

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

December 4, 2008

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, December 4, 2008, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Darrell Downing, Chair; G. Nelson Van Fleet, Vice Chair; Don Anderson; David Dennis (out @4:00 P.M.); David Foster; Bud Hentzen; Hoyt Hillman; Bill Johnson (out @3:17 P.M.); Ronald Marnell; John W. McKay, Jr.; M.S. Mitchell and Debra Miller Stevens. Michael Gisick and Don Sherman 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; Jess McNeely, Senior Planner; Derrick Slocum, Associate Planner and Maryann Crockett, Recording Secretary.

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1. Approval of the prior MAPC meeting minutes:
Meeting Date: No Minutes
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2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**
Items may be taken in one motion unless there are questions or comments.

- 2-1. **SUB 2008-90: One-Step Final Plat -- HILLER ADDITION**, located north of Central and west of Hydraulic.

NOTE: This is a replat of a portion of the Pearce and Vantillburgh's Addition and the Sim's Subdivision.

STAFF COMMENTS:

- A. Municipal services are available to serve the site.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan.
- D. Access controls need to be platted. Traffic Engineering has approved one access opening along Washington as denoted on the site plan. The final plat tracing shall reference the dedication of access controls in the plat's text.
- E. County Surveying notes that the label at Central and Washington needs to be changed to the southwest corner.
- F. A block number or letter and lot number shall be denoted on the face of the plat.
- G. 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.
- H. 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.

- I. 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.)
- J. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- K. 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.
- L. 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.
- M. 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.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

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

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

PUBLIC HEARING – SUBDIVISION ITEMS

2-2. DER2008-10: Amendments to the Subdivision Regulations to correct terminology, cross references, inconsistencies and to delete redundancies.

NEIL STRAHL, Planning Staff presented the Staff Report. He said this amendment includes non-substantive changes to the Subdivision Regulations. He said corrections and clarifications were made and ambiguities were addressed. He said this was first reviewed by a subcommittee of the MAPC including MAPC members, legal staff and MAPD staff, and then it was approved by the Subdivision Committee.

He referred Commission members to the delineated copy of the changes provided with the agenda. He said since the changes were of a comprehensive nature, staff is requesting adoption of a new edition of the regulations which will result in a new Subdivision Regulation document involving a new Table of Contents. He said this will be republished and forwarded to City Council on January 6, 2009, and the Board of County Commissioners on January 7, 2009. He said the motion and action today will need to make reference to this specific document: "The Wichita-Sedgwick County Subdivision Regulations December 4, 2008 Edition."

MOTION: To approve "The Wichita-Sedgwick County Subdivision Regulations December 4, 2008 Edition" subject to the recommendation of the Subdivision Committee and staff recommendation.

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

3. PUBLIC HEARING – VACATION ITEMS

3-1. VAC2008-36: City request to vacate a portion of right of way dedicated by separate instrument, generally located west of Arkansas Avenue, west of Armstrong Avenue on the south side of 35th Street North.

APPLICANT/AGENT: Howard A. Johnson (applicant)/Thomas D Harris (agent)

LEGAL DESCRIPTION: Generally described as a 10-foot wide (x) 250-foot long portion right-of-way (ROW) dedicated by separate instrument; FILM 175/PAGE 1696, recorded June 6, 1991, Wichita, Sedgwick County, Kansas. (See the attached dedication).

LOCATION: Generally located west Arkansas Avenue, west of Armstrong Avenue, on the south side of 35th Street North (WCC #VI).

REASON FOR REQUEST: ROW never been utilized

CURRENT ZONING: The site is an undeveloped, partial public street ROW. All abutting and adjacent properties are zoned SF-5 Single-family Residential ("SF-3").

The applicant is requesting the vacation of the undeveloped 10-foot wide (x) 250-foot long public street ROW. The applicant owns all but one of the abutting properties; the other abutting property owner will need to sign the petition to vacate. No one will be denied access with the vacation request. There are no utilities, water or sewer lines within the proposed vacated ROW. The abutting properties are part of Lot 16, Walnut Grove Addition, which was recorded with the Register of Deeds December 20, 1912.

Note: The 10-foot width is 20 feet short of the current standard of 30 feet for half street residential roads. The ¼-section map shows no other dedication lining up with the subject ROW, with the exception of the Burns Circle cul-de-sac located approximately 680 feet south. The subject ROW is located approximately 145-150 feet from the Armstrong Avenue (east) and Burns (west) ROWS. The ¼-section map shows an area riddled with dead end and half street or less than half street width ROWs, with no north-south streets extending through the ¼-section. Armstrong (Woodland) is the north-south street with the best chance to extend through the ¼-section.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works/Storm Water, the Traffic

Engineer, Fire, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the public street ROW dedicated by separate instrument, as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle and the Derby Reporter, of notice of this vacation proceeding one time November 13, 2008, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described public street right-of-way dedicated by separate instrument and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the public street right-of-way dedicated by separate instrument described in the petition should be approved with conditions:
- (1) Provide Planning staff with a legal description of the approved vacated ROW on a word document via e-mail. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants.
 - (2) Obtain the other abutting property owner's signature.
 - (3) All improvements shall be according to City Standards and at the applicant's expense, including any new driveways from private property onto public ROW, the continuation or providing new curb and gutter, as needed.
 - (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide Planning staff with a legal description of the approved vacated ROW on a word document via e-mail. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants.
- (2) Obtain the other abutting property owner's signature.
- (3) All improvements shall be according to City Standards and at the applicant's expense, including any new driveways from private property onto public ROW, the continuation or providing new curb and gutter, as needed.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required

documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

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

PUBLIC HEARINGS

- 4. **Case No.: ZON2008-57** – Central & Oliver Holdings, LLC and MGW, Inc., (Roger Mathews) / Tim Austin (Poe & Associates, Inc.) Request City zone change from B Multi-family Residential to LC Limited Commercial on property described as:

Lots 20, 21, 22, 23, 24, 25 and 26, Block 14, East Highlands, Sedgwick County, Kansas; generally located south of Elm Street and east of Glendale Avenue.

BACKGROUND: The co-applicants are seeking to rezone .7-acre from B Multi-family Residential (“B”) to LC Limited Commercial (“LC”) located at the southeast corner of the intersection of Elm and Glendale (4901-4911 East Elm Street) or northeast of the intersection of Oliver and Central Avenue. The application area contains 29,566 square feet. The application area is owned by the same two companies, Central & Oliver Holdings, LLC and MGW, Inc. that own the property located to the south, southwest and northwest of the application area. In 2007, the property to the northwest was rezoned from B to LC (ZON2007-58, subject to PO-201). The application area has three residences located on the property. The application area has street frontage on Elm Street, a local residential street with 60 feet of right-of-way that runs east-west, marking the northern limits of the application area; Elm Street then diagonals to the southwest, forming the western boundary of subject site. The stub portion of Elm Street is the subject of a vacation application (VAC2008-18). If approved, the vacated portion of Elm Street would create for the applicants a fully unified ownership pattern.

Property to the north of the subject site is zoned TF-3 Two-family Residential (“TF-3”) and SF-5 Single-family Residential (“SF-5”), and developed with residences. Property to the east and southeast is zoned SF-5 and B, and is developed with residential uses. Property located to the south is zoned LC, as is the land to the west and northwest. A portion of the land to the northwest is subject to PO-201, noted above. The land to the northwest and west is currently being redeveloped. Since the owners of the subject site are also the owners of the land to the south and west, it is anticipated the subject site will be added to the applicants other properties to create a larger site with unified zoning.

Zoning screening, compatibility standards (setbacks, height, screening of dumpsters and work areas) and landscape ordinance requirements will aid in mitigating anticipated impacts.

CASE HISTORY: The application area is platted as Lots 20-26, Block 14, East Highlands Addition.

ADJACENT ZONING AND LAND USE:

NORTH:	TF-3	Two-family Residential, SF-5 Single-family Residential; residences
SOUTH:	LC	Limited Commercial; retail sales and restaurant
EAST:	SF-5	Single-family Residential; residences
WEST:	LC	Limited Commercial; vacant, fast food restaurant

PUBLIC SERVICES: All municipal services and utilities are available. Glendale Avenue is a paved residential street, as is Elm Street, with 60 feet of street right-of-way.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide,” of the Comprehensive Plan identifies the site as appropriate for “urban residential.” The urban residential category includes all densities of residential development found within a large urban municipality. The site is also located within the *Central Northeast Area Plan* that recommends retaining existing businesses and attracting new businesses that would provide more neighborhood serving retail and personal services.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the provisions of Protective Overlay 223:

1. Prior to the issuance of building permits, the applicant shall provide, either by replat or dedication, cross lot access between the site and the applicant’s abutting property to the south and west; and dedicate complete access control onto Elm Street and Glendale Avenue.
2. Prior to the issuance of building permits, the applicant shall obtain an approved drainage plan for the site.
3. Signage shall be per the Sign Code, except that ground or pole signs shall be restricted to monument style; ground or pole signage is not permitted along Elm Street or Glendale Avenue frontages; wall or building signage is not permitted on facades that face residential zoning and off-site or billboard signs are prohibited.
4. Light poles or standards shall be limited to a maximum height of 15 feet including base/pedestal. Light fixtures shall be shielded and directed to prevent light from escaping the site.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Zoning in the area surrounding the application area is a mix of zoning and uses: SF-5 Single-family Residential, TF-3 Two-family Residential and LC Limited Commercial zoning with a variety of uses ranging from single-family to fast food restaurants, retail shopping and vacant. The application area is an “edge” of a long established neighborhood whose earlier commercial uses have become obsolete. With the redevelopment of the original commercial sites, it is natural for peripheral adjoining property to be acquired and rezoned to complement the redevelopment of the original retail core.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned B Multi-family Residential with residences located on two of the lots. The B district permits medical office use and a wide range of multi-family residential to single-family residential uses. The site could continue to be used as currently zoned and developed. However, the desirability of the property for residential uses has probably decreased with the commercial redevelopment of the property to the west, and the existing retail uses located to the south. Approving the requested zoning so the application area can be added to the larger redevelopment efforts will enhance the corner of Oliver and Central.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval will move non-residential uses closer to the residential uses located to the north of Elm. However, required screening, setbacks and landscaping, and the proposed conditions of approval should minimize foreseeable detrimental effects.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval should allow for improved redevelopment opportunities that should provide an increased level of neighborhood serving retail uses. Denial presumably would be an economic hardship on the applicant.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is not consistent with the city-wide view of the “Comprehensive Plan’s” designation as “urban residential.” However, the more detailed *Central Northeast Area Plan*

indicates that it is appropriate to take actions that would attract new businesses that would provide more neighborhood serving retail and personal services. This application accomplished that specific goal.

