the subject site is developed with a mixture of medical offices and dental offices all zoned GO and a little further south, fronting Central Avenue, is property developed with retail strip stores zoned LC Limited Commercial ("LC"). The property to the west is developed with a place of worship, day care center, bank, retail and restaurants zoned SF-5, GO and LC, respectively.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned GO with a CUP overlay. The property is suitable for office type uses, including medical offices, and personal improvement services to which it has been restricted. The addition of an indoor tennis facility as a permitted use (personal improvement service) in Parcel 7 is a common use that can be found in the GO zone districts and in this particular CUP. The proposed addition of three lots and the rezoning of those lots to GO will have little additional impact on the existing CUP.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Much of the property located south of Beckmeyer and east of Socora is currently developed with uses either similar or more intense than the proposed amendment and rezone. The existing masonry wall on Lots 3, 4 and 5 will continue to screen the property. The proposed tennis facility will be at a final build out height of 35 feet, the same height as the existing Genesis building. There should be any detrimental impact on the surrounding area since the use that is proposed is already allowed in this parcel of CUP DP-11. There are not any new uses proposed for Parcel 7 and the CUP requirements will remain in effect.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies this site as appropriate for local commercial types of use. This category of use encompasses areas that contain concentrations of predominantly commercial, office, and personal service uses that do not have a predominantly regional market draw. The range of uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. The commercial locational guidelines of the Comprehensive Plan recommends that commercial uses should be located adjacent to arterial streets; in compact clusters; and to have site design features that limit noise, lighting, and other aspects of commercial activity that may adversely impact surrounding residential areas.
5. Impact of the proposed development on community facilities: The use of this property should have limited impact on community facilities.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

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

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7. Case No.: **CON2009-15** – Wallace Ure, James Mead II and Leotriest Smith, Jr., (Trustees/Owner(s)); Teresa Rupp, Jeff Englett and Terry Palmgren (Agent(s)) Request City Conditional Use to permit a "day care, general" on property described as:

Lot 8 and the North 70 feet of Lot 10, Block 17, Parkwilde Addition, Wichita, Sedgwick County, Kansas (210 N. Florence, Wichita, KS 67212); generally located south and west of the intersection of 2nd Street North and N. West Street (210 N. Florence St.)

BACKGROUND: The applicants are requesting a Conditional Use to operate a day care, general in an existing church building. The existing building is approximately 4,000 square feet and the applicants proposed to expand the structure an additional 4,000 square feet or so in order to create five early childhood classrooms to serve approximately 85 children. The 1.3-acre site, Lot 8 and the north 70 feet of Lot 10, Block 17, Parkwilde Addition, is zoned SF-5 Single-family Residential (“SF-5”). The church, which is currently on the site, is a use that is permitted by right in the SF-5 zone district. A “day care, general” (Unified Zoning Code, (UZC), Article II, Section II-B, 4a and b) is an establishment that allows for the “care, protection and supervision of more than 10 individuals at one time on a regular bases away from their primary residence for less than 24 hours per day.” A “day care, general” can be considered as a Conditional Use in the SF-5 zoning district.

The conditions for a “day care, general” in the SF-5 zone district, per Article III, Section III-D. 6.i of the UZC are:

- a) Day care centers shall comply with all applicable state regulations.
- b) When located in the residence of the day care provider in a residential zone district, day care centers shall comply with the general home occupation standards of Section IV-E, 3 (this does not apply to this particular case)
- c) Outdoor play shall be limited to the hours of 7:30 AM to 6:30 PM, if located within 100 feet of a lot containing a dwelling unit.
- d) Provisions of parking spaces in Article IV, Section IV-A, 4 may be provided by shared parking when the day care is located within an existing church or place of worship, however, the day care must provide convenient off-street loading facilities as required.

The proposed day care (Head Start) proposes to use the building as an early childhood center serving children ages 0-5 years. Hours of operation will be 8:00 AM to 5:00 PM Monday through Friday, with no more than 85 children present at any given time during those hours. There will also be around 21 staff members assigned to the center. The operators of the day care anticipate that there would be one monthly parent meeting to be held on a selected weeknight from 6:30 to 8:00 PM. The children will be outside on the playground in groups of no more than 34, with adult supervision. The operators anticipate that the playground time will begin around 9:30 AM and end no later than 10:45 AM for the morning classes and 2:00 PM to 3:15 PM for afternoon classes.

The applicants are planning to leave the landscaping along the street-side face of the building undisturbed along with the existing six-foot privacy fence along the north and south property lines. Their proposed addition to the existing structure will not disturb the existing landscaping on the site; however, some parking spaces will be eliminated by the expansion, although the proposed day care will still have the required amount of parking. The applicants do propose to add some lawn/landscaping along the north and south sides of the proposed expanded building, with the lawn around the playground and some decorative landscaping on the south.

The applicants have stated that they would use at least two school buses to serve 35 to 40 children for the center while the other children would be brought to the center by their parent’s vehicles. The applicants have stated that if as many as 50 children arrive by independent vehicle, the drop-off lane (as shown on the site plan as the parallel parking along the south side of the building) would be sufficient for one vehicle per ten children. As the site plan shows, parking will accommodate 38 vehicles, not including the drop-off parking along the south side of the building.