- 6. Impact of the proposed development on community facilities: Traffic generation will increase, however existing improvements to Central and Oliver are capable of carrying the increased trips. All other services are available.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

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

- 5. **Case No.: ZON2008-65** – Adolph E. and Rogene L. Moeckl, c/o Jackie Moeckl Request City zone change from GI General Industrial to SF-5 Single family-Residential on property described as:

Beginning at the center line of Old Lawrence Road 376 feet South of the North line of the Southwest Quarter of Section 28, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence East 261 feet; thence South 142 feet; thence West 261 feet; thence North to beginning EXCEPT part taken in Condemnation Case A-72140 for Highway 81 By-Pass; generally located north of I-235, east of Broadway Avenue, on the east side of Old Lawrence Road.

BACKGROUND: The applicant is requesting a zone change from GI General Industrial (“GI”) to SF-5 Single-Family Residential (“SF-5”), in order to make the zoning conform to its existing residential use, a single-family residence built in 1930. The applicant has indicated the wish to retire to this site and renovate the residence. However, the renovation would be limited to 30 percent of current value as a nonconforming use, per Article VII of the Unified Zoning Code.

The property is remote and inaccessible. It is located on the east side of Old Lawrence Road, the original main road, the original name for Broadway and the original alignment of U.S. Highway 81. However, this roadway was marginalized first by the construction of an overpass that realigned Highway 81 in the 1930s and later by the rerouting of Highway 81 onto the same alignment as I-135 approximately one-half mile to the east in the 1970s.

The property was zoned “F” Heavy Industry in 1958 as part of the three-mile extraterritorial jurisdiction zoning.

Today, the property along Old Lawrence Road includes outdoor storage type of uses suitable for the current GI zoning. The adjoining tract to the north is used for outdoor storage and is the only private property that lies within a 200-foot radius of the property. Other uses continuing to the north and east include landscape contractor storage, KFDI office and tower farm, other outdoor contractor storage uses and agricultural land. A railroad line is located west of Old Lawrence Road. The property to the south is the I-235 interchange.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	GI	Outdoor storage
SOUTH:	unzoned, GI	I-235, agriculture

EAST: GI Outdoor storage, agriculture
WEST: RR, GI Vacant

PUBLIC SERVICES: The subject property has frontage along Old Lawrence Road, a two-lane local street. Public water and sewer service are not available currently.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “employment/industry center.” This designation does not conform to the zoning requested.

RECOMMENDATION: SF-5 zoning in the midst of GI zoning allows low intensity, residential use within an area reserved for high intensity, industrial uses. The purpose of prohibiting residential use is to protect the industrial areas from complaints about nuisances associated with industrial activities and processes. In this case the site is remote and major transportation corridors surround the property on the west (rail line) and south (I-235), so the change would create requirements for setbacks, buffering and screening only for the adjoining property on the north and east. This impact is relatively small and the residential use preceded the industrial zoning and use. It would allow reinvestment in a use in existence since 1930. Based upon these circumstances and the information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property along Old Lawrence Road includes outdoor storage type of uses suitable for the current GI zoning. The adjoining tract to the north is used for outdoor storage and is the only private property that lies within a 200-foot radius of the property. Other uses continuing to the north and east include landscape contractor storage, KFDI office and tower farm, other outdoor contractor storage uses and agricultural land. A railroad line is located west of Old Lawrence Road. The property to the south is I-235 interchange.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is suited for only certain GI type uses since municipal water and sewer services are unavailable.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The change would create requirements for setbacks, buffering and screening for the adjoining property on the north and east. The industrially-zoned areas could be subject to complaints about nuisances associated with industrial activities and processes. However, the residential use preceded the industrial zoning and use.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “employment/industry center.” This designation does not conform to the zoning requested.
5. Impact of the proposed development on community facilities: The impact would be unchanged.

MARNELL clarified that the surrounding property was all industrial and that this request for SF-5 Single-family Residential zoning will actually place a burden on the adjacent property owners for screening as opposed to putting the burden on the person making the zone change request.

GOLTRY commented that was correct; there was industrial zoned land to the north and east of the site. She added that the house probably preceded the industrial zoning.

MARNELL said that doesn't seem right to him, to apply the burden to someone within the existing zoning. He asked about the possibility of leaving a 10-foot strip of GI on the north and east sides of the site.

GOLTRY commented that could be discussed with the applicant.

HENTZEN said he drove by and looked at this, and that there was no way this was a residential area. He asked why they were asking for residential zoning.

GOLTRY said the applicant wants to remodel and make improvements to the residence; and perhaps build on to the house. She said they would be limited to the amount of remodeling they can do under GI zoning because it is a non-conforming use.

MARNELL said he has no objection to the purpose of the request, only that it puts a burden on other people who are not involved in this case.

HENTZEN asked if there was any other way to give these people what they want without changing the zoning.

JOE LANG, CHIEF DEPUTY CITY ATTORNEY commented that Planning Staff may have other ideas for zoning that still allows residential but without the screening requirement. He said any zoning that has a less intensive impact than what was listed on the public hearing notice could be acceptable. He mentioned several zoning classifications.

HILLMAN asked if the applicant would accept LC Limited Commercial zoning that would still allow them to improve the property.

JACKIE MOECKL, 2250 SOUTH OLIVER STREET, APT 212 daughter of the applicant said yes, they would be willing to do that, as long as they can do upgrades to the property.

DENNIS asked about the tax rate and mentioned the possibility that LC zoning might be taxed at a higher tax rate than SF-5 zoning.

DIRECTOR SCHLEGEL said he suspected that Mr. Dennis might be right about that.

JOE LANG, CHIEF DEPUTY CITY ATTORNEY mentioned that how the land was used as opposed to how it is zoned also affects the tax rate.

MILLER added that some zoning classifications may potentially prohibit the applicant from getting financing on the property.

MARNELL asked if the applicant would be willing to exclude the north and east 10 feet of the property from the SF-5 request.

MOECKL said she was not sure.

GOLTRY briefly explained the Commission's request to the applicant, stating that a sliver of GI zoning would be kept on the north and east sides of the property, 10-feet which would not be useful for building construction, but which would relieve the neighbors from the non-residential screening requirements.

MOECKL said that would be fine.

JOHNSON asked if the minimum was 10 feet, or could it be less, say maybe 5 feet.

DONNA GOLTRY, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation; with the exception of the north and east 5 feet of the property.

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

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6. **Case No.: ZON2008-66** – Venture Seven Development, LLC (applicant), KE Miller Engineering, PA, c/o Kirk Miller Request City Amendment to multiple Protective Overlays and a Restrictive Covenant, on properties zoned LC Limited Commercial on property described as:

Lots 1 and 2, Block 1, King's Maple Street Addition, and Lot 1, Block 1, King's Maple Street 2nd Addition, and Lot 1, except the South 57.5 feet thereof Block 1, King's Maple Street 3rd Addition, Sedgwick County, Kansas; generally located between Ridge Road and Summitlawn Drive and south of Maple Street.

BACKGROUND: The applicant proposes to replace Restrictive Covenant #30 and Protective Overlays (PO) #s 63, 69 and 70 on the subject properties. The current LC Limited Commercial (“LC”) zoning would remain in place. The applicant also proposes to replat the subject properties; see case history. The subject properties are currently undeveloped, with platted access onto Ridge Road (west) and Maple Street (north).

The surrounding area is characterized by a mixture of single-family residences, commercial uses and undeveloped LC zoned property. The properties located to the east, across Summitlawn Drive, are zoned SF-5 Single-family Residential (“SF-5”), and are developed with single-family residences; built mid-1950s to mid-1960s. This single-family residential subdivision is the oldest existing development in the area. The subject properties were originally platted as part of this single-family residential subdivision; see case history. The property located west of the site, across Ridge Road, is zoned LC with a Community Unit Plan (CUP) overlay, DP-37, and is developed as a big box Lowes (built 1998) building supply center. Properties located north of the site, (built 1983-1999) across Maple Street, are zoned LC, some with POs, and SF-5. The LC zoned sites are developed as strip retail, retail, a restaurant and a convenience store. The SF-5 zoned properties are developed as apartments with a CUP overlay. Properties located south and abutting the subject properties are not developed, with the exception of a Pizza Hut Bistro restaurant, which was built in 2005. The Pizza Hut site is the only developed LC property within the Maple - Summitlawn – University – Ridge Streets’ block, which is where the subject properties are located. The Pizza Hut site has a PO that is similar to the subject properties’ POs and restrictive covenant, and can be seen as the standard for redevelopment of this area, including the subject properties. The Maple - Summitlawn – University – Ridge block was rezoning SF-5 to LC during the years 1992- 2002.

The subject properties have been identified in the Comprehensive Plan as appropriate for “Local Commercial” uses. The close proximity of the subject properties to the established single-family neighborhood required any commercial uses to be developed so as to minimize any negative impact on that neighborhood. The current POs and restrictive covenant limits signage, lighting, noise, building height, requires a six foot high masonry wall, and a landscape buffer, outside the masonry wall, along the property lines. They also prohibited certain uses that are less compatible with the existing single-family residential development, including high-intensity, auto-oriented commercial uses. Because the subject properties were zoned essential two single-family lots at a time, it was reasonable to anticipate that some time in the future, the provisions of the POs and the restrictive covenant might be amended and the properties replatted to provide a larger, more coherent, unified site.

The applicant proposes to replace the three existing POs and restrictive covenant. The proposed PO would provide the advantage of having one document establishing the uses and developing standards for a larger, replatted site. The proposed PO would introduce outdoor speakers and sound amplification for drive-throughs and order boards. Some typical businesses that use these outdoor speakers are fast food restaurants (currently prohibited), coffee shops, banks, and drug stores. The proposed PO would also increase the maximum height of light poles from 14 feet to 30 feet and increase the maximum height of buildings from 25 feet to 35 feet, but the one-story height would remain in effect. The proposed PO as written would seem to have the landscaping in the Summitlawn Drive right-of-way, thus eliminating the current on site landscape buffer, with landscaping planted between the masonry wall and the subject properties' Summitlawn Drive frontage.

CASE HISTORY: The subject properties were originally platted as part of the single-family residential Westerlea Village subdivision, recorded August 11, 1949. They were subsequently rezoned to what is now LC zoning, subject to replatting and the provisions of a restrictive covenant and three (3) protective overlays. The subject properties are: (a) Lots 1 and 2, Block 1, King's Maple Street Addition, recorded 07-27-1994, Z-3074, Restrictive Covenant #30; (b) Lot 1, Block 1, King's Maple Street Second Addition, recorded 02-05-2004, Z-3359, Protective Overlay #69, and; (c) Lot 1 (except the south 57.5 feet), Block 1, King's Maple Street Third Addition, recorded 02-05-2004, Z-3350, Protective Overlay #63 and Z-3360, Protective Overlay #70.

ADJACENT ZONING AND LAND USE:

NORTH:	LC, SF-5	Strip retail, retail, apartments
SOUTH:	LC	Undeveloped lot, restaurant
EAST:	SF-5	Single family residences
WEST:	LC	Big box building supply center, retail

PUBLIC SERVICES: The subject properties have frontage onto Ridge Road and Maple Street. Both Ridge Road and Maple Street are four-lane principal arterials, with turn lanes, and raised, full curbed median strips. Summitlawn Drive, which abuts the east side of two of the subject properties, is a two-lane, paved residential street. The 2030 Transportation Plan indicates no change to the status of any of these roads. Available traffic counts in the area show approximately 23,700 average trips per day on this section of Ridge Road and Maple Street. All utilities are available to the subject sites.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the area as appropriate for "Local Commercial" development. The "Local Commercial" category includes commercial, office and personal service uses that do not have a regional draw. 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 subject properties are undeveloped, but currently have a restrictive covenant and POs that were intended to minimize negative impact on the established single-family residential neighborhood. The current POs and restrictive covenant limits signage, lighting, noise, building height, requires a six foot high masonry wall, and a landscape buffer located outside the masonry wall, along the property lines. They also prohibited certain uses that are less compatible with the existing single-family residential development, including high-intensity, auto-oriented commercial uses. Because the subject properties were essentially rezoned two single-family lots at a time, it was reasonable to anticipate that some time in the future, the provisions of the POs and the restrictive covenant might be amended and the properties replatted to provide a larger, more coherent, unified site.

The applicant proposes to replace the three existing POs and restrictive covenant with a revised PO. The proposed PO would provide the advantage of having one document establishing the uses and developing standards for a larger, replatted site. The proposed PO would allow outdoor speakers and sound amplification for drive-throughs and order boards. Some typical businesses that use these outdoor

speakers are fast food restaurants (currently prohibited), coffee shops, banks, and drug stores. The proposed PO would also increase the maximum height of light poles from 14 feet to 30 feet and increase the maximum height of buildings from 25 feet to 35 feet, but the one-story standard would remain in effect. The proposed PO as written seems to have landscaping located in the Summitlawn Drive right-of-way, thus eliminating the current on-site landscape buffer, with landscaping planted between the masonry wall and the subject properties' Summitlawn Drive frontage. The combination of the loss of the original landscape buffer coupled with the introduction of drive-throughs and order boards, allowing fast food restaurants, allowing 30-foot tall light poles and the increase to a 35-foot maximum building height does not meet the intent of the Commercial Locational Guidelines of the Comprehensive Plan for commercial uses to have design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Pizza Hut site has a PO that is similar to the subject properties' POs and restrictive covenant and can be seen as the standard for redevelopment of this area, including the subject properties.

Additionally, the Commercial Locational Guidelines of the Comprehensive Plan recommend that commercially-generated traffic should not feed directly onto local residential streets. The subject sites have been platted with complete access control along their Summitlawn Drive frontage and the proposed replatting of the subject properties would need to keep that restriction.

RECOMMENDATION: Staff cannot recommend all the provisions of the proposed PO. The proposed PO does not meet the intent of the Commercial Locational Guidelines of the Comprehensive Plan to have design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. However, the impact of allowing fast food restaurants and their needed outdoor speakers and sound amplification for drive-throughs and order boards could be minimized with the retention of some of the provisions of the original POs. Retaining the maximum height of the light poles, including their base to 14 feet; keeping the maximum height of buildings to 25 feet and no more than one story; and providing a 20-foot deep landscaped street yard adjacent to the entire length of the east property on the east side of the masonry wall, would minimize the negative impact on the existing single-family residential development. These recommended provisions would also allow coffee shops, banks and drugstores to use outdoor speakers and sound amplification for drive-throughs and order boards. Based upon information available prior to the public hearings, planning staff recommends that the following provisions of a Protective Overlay be APPROVED, subject to replatting within one year:

- A. No off-site or portable signs shall be permitted on the subject property. No signs shall be permitted along the face of any building or along any street frontage that faces or is across the street from any property that is in a residential zoning district.
- B. 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 14 feet. Light poles shall not be located within any setbacks.
- C. Outdoor speakers and sound amplification systems shall not be permitted except for drive-throughs and order boards.
- D. No buildings shall exceed one story in height with a maximum building height of 25 feet.
- E. A 6-foot high masonry wall shall be constructed parallel to the east property line where property in a residential zoning district is across the street from the subject property. The masonry wall shall be setback from the property 20 feet, and a 20-foot deep landscaped street yard shall be provided adjacent to the entire length of the east property line on the east side of the masonry wall.
- F. The following uses shall not be permitted: adult entertainment establishment; group residence; correctional placement residence; recycling collection station; reverse vending machine; car wash; convenience store; night club; recreation and entertainment; service station; tavern and drinking establishment and vehicle repair.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by a mixture of single-family residences, commercial uses and undeveloped LC zoned property. The properties located east of the subject properties, across Summitlawn Drive, are zoned SF-5 Single-family Residential (“SF-5”) and are developed with single-family residences; built mid-1950s to mid-1960s. This single-family residential subdivision is the oldest existing development in the area. The subject properties were originally platted as part of this single-family residential subdivision. The property located west of the site, across Ridge Road, is zoned LC with a Community Unit Plan (CUP) overlay, DP-37, and is developed as a big box Lowes (built 1998) building supply center. Properties located north of the site, (built 1983-1999) across Maple Street, are zoned LC, some with POs, and SF-5. The LC zoned sites are developed as strip retail, retail, a restaurant and a convenience store. The SF-5 zoned properties are developed as apartments with a CUP overlay. The properties located south and abutting the subject properties are zoned LC and are undeveloped, with the exception of a Pizza Hut Bistro restaurant, which was built in 2005. The Pizza Hut site is the only developed LC property within the Maple - Summitlawn – University – Ridge Streets’ block, which is where the subject properties are located. The Pizza Hut site has a PO that is similar to the subject properties’ POs and restrictive covenant. The Pizza Hut site can be seen as the standard for redevelopment of this area, including the subject properties. The Maple - Summitlawn – University – Ridge block was rezoning SF-5 to LC during the years 1992- 2002. All of these properties were essentially rezoned two single-family lots at a time and then replatted. All of them have POs or restrictive covenants that have more in common than not.
2. The suitability of the subject property for the uses to which it has been restricted: The subject properties could be developed as currently zoned with the provisions of their Protective Overlays or restrictive covenants. But, the subject properties would be better served by combining them through the replatting process to make a larger site and then have one Protective Overlay over the one, larger site.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental effects should be minimized by the recommended provisions of the Protective Overlay, which includes the limits on signage, limits on uses, a maximum height of 14 feet, including their base, for light poles, a maximum height of buildings to 25 feet and no more than one story and providing a 20-foot deep landscaped street yard adjacent to the entire length of the east property on the east side of the masonry wall.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The proposed PO, did not meet the intent of the Commercial Locational Guidelines of the Comprehensive Plan to have design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. However, the impact of allowing fast food restaurants and their needed outdoor speakers and sound amplification for drive-throughs and order boards could be minimized with the retention of some of the provisions of the original POs. Retaining the maximum height of the light poles, including their base, to 14 feet; keeping the maximum height of buildings to 25 feet and no more than one story, and; providing a 20-foot deep landscaped street yard adjacent to the entire length of the east property on the east side of the masonry wall, would minimize the negative impact on the existing single-family residential development. These recommended provisions would also allow coffee shops, banks, and drugstores to use outdoor speakers and sound amplification for drive-throughs and order boards.
5. Impact of the proposed development on community facilities: Detrimental impacts on traffic should be minimized through the replatting process, which should limit access to the subject site to an arterial street and through cross lot access. Other community facilities should not be adversely impacted.

BILL LONGNECKER, Planning Staff presented the Staff Report. He said DAB V recommended approval per staff recommendation. He said several people expressed concerns at the DAB meeting primarily about traffic onto Summitlawn. He said ingress/egress from the property onto Summitlawn would not be permitted as the property is platted.

KIRK MILLER, AGENT FOR THE APPLICANT stated that during the platting process, it was approved that there would be no access onto Summitlawn from the site. He said there would be two openings, one on Maple Street and one on Ridge Road. He said there had been issues regarding the landscaping along Summitlawn, as they had originally presented it, which had it located in the right-of-way. They had subsequently given another proposal that provided a 10-foot wide landscaping buffer outside the masonry wall, both which were now on the applicant's property. He mentioned that the lot is smaller than the Pizza Hut lot because of the 15 foot right-of-way dedication along Ridge Road and because of this they could not match the 20-foot wide landscape buffer along Summitlawn as provided by Pizza Hut. He mentioned the proposed protective overlays and stated that they would like to request 20 foot light poles, which seems to be the standard since this is at the intersection of two arterial streets and it would make it easier to market the property. In addition, he said they would like to increase the 25 foot building height to 35 feet to accommodate architectural features, even though the building will remain one story.

HARRIET C. PRICHARD, 310 SUMMITLAWN said she lives at the corner of Maple and Summitlawn directly east and adjacent to the proposed development. She said she understands that the City is committed to making this a commercial area and she won't argue with that; however, she said she will argue for a "green belt" on Summitlawn that protects the Westerlea Village. She said they have pollution all around and overhead with airplanes and she sees no relief from the pollution with this commercial area. She said she would like to advocate that many trees be planted in the landscaped strip along Summitlawn adjacent to the residential development. She said there needs to be more advocates for "green" in Wichita because we are paving over more and more of the area for commercial development. Secondly, she asked where the entrances to the property will be located since a fast food restaurant was one of the development possibilities and she was concerned that cars will come down Summitlawn to get into the property.

MILLER said there will be no entrances/exits onto Summitlawn and added that there will be a 10-foot landscaping strip and wall along the easterly side of the property.

Responding to **HILLMAN's** question concerning the possible planting of trees, **MILLER** said they are required to plant trees along the landscaped strip per the Landscape Ordinance.

MITCHELL clarified the requested changes were; light poles from 14 feet to 20 feet, including the base; decreasing the 20-foot landscape buffer to a 10-foot landscape buffer; and increasing the building height from 25 feet to 35 feet, but remaining one story.

HENTZEN asked about the location of the wall and if it was the same distance off Summitlawn as the Pizza Hut.

MILLER responded that it will be closer towards Summitlawn, not an extension of the wall that is currently there and added that the current protective overlay does not require a wall but a berm.

FOSTER suggested increasing the landscaping to 1 ½ times to what was required by code.

MILLER commented that he thought they could probably do that.

MOTION: To approve subject to staff recommendation with the exceptions to items b., d., and e. that the applicant agreed to, plus 1½ times the landscape standard along Summitlawn.

MITCHELL moved, **MCKAY** seconded the motion, and it carried (11-1).
DENNIS – No.

DENNIS said he can't support the motion due to the light pollution to the owners directly to the east.

LONGNECKER mentioned that lights can't be located in setbacks.