The proposed expansion of the structure on the site, as shown on the site plan, extends the structure over an existing city sewer line. The applicants were made aware of this situation when they attended a development review meeting with staff. The applicants will either need to reconfigure the proposed expansion plan or arrange to have the sewer line moved. In conversations with the applicants during the

development review meeting, it appeared as if the applicants would work on a new site plan to adjust the expansion of the structure so that the sewer line is not affected. If the applicants do follow through with a modified site plan, as a condition of approval, staff will require an updated site plan showing the reconfigured building.

The subject site is located between 2nd Street North and West Douglas Avenue, with West Street a half block to the east. Property directly south of the site is zoned MF-18 Multi-family Residential (“MF-18”), and is currently undeveloped. Property to the north of the site is zoned SF-5, and is currently developed with a single-family residence. Property to the east of the subject site is zoned LC Limited Commercial (“LC”), and is developed with a retail store and a vehicle service garage with West Street frontage. Property west of the site, across Florence Street, is zoned SF-5, and is developed with a single-family residence.

CASE HISTORY: The property was platted as part of the Parkwilde Addition on March 4, 1987. According to county appraiser data, the site’s existing structure was built in 1975.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Residences
EAST:	SF-5 & LC	Retail
SOUTH:	MF-18	Vacant
WEST:	SF-5	Residences

PUBLIC SERVICES: The subject site has access from Florence Street, a paved two-lane residential street. Douglas Avenue is a minor arterial, located approximately 745 feet south of the subject site, with 9,456 Average Daily Trips (ADT’s) at its intersection with West Street. 2nd Street is an urban collector, located approximately 465 feet north of the subject site, with approximately 7,411 ADT’s at its intersection with West Street. West Street is a principal arterial, located approximately 300 feet east of the subject site, with approximately 45,062 ADT’s at its intersection with Douglas Avenue, and approximately 41,298 ADT’s at its intersection with 2nd Street. (ADT counts are according to the 2007 Traffic Count Map.) Currently, the stretch of West Street mentioned above is undergoing improvements and expansion. Municipal water and sewer services are available at this site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “Urban Residential.” The Urban Residential category includes all densities of residential development found within the urban municipality. This category of use encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED, subject to the following conditions:

1. All applicable requirements of Article III, Section III-D.6. i of the Unified Zoning Code shall be met. Operation of the facility will be year round, Mondays through Friday, 8:00 AM to 5:00 PM.
2. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed within one year of approval of the Conditional Use by the Metropolitan Area Planning Commission (MAPC) or governing body, as applicable. Unless the sewer line is moved, the applicants shall provide a revised site plan reflecting the building’s revised configuration. The site plan shall also indicate the location of any signage and lighting. The revised site plan shall be provide prior to the beginning of activities requiring conditional use approval.

3. Outdoor play shall be limited to the hours of 7:30 AM to 6:30 PM if located within 100 feet of a lot containing a dwelling unit.
4. Shared parking may be provided for a provision for parking spaces as outlined in Section IV-A.4 when the day care is located within an existing church or place of worship, however, the day care shall provide convenient off-street loading facilities as required in Section IV-A.14.
5. All outdoor lighting shall employ cut-off luminaries to minimize light trespass and glare, and shall be mounted at a height not to exceed $\frac{1}{2}$ the distance from the neighboring lot, unless evidence is provided to the satisfaction of the Planning Director that the light source will be aimed or shielded such that the light source is not visible from the neighboring lot.
6. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article III of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. The subject site is located between 2nd Street North and West Douglas Avenue, with West Street a half block to the east. Property directly south of the site is zoned MF-18 Multi-family Residential (“MF-18”), and is currently undeveloped. Property to the north of the site is zoned SF-5, and is currently developed with a single-family residence. Property to the east of the subject site is zoned LC Limited Commercial (“LC”), and is developed with a retail store and a vehicle service garage with West Street frontage. Property located west of the site, across Florence Street, is zoned SF-5, and is developed with a single-family residence.
2. The suitability of the subject property for the uses to which it has been restricted. The site is zoned SF-5, and is currently developed as a church, which is permitted by right in the SF-5 zone district. The site could continue to be used for a church; however the church is offering to sell the site to Head Start Early Childhood Education for a Child Start Day Care Center. A day care is a use that is allowed in the SF-5 zone district with a Conditional Use, and a day care in a SF-5 zone is not a unique use. There are already a number of churches within the city that have day cares on their sites (with Conditional Uses if it was necessary), and this request for the use of a church building as a day care is not a unique situation.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed conditional use is for a daycare, in an existing church building. This type of use is common in churches within the city and county. The effect of an 85-child day care on nearby property will be minimal give the church’s current size and use.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “Urban Residential.” The Urban Residential category includes all densities of residential development found within the urban municipality. This category of use encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category.
5. Impact of the proposed development on community facilities: The church and related uses currently exist, so the impact will not be beyond the capacity of the existing community facilities.

FOSTER asked about the discrepancy between the times listed in conditions 1 and 3.

DERRICK SLOCUM, Planning Staff presented the Staff Report. He indicated the discrepancy between the times would be corrected.

MILLER clarified that the hours of operation will match up with when children are allowed to be outside.

MOTION: To approve subject to staff recommendation and corrected times.

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

NON-PUBLIC HEARING ITEMS

8. Other Matters/Adjournment

WAMPO UPDATE

CHAIRMAN DOWNING referred Commissioners to a hand out which was a Project Progress Report of projects under the American Recovery and Reinvestment Act (ARRA).

VAN FLEET briefly reviewed the list.

The Metropolitan Area Planning Department informally adjourned at 1:43 p.m.

State of Kansas)
Sedgwick County) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2009.

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

(SEAL)