7. **Case No.: ZON2008-67** – William G. Schraft (owner/applicant); Savoy Company, P.A., c/o Mark Savoy (agent) Request City zone change from SF-5 Single-family Residential to LC Limited Commercial on property described as:

Lot 1, Joseph E. Hall Addition, Wichita, Kansas, together with all of the 50 feet of street right-of-way for 35th Street South, lying south of and adjacent to said Lot 1 and Lots 6 and 7, Hatcher-Gomez Addition to Wichita, Kansas, together with all of the 50 feet of street right-of-way, lying south of said Lots 6, 7 and 8, in said Hatcher-Gomez Addition, Wichita, Kansas and together with the south 49.5 feet of the Northwest Quarter of Section 7, Township 28, Range 1 East of the 6th P.M., Sedgwick County, Kansas, lying west of the west line of Lot 1, Schraft 3rd Addition, Wichita, Kansas and together with that part of the Southwest Quarter of Section 7, Township 28, Range 1 East of the 6th P.M., Sedgwick County, Kansas, lying north of a line 130 feet north of and parallel with the north right-of-way line of I-235 Highway as condemned in Case A-76777 and lying west of the west line of Lot 1, Schraft 3rd Addition Wichita, Kansas; generally located North of I-235 and east of Meridian (2322, 2422 W. 35th St. South) and triangle shaped tract located on the south side of 35th Street South, west of 2239 W. 35th Street.

BACKGROUND: The applicant is requesting LC Limited Commercial (“LC”) zoning for the 1.43-acre unplatted SF-5 Single-family Residential (“SF-5”) zoned site. The site is currently undeveloped. The site is located directly north of I-235 on the west side of South Meridian Avenue. The requested LC zoning would allow the applicant to extend existing LC zoning from the north and to market the site for commercial development.

The applicant also owns the LC zoned property directly west of the northern two lots included in this application. This property included in this rezone request is bisected by the existing 35th Street South right-of-way that is currently undeveloped. To bring the properties together into one lot, the applicant would have to vacate the existing right-of-way with a vacation request or replatting of the property.

The site is located across Meridian Avenue from the Meridian Outlet Mall Community Unit Plan (“CUP”) DP-138. That entire CUP is zoned LC, and is developed with both sit-down and drive-thru restaurants, a YMCA, a library and a fire station. The CUP also contains a couple undeveloped parcels which may be occupied with future commercial development. Property to the south of the subject site consists of a drainage canal and I-235. Property north of the subject site is zoned LC, and is currently undeveloped. The property abutting the east property line is zoned TF-3 Two-family Residential (“TF-3”) and SF-5, and is developed with single-family residences.

CASE HISTORY: The subject site is located in Lots 6 and 7 of the Hatcher-Gomez Addition, recorded on June 7, 1955, and the remaining area is currently unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Vacant
SOUTH:	I-235	Interstate
EAST:	SF-5 & TF-3	Residences
WEST:	LC	Fast Food Restaurant(s)

PUBLIC SERVICES: The site has access to South Meridian Avenue, a four-lane minor arterial, with 50 feet of half-street right-of-way. Average daily trips (ADT) along this section of Meridian Avenue are approximately 12,500 ADT. The site is also located directly north of I-235, a four-lane interstate highway with approximately 37,400 ADT. Municipal sewer and water services and all other utilities are available.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “urban residential” type uses. The “urban residential” category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The requested LC zoning and the uses permitted in it would be classified as “local commercial” by the Guide. The “local commercial” category’s uses are local in their customer base and include: commercial, office, personal services, medical, auto repair, grocery stores, florist shops, service stations, restaurants and, on a limited presence basis, mini-storage warehousing and small scale light manufacturing. However, the subject site is bordered to the north and west, across Meridian Avenue, by properties categorized as “local commercial” on the land use guide, and commercial and industrial uses are common at major intersections.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request for the LC Local Commercial (“LC”) zoning be APPROVED, subject to replatting within one year and to the following provisions of a Protective Overlay:

1. One and one half times the landscape requirement.
2. No order boards or queuing lanes within 150 feet of the east property line.

(Both recommendations match a previously approved PO directly north of the subject site.)

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site is located across Meridian Avenue from the Meridian Outlet Mall Community Unit Plan (“CUP”) DP-138. That entire CUP is zoned LC, and is developed with both sit-down and drive-thru restaurants, a YMCA, a library and a fire station. The CUP also contains a couple of undeveloped parcels which may be occupied with future commercial development. Property to the south of the subject site consists of a drainage canal and I-235. Property north of the subject site is zoned LC, and is currently undeveloped. The property abutting the east property line is zoned TF-3 and 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 could be developed under the current zoning with single-family residences. However, this may not be a desirable single-family residential location due to proximity of high traffic volumes from Meridian Avenue and I-235, and the commercial uses located across Meridian Avenue from the subject site.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Rezoning and commercial development could have negative effects on the single-family residence east of the application area. Existing codes would require compatibility setbacks, screening, landscaping, limit noise, and prohibit certain uses within 200 feet of residences.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “urban residential” type uses. The “urban residential” category encompasses areas that reflect the full diversity of residential development densities and types

typically found in a large urban municipality. The requested LC zoning and the uses permitted in it would be classified as “local commercial” by the Guide. The “local commercial” category’s uses are local in their customer base and include: commercial, office, personal services, medical, auto repair, grocery stores, florist shops, service stations, restaurants and, on a limited presence basis, mini-storage warehousing and small scale light manufacturing. However, the subject site is bordered to the north and west, across Meridian Avenue, by properties categorized as “local commercial” on the land use guide, and commercial and industrial uses are common at major intersections.

5. Impact of the proposed development on community facilities: Provided that drainage and traffic access policies are met, community facilities should not be impacted by the proposed development. Other usually provided municipal services are available or can be extended.

DERRICK SLOCUM, Planning Staff presented the Staff Report. He said DAB IV voted 7-0 to recommend that the request be approved.

FOSTER asked about the restrictions on the property to the north.

SLOCUM said the staff recommended and the Commission approved increases in the landscape requirements and restrictions on order boards and queuing lanes for that property.

MARK SAVOY, AGENT FOR THE APPLICANT said they are in agreement with staff comments and added that they will be vacating 35th Street to eliminate traffic congestion.

MCKAY asked if the area was located in the floodplain.

SAVOY responded, yes, this area was located in a FEMA flood zone.

URSULA ROBERTSON, 12216 W. 35th STREET, SOUTH said she lives on the northeast corner of St. Clair and 35th Street, South. She said she doesn’t know how vacating the right-of-way concerns the amount of traffic. She mentioned current development in the area including a Wendy’s, Village Inn, Taco Bell, and Subway and said she understands that you can’t stop development and that some of it is good for the community. She mentioned that kids run across Meridian Street to the new YMCA and new Library and added that there was a crosswalk at 31st Street, but that kids won’t go that far to cross the Street. She also mentioned the new Fire Station and how all these features create more traffic in the area, which is a safety concern. She said her second concern was the floodplain issue and added that she has to have FEMA insurance for her mortgage. She said adding more buildings and elevated construction and the water run off and water drainage in the area are concerns for area homeowners. She said the County came out and removed a stand of old trees, which did make the drainage area wider; however, it is shallower. She said she is concerned about water drainage north and south since every street drains down to 35th Street and even if it only rains two inches, they have water in their driveway.

SAVOY explained that by vacating 35th Street, the street will not extend through the area. He said they will meet City of Wichita Code requirements for floodplain locations including any run off requirements. He said that is all part of the planning process and they are willing to meet those requirements.

TAPE 1, SIDE 2

MOTION: To approve subject to staff recommendation.

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

8. **Case No.: PUD2008-05** – Michael Farha (owner); Poe & Associates Engineering, c/o Tim Austin (agent) Request Create PUD #28 East Boulevard Planned Unit Development on property described as:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 11 and 12, Block 1, East Boulevard Addition to Wichita, Kansas, Sedgwick County, Kansas. Generally located north of 3rd Street North between Oliver Street and Bleckley Drive.

BACKGROUND: The applicant proposes to create PUD #28, the 1.58 acre East Boulevard Planned Unit Development. The “PUD” Planned Unit Development special zoning district would replace the current zoning district of B Multi-family Residential (“B”) on one parcel with all uses permitted in the LC Limited Commercial (“LC”) zoning district and the following uses prohibited: group residence, limited; broadcast recording studio; and payday loans or similar businesses. Residential development would be limited to the density permitted by the B zoning district at 75 dwelling units per acre.

All lighting is to be shielded away from residential areas; trash receptacles and roof equipment require screening. Signs are to be in conformance with the City Sign Code for the LC district with no offsite, billboards, portable, rotating or flashing signs permitted. Landscaping is required per the Landscape Code, a pedestrian circulation system is required to connect buildings to public sidewalks, and utilities are to be underground. Architectural design standards require consistent exterior building materials and colors with metal prohibited as a predominant exterior wall material. Building setbacks are 20 feet from all public streets; building heights are limited to 55 feet. Wireless communication facilities are subject to standards for the LC zoning district. Commercial gross floor ratio is limited to 30%, and the entire development is not to exceed 39,000 square feet of gross floor area.

The application area exists north of 3rd Street North, between Oliver and Bleckley. North of the site is a platted alley, an LC zoned office building, and LC zoned commercial uses – including a vacant grocery store at the intersection of Oliver and Central. South of the site is a B zoned middle school. East of the site, across Bleckley, are MF-29 Multi-family Residential (“MF-29”) zoned duplexes. West of the site, across Oliver, are TF-3 Two-family Residential (“TF-3”) zoned single-family residences.

CASE HISTORY: The property was platted as Lots 1-12 of the East Boulevard Addition in 1930. The property is currently developed with 26 dwelling units within two, three, and four-unit buildings, all built between 1937 and 1941.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Office, commercial
SOUTH:	B	Middle school
EAST:	MF-29	Two-family residences
WEST:	TF-3	Single-family residences

PUBLIC SERVICES: Oliver is a four-lane section line arterial street with a 70-foot right-of-way (ROW), and a daily traffic count of 16,420. 3rd Street North is a local street with a 60-foot ROW; Bleckley is also a local street with an 80-foot ROW, Bleckley is a one-way street south of 3rd, behind Robinson Middle School, for the purpose of increased school bus loading safety. All municipal services are available at the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the *Wichita-Sedgwick County Comprehensive Plan* identifies this site as Urban Residential, with Local Commercial identified immediately to the north.

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

- (1) Reducing or eliminating the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots;
- (2) Allowing greater freedom in selecting the means to provide access, light, open space and design amenities;
- (3) Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses; and
- (4) Allowing deviations from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of this Code.

The proposed PUD addresses these criteria by permitting a mixture of commercial and residential uses. The PUD also incorporates provisions such as architectural standards and pedestrian circulation requirements that enhance the quality of the proposed development.

RECOMMENDATION: The Unified Zoning Code indicates that the PUD is a special purpose zoning district that is intended to encourage innovative land use planning and design by allowing some flexibility with base development standards while promoting quality urban design. Ideally the proposed PUD would incorporate the commercial development to the north and northeast of this site, in order to consolidate parking, circulation, signage, and design issues within the entire commercial development at the southeast corner of Oliver and Central. There is also a need to protect the school to the south from excessive traffic by prohibiting access to this site from 3rd Street, and prohibiting the highest traffic generating land uses of drive-through service and convenience stores. There is also a need to protect the remaining residences located along the east side of Bleckley Drive. Based on these comments and information available prior to the public hearing, staff recommends the application be APPROVED subject to the following conditions:

1. Amend 3 to include the following prohibited uses: drive-through service, convenience stores, car washes, and pawnshops.
2. Amend 7 to limit parking lot lighting to 20 feet in height.
3. Add 26 to require dedication of access control to public streets, except for two access points along Oliver, and one access point from Bleckley, and complete access control to 3rd Street.
4. Add 27 to require a guarantee for a public sidewalk along Bleckley.
5. The dedications and guarantees shall be completed prior to the issuance of building permits or within one year following approval by the governing body, whichever comes first; or the case shall be considered denied and closed.
6. The applicant shall submit 4 revised copies of the PUD to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North of the site is a platted alley, an LC zoned office building, and LC zoned commercial uses – including a vacant grocery store at the intersection of Oliver and Central. South of the site is a B zoned middle school. East of the site, across Bleckley, are MF-29 zoned duplexes. West of the site, across Oliver, are TF-3 zoned single-family residences.
2. The suitability of the subject property for the uses to which it has been restricted: The property could continue to be used for multi-family residential as it is currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the requested PUD could affect nearby property with increased traffic, activity, noise and light.

The proposed PUD should mitigate these effects better than typical zoning code standards under a commercial zoning category.

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* identify the site as Urban Residential, with Local Commercial identified immediately to the north. The Unified Zoning Code states that a PUD is intended to create a superior quality development that may not conform to all the requirements of the Unified Zoning Code.
5. Impact of the proposed development on community facilities: The proposed development could generate more traffic on surrounding streets than the current residential development. Limiting vehicular access from 3rd Street, prohibiting the high-traffic generating uses of drive-through service and convenience stores, and providing pedestrian access should mitigate an increase in traffic and associated safety concerns.

MARNELL said he thought another nearby case had set a parking lot light standard of 15 feet including the pedestal and that there seemed to be an inconsistency in this application.

MCNEELY commented that may be an oversight, but the other case has different factors.

MILLER clarified that the other case nearby has a standard of 15 feet including the pedestal through a Protective Overlay.

MCNEELY said the applicant is agreeable to that change.

FOSTER mentioned a building height of 55 feet.

MCNEELY commented that was discussed at the DAB meeting.

JESS MCNEELY, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation, with the parking lot lights at 15 feet, including the pedestal.

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

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

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

BACKGROUND: The applicant proposes to create PUD #29, the 4.73 acre Moussavi Office Park Planned Unit Development. The "PUD" Planned Unit Development special zoning district would replace the current zoning district of SF-5 Single-family Residential ("SF-5") on one parcel. The PUD would permit all uses in the GO General Office ("GO") zoning district, with the following uses prohibited: manufactured home, accessory apartment, cemetery, correctional placement residence, golf course, parking area (commercial), recycling collection station (private), hotel or motel, marine facility, asphalt or concrete plant, and agriculture. Uses that require a Conditional Use in the GO district would require a separate PUD amendment. This leaves the following uses permitted in the PUD: single and multi-family

residential (up to 75 dwelling units per acre), assisted living, group residence, church or place of worship, community assembly, convalescent care, daycare, hospital, library, schools, automatic teller machines, bed and breakfast inn, broadcast recording studio, funeral home, medical service, and general office.

Signs are per the Sign Code (the PUD does not designate which zoning district within the code), with only one 96 square-foot, 16-foot tall sign on Harry; off site, portable, and variable message signs are prohibited. All lighting is to be shielded away from residential areas with a 15-foot height limit; trash receptacles and roof equipment require screening. Landscaping is required per the Landscape Code, utilities are to be underground. The PUD requires screening, but would waive screening adjacent to multi-family parking, and would allow screening to be achieved with evergreen vegetation or berms in accordance with the Zoning Code. Architectural design standards require consistent exterior building materials of brick, stone, or stucco, consistent colors, and pitched roofs. Building setbacks are 20 feet from the north and west property lines, 25 feet from the south property line; 15-feet from single-family residential development on the east property line, and 10 feet from multi-family along the east property line. Building heights are limited to 35 feet. A total of eight buildings are permitted with a building coverage of 21%, a gross floor area ratio limited to 25%, and the entire development not to exceed 51,500 square feet of gross floor area. Access points are to be from both Harry and Longford.

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

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

ADJACENT ZONING AND LAND USE:

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

PUBLIC SERVICES: Harry is a five-lane section line arterial street with a 100-foot right-of-way (ROW), and a daily traffic count of 24,592. Longford is a paved two-lane local street with a 58-foot ROW. All municipal services are available at the site.

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

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

- (1) Reducing or eliminating the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots;
- (2) Allowing greater freedom in selecting the means to provide access, light, open space and design amenities;

- (3) Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses; and
- (4) Allowing deviations from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of this Code.

The proposed PUD incorporates architectural standards, building height limits, and building coverage limits that could enhance the quality of the proposed development. The proposed setbacks adjacent to single-family residential development do not meet the Zoning Code compatibility setback requirement of 25 feet. The applicant would be required to continue providing screening which meets the standards of the Zoning Code.

RECOMMENDATION: Several residential neighbors have contacted planning staff with opposition to this request in general, and opposition to office generated traffic on Longford Street. Planning Staff finds that this PUD is called an office park, but it would permit many uses other than offices. Staff finds that a restriction to just office, general and medical service uses would give residential neighbors more predictability regarding future land uses on this property. Staff finds that this site is plenty large to meet the minimum compatibility setbacks of the code. City Fire and Traffic staff would require this site to have an opening on Longford; an emergency only access point would prevent office traffic from traveling Longford Street. Based on these comments and information available prior to the public hearing, staff recommends the application be APPROVED subject to platting within one year and subject to the following conditions:

1. Amend the PUD drawing to indicate 25-foot compatibility setbacks from single and two-family residential development.
2. Amend Provision 5 to state “Signs shall be in accordance with the Sign Code for the NO Neighborhood Office zoning district, with the following additional requirements:”
3. Amend Provision 5c to add “No building signs shall be permitted facing west.”
4. Amend Provision 8 to limit access from Longford to one emergency access point only, to be approved by the City Fire Marshall.
5. Amend Provision 12 to increase the 15 and 20 foot buffer to 25 feet where adjacent to single and two-family residential development.
6. Amend Provision 17 to state that the uses in Parcel 1 shall be limited to office, general, and medical service only.
7. The applicant shall submit 4 revised copies of the PUD to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North and west of the site are SF-5 zoned single-family residences. South of the site, across Harry, are SF-5 and MF-29 Multi-family Residential (“MF-29”) zoned multi-family residences. East of the site are TF-3 Two-family Residential (“TF-3”) zoned single and multi-family residences.
2. The suitability of the subject property for the uses to which it has been restricted: The property could continue to be used for single-family residential as it is currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the requested PUD would affect nearby property with increased traffic, activity, noise and light. The proposed PUD could mitigate these effects provided it meets minimum zoning code standards.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identifies this site as Urban Residential. This category encompasses all residential development densities and types typically found in the municipality. The office location guidelines of the Comprehensive Plan state that office uses should be located adjacent to arterial streets; that local service-oriented offices should be incorporated within or adjacent to neighborhood and community scale commercial development; and that low density office use can serve as a transitional land use between residential uses and higher intensity uses. The Unified Zoning Code states that a PUD is intended to create a superior quality development that may not conform to all the requirements of the Unified Zoning Code.
5. Impact of the proposed development on community facilities: The proposed development would generate more traffic on Harry and Longford than the current residential development. Emergency vehicular access only from Longford would prevent residential neighbors from having office generated traffic on their street.

MCKAY recused himself and left the bench.

JESS MCNEELY, Planning Staff presented the staff report. He reported that DAB II recommended that the request be denied by a vote of 5-3.

FOSTER asked who owned the north and west screening fences abutting the property.

MCNEELY said he believed the West Heights Homeowners Association owned the fence to the west, since they provide the landscaping in the right-of-way along Longford Street. He said he thought the fence located on the north side of the property was privately owned.

BOB KAPLAN, AGENT FOR THE APPLICANT said the objective of the planned unit development (PUD) was to develop an economically advantageous use compatible with the area. He said Harry Street from Rock Road to Webb Road is entirely multi-family or commercial development, including townhome development immediately across the street from the site. He also mentioned that there are approximately seven apartment complexes along Harry Street with no single-family residential housing fronting Harry Street. He said the area is high density and multi-family; therefore, they felt there was some potential for commercial development facing Harry Street. He said they talked with City staff, went before the Development Review Committee and decided to come up with a plan similar to the office park development at Maize Road between Kellogg and Maple, which had been favorably received by the neighborhood. He said they believe the proposed PUD is a compatible use with the area. He said they agreed on office and medical usage and to extend compatibility setbacks by 5 feet. He said they also agreed to eliminate the access onto Longford, except for emergency vehicles. He said what he was unable to do at the DAB meeting was to convince them that traffic within a GO General Office development is no more intensive than traffic within a multi-family residential zone. He referred to the International Traffic Engineering Manual (ITE), which was the traffic generation manual. He said they understand that the neighbors don't want any more traffic along Longford. He said they do not believe traffic is a legitimate issue. He said they eliminated access onto Longford, they have developed architectural standards (brick, stone or stucco exterior) that are architecturally compatible with the area, and the proposed office park will be screened and fenced. He said this proposed development meets all the legal criteria and that neighborhood opposition is not sufficient basis for denial. He said they believe this is a good project that deserves approval and that they are willing to work with the neighbors if they want to contact him. He concluded by saying that it was not economically feasible to develop the area as single-family residential.

HILLMAN asked if this portion of Harry had five lanes, with a center turn lane.

KAPLAN said it appeared so from the site plan sketch.

DAVE WILSON, 1150 S. LONGFORD COURT, PRESIDENT OF THE HEDGWOOD II HOMEOWNERS ASSOCIATION commented that the homeowners association asked him to speak to the Commission today about this proposal. He said this lot was represented to prospective buyers as being zoned single-family and that it would eventually be developed as such. He said this was the greatest attraction to build and live in this community. He said they were assured by the developer's representative that would happen. He referred to item number 2 under staff recommendations in the Staff Report, which stated that this area could remain SF-5 zoned. He said number 3 in the report states that there would be increased traffic, noise and light. He said they feel that by removing all this green space the developer will also be increasing the amount of heat and dust generated by 4 ½ acres of asphalt paving. He said the location of this type of development is a bad fit for a residential community. He said access, especially egress, will be limited from this property. He said those of them that live in the neighborhood know the frustration of trying to go eastbound on Harry Street and having to give up and go west and turn around. He said people exiting the proposed office park will go north on Longford and get lost in the interior winding streets. He said the proposed two drives onto Harry Street occur in a widening taper for a left turn lane, that Harry Street is not five lanes in front of the property. He said it is a four lane street without a "chicken lane". He said they will be dumping entering and existing traffic into three lanes of westbound traffic and that is an obvious safety hazard. He said office location guidelines state that office uses should be located adjacent to arterial streets and community scale commercial development. He said this proposal interjects offices into the center of an existing residential community, which is a bad fit. He said the neighbors feel the proposals intent and spirit is contrary to normal applications of this nature. He said it will virtually eliminates five acres of green space that includes over 50 mature trees and 4 ½ acres of grass and habitat for urban wildlife and domestic pets. He said the visual effect for adjacent homeowners will change from a park-like setting, to a dusty hot, asphalt and brick office site, all of which they come home to try to get away from. He added that the noise from Harry Street will no longer be buffered. He also mentioned that the community has born the responsibility and expense of the east right-of-way along Longford for twelve years, including maintenance of lawn, trees, irrigation and fence as part of their commons area. He said they object to placement of a gated drive that will remove their trees and vegetation, particularly if it is only used in an emergency. He said they also feel this proposal does not meet City policies regarding traffic being dumped onto a light residential street. He said eight office buildings with office and staff, laboratory deliveries, office supplies and trash service will create 1,000 trips per day from two exits onto Harry Street. He said some of the community is sensitive to being threatened by the property developers that this will go to a multi-family apartment if this proposal fails. He said they don't care to be intimidated. He said the most practical and sensible land use is SF-5. He said that is what they were led to believe when they bought, built and maintained their properties for the past 15 years. He said 20-22 single-family homes could be developed on the property with cul-de-sacs that would be more compatible with the residential community.

MOTION: To give the speaker an additional minute.

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

WILSON referred to the Staff Report that says they will be subjected to many undesirable consequences including traffic, light, trash, heat and dust generated by 4 ½ acres of pavement. He said the consensus of the Hedgwood II Homeowners Association is that the proposal is not needed in their residential community; the proposal is not wanted in their residential community, that it is a bad fit for the residential community, and that the proposal is wrong in spirit and intent for their residential community. He said the proposal would cause them a grave injustice and loss of property value.

MITCHELL asked when the neighborhood was promised that the land would be used for single-family residential development.

WILSON said they were assured that the area would be developed as single-family residences and that is the reason they bought at this location, that they had options to go other places to build. He said they built their home in 1996.

CHARLES SIMON, 1215 S. LONGFORD STREET presented a Power Point presentation commenting that he was there to represent the nine lots just west of the proposed development. He said he has lived in his home over 14 years, and that it was a Cassado-McKay Development. He said the general consensus of the group is that they are opposed to this development. He reviewed several slides commenting on the character of the homes. He briefly explained his background as an engineer, retired from the Air Force and Beech Aircraft. He said this property was the old "Crandall Homestead" and has been zoned single family for decades. He said apparently there was a "gentlemen's agreement" that when the property became available, the Hedgwood II development would have the first option to purchase it.

MOTION: To give Mr. Simon one more minute for his presentation.

DENNIS moved, the motion died due to lack of a second.

HELEN STEINDLER, 1219 S. LONGFORD said she lives four houses north of Harry Street. She said she enjoys living there, that it is a good neighborhood and that everyone takes pride in their homes and property and keeps them up well. She said she understood that this property would be developed as single-family if it was ever sold. She said the proposal will cause a decrease in the value of their property. She also mentioned that a big parking lot with 300 cars will eventually attract undesirable people at night after the offices are closed dealing drugs and that kind of thing and that she is concerned about the safety issues. She asked that the Commission not destroy their neighborhood.

ELIZABETH BISHOP, 8518 LONGLAKE STREET said she was a resident of the area south of Longford but added that she was not representing the Cedar Lakes Homeowners Association. She said it was natural that her neighborhood and the neighborhood to the north would not want to lose the last remaining green space in the area. She said it was too bad that they didn't attempt to develop the area into a small vest pocket park like the park at Governour and 13th Street. She commented that this is an extremely well designed neighborhood with a diversity of uses that were well buffered from each other. She said traffic is a major concern because they have turn lanes in the area in lieu of stop lights and there are no protected left hand turns whatsoever from Webb to Rock Roads. She said access in and out of the neighborhoods needs to be done extremely carefully. She questioned the traffic figures provided by the Traffic Engineer because accidents are commonplace in the area and the figure of two accidents in 2007 seemed awfully low. She said this is a delightful neighborhood to live in and that she hates to lose the green space. She requested that traffic concerns and sufficient buffering be taken into account during site development.

Responding to a question from **HILLMAN** concerning right in and right out turns, **BISHOP** said it was the left hand turns that seem to cause problems.

TAPE 2, SIDE 1

KAPLAN reiterated that he did not believe that traffic was an issue. He said if this area was developed as SF-5 with 5,000 square foot lots with 30 or 35 units that would each generate 10 trips per unit, per day, then GO development will not be any more intensive traffic-wise. He said the complex will be open from approximately 9:00 a.m. – 5:00 p.m. five days a week; be totally screened and architecturally compatible with the neighborhood. He said he does not think the argument "let's not rezone because we were promised it wouldn't be rezoned" is irrelevant. He concluded by stating that they don't see a legitimate reason not to approve the requested rezoning.

MTICHELL asked how long the property was available for purchase.

KAPLAN said the property was purchased at auction, but said he can't answer how long it was available because he does not know the history of the property.

MITCHELL asked staff to respond to the disagreement on item 5 in the Staff Report concerning the amount of traffic.

MCNEELY said the formula is based on ten trips per day, per single-family residential unit. He said traffic counts for the proposed office development will depend on how much square footage of office space there is.

MITCHELL clarified that staff does not see the increased traffic on Harry as a problem for the application.

MCNEELY responded no.

FOSTER asked staff to clarify the screening and buffering requirements along the west side of the development along Longford.

MCNEELY briefly reviewed the screening which included the requirement for a 6-8 foot wood fence or masonry wall. He commented that the applicant would provide the necessary screening required by City Code.

MOTION: To approve subject to staff recommendation and the additional setback the applicant has agreed to.

MITCHELL moved, **VAN FLEET** seconded the motion, and it carried (9-2-1).
FOSTER and **HILLMAN** – No. **MCKAY** – Abstained.

HILLMAN requested that the motion maker include a condition for an 8-foot wall rather than a 6-foot wall.

MITCHELL said no.

MCKAY back on the bench.

10. Case No.: CON2008-59 - Gary Klausmeyer (owner); Sedgwick County, c/o Robert Lawrence (applicant); Baughman Company, c/o Russ Ewy (agent) Request County Conditional Use for government service on property described as:

The West 588.00 feet of the North 370.29 feet of the Southwest Quarter of Section 10, Township 28 South, Range 3 West of the 6th P.M., Sedgwick County, Kansas; generally located on the east side of 263rd Street West, approximately 1/2 mile north of 39th Street North.

BACKGROUND: The applicant seeks a Conditional Use to permit a "Government Service" or Fire Station in RR Rural Residential ("RR") zoning. The site is currently undeveloped and used for agricultural production. The site plan provided by the applicant demonstrates the Fire Station, access into and out of the station and associated parking. Staff will request that the applicant submit a revised site plan that demonstrates the location of a proposed lagoon and the setback from the centerline of 263rd Street West. The Unified Zoning Code ("UZC") defines Government Services as "buildings or facilities owned or operated by a government entity and providing services for the public, excluding utilities and recreational services." The UZC requires a Conditional Use for "Government Services" in all residential zoning districts.

The county conducted a coverage needs assessment and determined that this location was the most advantageous due to the fact that it serves several surrounding small cities including Garden Plain, Goddard and Viola, as well as several rural subdivisions.

The site is an unplatted 4.5-acre tract zoned RR with all the surrounding properties also zoned RR. Much of the area surrounding the application area is in agricultural fields. The nearest residence is approximately 1,500-feet north of the proposed station, and another residence is located approximately 2,500-feet southeast of the proposed station. Large tract ownership is common in this part of the county.

CASE HISTORY: The property is currently unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Farmstead
SOUTH:	RR	Agricultural Land
EAST:	RR	Agricultural Land
WEST:	RR	Agricultural Land

PUBLIC SERVICES: MacArthur Avenue and 263rd Street West are both classified as paved 2-lane rural major collectors. The nearest intersection is to the south, at 263rd Street West and MacArthur Avenue, however, there are no traffic counts at this intersection or on either of these roads near this location. There are currently no projections or future traffic volumes at the intersection into 2030. The 2030 Transportation Plan does not designate any changes on this road in the future and there are no Capital Improvement Projects shown through 2012. There is no sewer to this site, but the applicant plans to utilize a lagoon and rural water provided by Rural Water District 4.

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan identifies this property as being in the rural areas of Sedgwick County, approximately 6 miles west of the Wichita 2030 Urban Growth Area. Land assigned the rural designation is intended to accommodate agricultural uses, rural based uses that are no more offensive than agricultural uses commonly found in Sedgwick County, and predominately larger lot residential uses utilizing individual or community water and sewer service. The Wichita-Sedgwick County Unified Zoning Code (UZC) lists “Government Service” as a Conditional Use in the RR zone district. The UZC definition for “Government Service” is “buildings or facilities owned or operated by a government entity and providing services for the public, excluding utilities and recreation services.”

RECOMMENDATION: Based on the information available prior to the public hearing, staff recommends the application be APPROVED subject to the following conditions being completed within one year:

1. A revised site plan showing the location of a proposed lagoon and the setback from the centerline of 263rd Street West.
2. The site will be generally developed as shown on an approved revised site plan, obtaining and conforming to all applicable permits, including but not limited to building, health and zoning, including connection to rural water and lagoon.
3. The site shall be developed and operated in compliance with all federal, state and local rules and regulations.
4. 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 VI hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site is an unplatted 4.5-acre tract zoned RR with all the surrounding properties also zoned RR. Much of the area surrounding the application area is in agricultural fields. The nearest residence is approximately 1,500-feet north of the proposed station, and another residence is located approximately 2,500-feet southeast of the proposed station. Large tract ownership is common in this part of the county.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR, which primarily permits large lot residential uses. The site could be used as a residence without the Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental effects should be mitigated by the recommended conditions of approval and code required development standards.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Comprehensive Plan identifies this property as being in the rural areas of Sedgwick County, approximately 6 miles west of the Wichita 2030 Urban Growth Area. The Wichita-Sedgwick county Unified Zoning Code (UZC) lists "Government Service" as a Conditional Use in the RR zone district. The UZC definition for "Government Service" is "buildings or facilities owned or operated by a government entity and providing services for the public, excluding utilities and recreation services."
5. Impact of the proposed development on community facilities: With a new fire station in the area, this will improve response times to fire/medical calls in the surrounding area, thus lowering previous response times.

DERRICK SLOCUM, Planning Staff presented the staff report.

MOTION: To approve subject to staff recommendation.

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

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11. **Case No.: CON2008-60** – Lafarge North America, Attn: Kevin Rohner (owner/applicant); MKEC Engineering Consultants Inc., Attn: Brian Lindebak (agent) Request County Conditional Use to amend boundary of CU-91 to enlarge area of excavation on property described as:

The Northeast Quarter of Section 35, Township 26 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, except there from the following tracts:

Tract 1: Beginning at the Southwest corner of said Northeast Quarter; thence North along the West line of said Northeast Quarter, 295 feet; thence Southeasterly to a point on the South line of said Northeast Quarter, 295 feet East of said Southwest corner; then West along the South line of said Northeast Quarter, 295 feet to the point of beginning.

Tract 2: Beginning at the Northeast corner of said Northeast Quarter; thence South to the Southeast corner of said Northeast Quarter; thence West 50 feet; thence North parallel to and 50 feet West of the East line of said Northeast Quarter to a point 350 feet South of the North line of said Northeast Quarter; thence West 25 feet; thence North parallel to and 75 feet;

West of the East line of said Northeast Quarter to the North line of said Northeast Quarter; thence East to the point of beginning, dedicated for street purposes.

Tract 3: Beginning at the Northeast corner of said Northeast Quarter; thence West to the Northwest corner of said Northeast Quarter; thence South 50 feet; thence East parallel to and 50 feet South of the North Line of said Northeast Quarter to a point 350 feet West of the East line of said Northeast Quarter; thence South 25 feet; thence East parallel to and 75 feet South to the North line of said Northeast Quarter to the East line of said Northeast Quarter; thence North to the point of beginning, dedicated for street purposes.

BACKGROUND: The applicant requests an amendment to conditions on an existing Conditional Use (CU-91) for a mining and quarrying (sand extraction) operation on property zoned SF-20 Single-family Residential (“SF-20”) generally located at the southwest corner of the intersection of 37th Street North and West Street. The request is to amend conditions 9 and 11 on CU-91 to allow for recreation once the operation is completed (condition 9) and to expand the boundaries of the excavation area (condition 11). Currently the conditions read as follows:

9. No recreational activities such as boating, fishing, skiing, etc., being permitted in the area, unless duly authorized under provisions of the County Zoning Resolution and amendment.
11. The excavation not approaching 37th Street, West Street, or the south and west property lines nearer than the 250 feet as indicated on the Operational Sketch Plan.

The applicant has stated that the reason for requesting this amendment is to allow for additional excavation of valuable sand, and according to the applicant, there have been people that have expressed interest in the possibility of using the extraction lake for different opportunities in the future, after the applicant has ceased operation of the sand pit. With those two factors, the applicant looks to change the wording of conditions 9 and 11 to read as follows:

9. Private recreational activities such as boating, fishing, skiing, etc., will be permitted in the area once the extraction activity has ceased operation.
11. The final excavation should be no closer than 75 feet from the 37th Street and West Street property lines and no closer than 20 feet from the south and the west property lines as indicated on the submitted site plan.

Staff was contacted by the owner of the property abutting the west property line about his concerns in regards to the 20-foot setback. The property owner was concerned about the possibility of erosion especially since the twenty foot sliver of land, along with the sliver of land on his property, is the only barrier separating the applicant’s lake with the lake on the property to the west of the subject site. The property owner did contact the representative with Lafarge to discuss his concerns regarding the setback. According to the property owner, they came to an agreement to which Lafarge agreed to increase the setback to 50-feet instead of 20-feet, slope the shoreline and to add material (i.e. vegetation, riprap, concrete, etc.) to that shore to mitigate erosion. In response to the change in the request (staff is still waiting for confirmation in writing by the applicant), condition 11 would read as follows:

11. The final excavation should be no closer than 75 feet from the 37th Street and West Street property lines, 50 feet from the west property line and 20 feet from the south property line as indicated on the revised site plan.

The applicant does propose to keep the LC Limited Commercial (“LC”) zoned property, located at the northeast corner of the subject site as is, with the potential of future commercial use on the site.

Property north of the site is zoned SF-20 and LI Limited Industrial (“LI”) and is developed as a solid waste disposal and transfer station. Property south of the site is zoned SF-20, and is currently undeveloped, but is almost entirely occupied by a large extraction pit, the remains of a former sand extraction operation. Property west of the subject site is zoned SF-20 and is also occupied by a large extraction pit due to previous extraction activities. Property east of the subject site, across West Street, is zoned LI and GI General Industrial (“GI”) and is currently being used for sand extraction.

CASE HISTORY: The site is unplatted. The site’s original Conditional Use (CU-91) was approved in 1966. In 2007, an amendment to CU-91 was filed (CON2007-00006) to reduce the minimum excavation distance from 250 feet to 100 feet, but was later withdrawn from consideration.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-20 & LI	Waste Disposal Station
SOUTH:	SF-20	Vacant Excavated Land
EAST:	LI	Sand Pit
WEST:	SF-20	Vacant Excavated Land

PUBLIC SERVICES: West Street is a paved two-lane minor arterial roadway. County Public Works has indicated in the past that the paving along this stretch of West Street is thicker than normal due to the fact that a higher than usual volume of trucks travel this roadway. 37th Street North is a two-lane minor arterial roadway that is paved up to the entrance of the solid waste disposal station, approximately 750 feet west of the intersection with West Street. According to the 2007 Traffic Volume Flow Map, West Street at this location has 4,799 Average Daily Trips (ADTs). Municipal water and sewer services have not been extended to this site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies this site as “Urban Develop Mix” within the Wichita 2030 Urban Growth Area. The urban development mix category encompasses areas of land that will likely be developed or redeveloped within the next 30 years with uses predominately found in the Urban Residential Use category. However, there is a strong likelihood that concentrations and pockets of Major Institutional Uses, Local Commercial Uses and Park and Open Space Uses will ultimately be developed within this area as well, based upon market driven location factors. In certain areas there is the possibility that future uses may include Regional Commercial and Employment/Industry Center. The Wichita 2030 Urban Growth Area is a category that identifies Wichita’s urban fringe areas that are presently undeveloped but have the potential to be developed by 2030, based upon Wichita population growth projections and current market trends. This is the area in which City limits expansion and extension of municipal services and infrastructure should be focused during the period from 2005 to 2030. Determination of growth direction and amount is based upon municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the proposed amendment to CU-91 be **APPROVED, subject to the original conditions and the following amended conditions:**

9. Private recreational activities such as boating, fishing, skiing, etc., will be permitted in the area once the extraction activity has ceased operation.
11. The final excavation should be no closer than 75 feet from the 37th Street and West Street property lines, 50 feet from the west property line and 20 feet from the south property line as indicated on the revised site plan.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property north of the site is zoned SF-20 and LI Limited Industrial (“LI”) and is developed as a solid waste disposal and transfer station. Property south of the site is zoned SF-20 and is currently undeveloped, but is almost entirely occupied by a large extraction pit, the remains of a former sand extraction operation. West of the site is zoned SF-20 and is also occupied by a large extraction pit due to previous extraction activities. Property east of the site, across West Street, is zoned LI and GI General Industrial (“GI”) and is currently being used for sand extraction.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-20 and the site could be used for a residential development, or any other uses permitted by right in the SF-20 zone district, surrounding the excavation lake. However, sand extraction is a resource based activity requiring the activity to occur where the sand is located and this location has several operating and closed sand extraction sites surrounding the subject site. Also, the close vicinity to a solid waste disposal/transfer station, mining and quarrying operations and a small airport makes this location less desirable for residential development.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The amendment to the existing Conditional Use would not pose a new threat to this area of the county, which is characterized by several sand extraction sites that are in operation and several closed sand extraction sites. Furthermore, the conditions of approval in this staff report are designed to mitigate any adverse impact this use may have on surrounding properties.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies this site as “Urban Develop Mix” within the Wichita 2030 Urban Growth Area. The urban development mix category encompasses areas of land that will likely be developed or redeveloped within the next 30 years with uses predominately found in the Urban Residential Use category. However, there is a strong likelihood that concentrations and pockets of Major Institutional Uses, Local Commercial Uses and Park and Open Space Uses will ultimately be developed within this area as well, based upon market driven location factors. In certain areas there is the possibility that future uses may include Regional Commercial and Employment/Industry Center. The Wichita 2030 Urban Growth Area is a category that identifies Wichita’s urban fringe areas that are presently undeveloped but have the potential to be developed by 2030, based upon Wichita population growth projections and current market trends. This is the area in which City limits expansion and extension of municipal services and infrastructure should be focused during the period from 2005 to 2030. Determination of growth direction and amount is based upon municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors.
5. Impact of the proposed development on community facilities: The use of this property should have limited impact on community facilities. West Street is already constructed to meet truck traffic and this particular use has minimal sewer and water needs, which can be met without the presence of public services.

MCKAY recused himself and left the bench.

JOHNSON (out @3:17 P.M.)

DALE MILLER (FOR DERRICK SLOCUM), Planning Staff presented the staff report.

MITCHELL asked about the right-of-way on West Street.

DOWNING asked about the requirement of developing the area into a lake for fishing/boating activity subsequent to finishing the extraction activity.

MILLER said the intent of that requirement is to be sure that there is some use of the land when the extraction operation is completed.

GREG ALLISON, MKEC ENGINEERING, REPRESENTING THE APPLICANT said they are in agreement with staff comments. He said he would need to get clarification on the right-of-way that he didn't know if it was 60 or 80 feet. He said the neighbor to the west has agreed to a 50-foot right-of-way.

MITCHELL asked if the setback was already excavated.

ALLISON said they will leave it open as it is.

MITCHELL clarified that the applicant agreed to a 75-foot offset from West Street.

DIRECTOR SCHLEGEL clarified that it was 135 feet center of West Street.

ALLISON said the applicant has agreed to the 135 feet.

HILLMAN asked about access to the south property.

ALLISON said there was no road that crosses the property.

MITCHELL mentioned slope treatment and asked if anything would be done to prevent erosion into the setback area.

ALLISON commented that the applicant will stabilize the shoreline.

MITCHELL asked how that will be enforced.

ALLISON said he didn't know if he was the one to answer that.

MILLER said a condition of approval would be a way to address that.

KEVIN ROHNER, LAFARGE NORTH AMERICA, APPLICANT commented that the current conditional use has provisions regarding bank stabilization.

MILLER said he hasn't reviewed the original conditional use; however, if it was granted prior to the standard list of conditions which included enforcement action, a complaint to County Code Enforcement would generate enforcement action.

TOM SANDERS, 3412 N. HOOVER said he owns property adjacent to the property to the southwest. He said there is supposed to be a 50-foot setback from this property onto his property, but it is a lot closer than that and there has been no enforcement. He said the Ritchie extraction caused runoff from his property into the lake. He said there is erosion in three locations and that Ritchie came back and had to repair it. He said it is still eroded in there at the opening between the two properties, which is a clear violation of the conditional use permit. He mentioned the island area and said there is erosion to the north and that the whole area will erode especially if motor boating is allowed on the lake. He asked who will be responsible to come back and fix it. He said the neighbor to the west, Mr. Hudson, did not approve a 50-foot setback and mentioned that he was present at the meeting. He said he has no problem with boating within reasonable limits and times and if the erosion is prevented. He commented that the soil is very sandy and that it goes down 45-50 feet. He said the degree of slope required was completely ignored by Ritchie because they told him there was good sand right there by his property. He requested that the Commission turn down the application.

WILLIAM MILLER said he lived north of the area and stated that there was a problem up there and asked how they were going to fix it. He said he agreed with the previous speaker.

SAM HUDSON, 5221 W. 37th STREET NORTH said he was currently building a home just west of the site. He said he was present to oppose the request and commented that his attorneys would be filing an objection to the petition within the guidelines set up by the Planning Commission.

HILLMAN asked Mr. Hudson to indicate where he lived on the map.

HUDSON said he owned the lake directly west of the site.

HILLMAN asked about any excavation guidelines placed on the lake.

HUDSON said there were state guidelines that they agreed to which were to do land reclamation on the sloping on the south, north and west sides of the lake. He said there was only about 50 feet on the east side of the lake with a road on it that borders the Lafarge property. He said the state recognized that they were unable to do reclamation in that area. He said because of the erosion that has taken place, they need to provide some type of rip-rap to keep the property line from eroding into Lafarge's property. He said they are working on how to accomplish that. He said they have done reclamation on the north and west sides of the lake with rip-rap and they have planted trees. He said the cost of doing the reclamation is beyond comparison for a regular home owner. He said their objection was not only to the noise levels but the erosion as well. He said within a two-year period, the north side of the lake has eroded over 10 feet. He said they took immediate steps to put down rip-rap and it has washed away within the last year because of the high rain and wind, so they have taken more steps to put down more rock. He said he is concerned with how close to his property line Lafarge mines and digs. He said once Lafarge is gone, there will be no one responsible for paying for the erosion except him. He asked that the Commission keep the set back large enough to prevent erosion for the next decade.

HILLMAN asked what distance Mr. Hudson recommended for the setback.

HUDSON said he originally thought 50-75 feet sounded normal; however, after listening to Mr. Sanders and some of the other neighbors, he is not so sure that 150 feet isn't really what is needed. He said originally the setback was 150 feet on the west side of his property, but in the last two years they have lost almost 15 feet on that side. He said the wind and waves cause the erosion and that is something that can't be controlled no matter what slope you put on it. He said all of this information will be detailed in their opposition petition.

KEVIN ROHNER, LAFARGE NORTH AMERICA explained where their property line was located on the south end of the map. He said Ritchie owned the property referred to by Mr. Sanders and Mr. Hudson. He said Ritchie put the connection in between the two lakes and it was required that a floating bridge be placed to maintain the equilibrium between the two lakes so the dredge does not bottom out. He said they maintain their property and take care of any erosion.

MITCHELL said the staff recommendation does not clearly define the slope and the method of stabilizing the slope to maintain the setback that Lafarge is proposing. He asked if they were talking about from the property line to the edge of the water, to the edge of the rip-rap, or to the top of the normal slope and then down.

ROHNER said they would be willing to go from the property line to the top of the slope. He said they were not proposing rip-rap. He said they were only vegetating the slope. He said it was not their intent to run boats in the lake. He said people who are interested in the property want to use it for recreational purposes such as fishing and/or boating. He said those people will have to protect the setback as the developer, he said Lafarge protects the setback as a land owner in terms of reclamation.

MITCHELL asked Mr. Rohner how they were going to assure the adjacent property owners that the established setbacks will be maintained.

ROHNER said by their word, and added that they maintain their property and will fix any erosion.

MITCHELL said it would be difficult to maintain those slopes with just vegetation and getting an applicant or owner back in to repair any erosion afterwards would also be difficult. He said there have been a number of cases where the situation has gone on for years before anything was done. He said he doesn't know how they will enforce what the applicant says they will do. He said he would like to see some sort of enforcement provision in the conditional use.

HILLMAN asked the attorney to suggest an approach such as something like a high bond to maintain the property and the road.

ROHNER commented that they were bonded with the State for the reclamation. He said reclamation would take the form of vegetating the area when they are through.

BOB PARNACOTT, ASSISTANT COUNTY COUNSELOR said the Commission could establish guarantees of various sorts; however, the Commission would have to be very specific about the amount, how it is funded and tie it to the specific obligation the Commission is trying to enforce.

HILLMAN asked for an estimated cost to repair a quarter mile road.

DIRECTOR SCHLEGEL said he had no way of knowing that.

MILLER STEVENS said it sounds like there are erosion problems all around this location. She asked what's been done to correct those issues. She said it sounds like Mr. Hudson is taking care of his property, but she asked what is actually being done to prevent this from happening in the future.

ROHNER said they have owned the property for three years.

HILLMAN suggested that a \$1,000,000 bond be put in place to insure that Lafarge maintains the structure around the lake.

ROHNER said they have no trouble with erosion and they do maintain their property. He said they don't understand why a bond like that would need to be put in place. He added that they currently have a 250 foot setback on all four sides of the property.

HENTZEN clarified that the request was to change those setbacks to 75 feet on the east, 75 feet on the north, 50 feet on the west, and 20 feet on the south.

MOTION: To approve subject to staff recommendation and limit the setback to 100 feet around all sides of the property with proper stabilization and vegetation.

HILLMAN moved, and the motion died due to lack of a second.

MOTION: To approve subject to staff recommendation except that the north setback would be 135 feet from the center line of 37th Street North.

MARNELL moved, **HILLMAN** seconded the motion.

MITCHELL said with the sloping and vegetation at the water line, he cannot support the application.

HENTZEN said he agreed with **MITCHELL** and said he can't support the motion.

HILLMAN said he preferred to not support the motion as well because he does not believe the 20-foot setback on the south side of the property can be maintained.

ROHNER said they have not been using rip-rap only sloping and vegetation and the complaints he has heard from the neighbors are about property that is not theirs. He said they would be agreeable to the 100-foot setback that was proposed on all four sides of the property.

MILLER STEVENS suggested the Commission deny the request due to concerns about erosion.

TAPE 2, SIDE 2

SUBSTITUTE MOTION: To deny the request.

MILLER STEVENS moved, **HILLMAN** seconded the motion, and it carried (6-4-1).
ANDERSON, DOWNING, FOSTER, MARNELL – No.
MCKAY – Abstained.

MCKAY back on the bench.

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- 12. Case No.: DER2008-09** (continued from November 6, 2008) Request Amendment to The April 19, 2001 Edition of the Wichita-Sedgwick County Unified Zoning Code for codification, minor amendments to definitions and site development regulations, and addition of CBS Commercial Burn Site District as a special overlay zoning district.

General Location: City and County wide

DER2008-00009 represents a re-codification of the April 19, 2001 Edition of the Wichita-Sedgwick County Unified Zoning Code (“UZC”). Since 2001, over 15 substantive amendments have been added to the Code. This codification incorporates past amendments within the base document.

The attached draft of the Unified Zoning Code is provided for review and discussion at the MAPC meeting this Thursday, November 20, 2008.

The majority of proposed changes are modifications to style, not content. These include capitalization of the defined terms from Article II throughout the document. The advantage of the capitalization is to connect terms to their specialized meanings within the context of the Unified Zoning Code. Other modifications include adding consistency to punctuation, alphabetical ordering of defined terms, updating references to Comprehensive Plan land use designations and addition of a few new terms.

Other proposed changes include:

- Neighborhood Swimming Pool: the use is reclassified as a public or civic use (rather than a residential use) and parking requirements are reduced by ten percent.
- Fencing and Screening definitions and application to the Code are revised to add more clarity to how and where fencing and screening are required.
- Group Home, Assisted Living and Nursing Facility. Currently, the Unified Zoning Code is inconsistent with state statutes on congregate-type living facilities.

- Per K.S.A. 12-736, the state requires group homes to be allowed in all residential zoning districts. By state definition, a Group Home means any dwelling occupied by a maximum of ten persons, with eight or fewer having a disability (including the elderly who need help with daily living). Group Home includes the Home Plus type of facility, which today the Unified Zoning Code classifies as Convalescent Care, Limited. It is recommended Group Home reclassified as a residential use rather than a public and civic use.
- Nursing Facility would replace Convalescent Care, General.
- Assisted living would become a broader classification that includes intermediate care adult care facilities.

A substantive amendment under consideration is for a new overlay district to allow construction burn sites.

DENNIS (out @4:00 P.M.)

DONNA GOLTRY, Planning Staff presented the staff report, noting that if the MAPC recommends approval, it would be for adoption of a new edition of the Unified Zoning Code.

DALE MILLER commented that they have added a proposal to the Code regarding burning of trees taken off-site during construction activities. He said there will be strict guidelines including a limit of four burns a year. He said there would also be provisions to apply for conditional use permits for the activity. He said this provision was added to relieve developers of the expense of fees of a construction and demotion landfill when removing trees during the development process. He said this will provide a mechanism to legally burn trees off-site.

MITCHELL clarified that this was for all construction tree removal, not just for development.

MILLER referred to the definition provided in the Code.

HENTZEN asked if the conditional use would run with the land or for a specific time period.

MILLER said the conditional use could go either way; that it could be a specified number of burns or a specific amount of time or left open ended depending on the specific needs of a specific site.

HILLMAN asked if this activity would be allowed anywhere in the County.

MILLER said it will be restricted to Rural Residential, Single-Family Residential, Limited Industrial and General Industrial zoning districts.

MCKAY asked the County Attorney to summarize the provisions.

BOB PARNACOTT, ASSISTANT COUNTY COUNSELOR briefly reviewed the provisions including the requirement for a burn permit and Fire Department control and input.

DOWNING opened the hearing for public comments. No comments were made by the public.

MOTION: To approve the “Wichita-Sedgwick County Unified Zoning Code December 4, 2008 Edition.”

MITCHELL moved, **MCKAY** seconded the motion, and it carried (10-0).

The Metropolitan Area Planning Department informally adjourned at 4:10 p.m.

State of Kansas)
Sedgwick County) ss

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

Given under my hand and official seal this _____ day of _____, 2008.

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

(SEAL)