

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

October 9, 2008

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, October 9, 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 Foster; Bud Hentzen; Bill Johnson; Ronald Marnell; M.S. Mitchell; Don Sherman and Debra Miller Stevens. David Dennis; Michael Gisick; Hoyt Hillman and John W. McKay, Jr.; were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Jess McNeely, Senior Planner; Neil Strahl, Senior Planner; Derrick Slocum, Associate Planner and Maryann Crockett, Recording Secretary.

1. Approval of the prior MAPC meeting minutes:

MITCHELL suggested that on motions to approve Subdivision items the action should reflect the recommendation of the Subdivision Committee as well as the staff recommendation. It was the general consensus of the Commission to initiate this voting procedure on all Subdivision items in the future.

MOTION: To approve the September 25, 2008 Minutes, as amended.

HENTZEN moved, **ANDERSON** seconded the motion, and it carried (10-0).

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

2-1. **SUB 2008-67: One-Step Final Plat -- EDDY'S ACRES ADDITION**, located west of 127th Street East and on the south side of 55th Street South.

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

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. The site is currently located within the Sedgwick County Rural Water District No. 3. If service is available, feasible and the property is eligible for service, County Code Enforcement recommends connection.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. County Engineering has approved the applicant's drainage plan.

- E. The road right-of-way needs to be labeled.
- F. County Surveying advises that the bearing on the west property line needs to be corrected.
- G. The plat denotes two openings along 55th St. South. County Engineering has requested access control be limited to one opening in alignment with the driveway across 55th St. South.
- H. Sedgwick County Fire Department advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- I. On the final plat tracing, the MAPC signature block needs to reference “Darrell Downing” as Chairman.
- J. The platlor’s text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant’s responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl

Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

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

JOHNSON moved, **SHERMAN** seconded the motion, and it carried (10-0).

2-2. SUB 2008-69: One-Step Final Plat -- TRANS-NET ADDITION, located south of 29th Street North and on the west side of Tyler Road.

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

STAFF COMMENTS:

- A. City Water Utilities Department advises that municipal services are available to serve the site.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Engineering requests the platting of a Reserve in the southwest corner. Values are needed for the pre-development and post-development impervious area. A drainage easement is needed on the west and south portion of the plat.
- D. Traffic Engineering has approved the access controls. The plat denotes two openings along Tyler. "Access control except two openings" shall be denoted on the face of the plat.
- E. Since existing tree rows may be impacted by the installation of utilities, 30-foot utility easements shall be platted in order to allow for the installation of the utilities without damage to such tree rows.
- F. Traffic Engineering has approved the right-of-way along Tyler.
- G. On the final plat tracing, the MAPC signature block needs to reference "Darrell Downing" as Chairman.
- H. The applicant shall submit a copy of the instrument, which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the appropriate governing body.
- I. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- J. County Surveying advises that the range is not consistent throughout the plat.
- K. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified

with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

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

JOHNSON moved, **SHERMAN** seconded the motion, and it carried (10-0).

3. PUBLIC HEARING – VACATION ITEMS

3-1. VAC2008-30: County request to vacate a portion of platted complete access control.

APPLICANT/OWNER: Dale Kuhn, Riverside Township Trustee

LEGAL DESCRIPTION: Generally described as vacating the platted complete access control to allow one (1) full movement drive along the Woodlawn Boulevard frontage of Lot 1, Prairie Estates Addition, Sedgwick County, Kansas

LOCATION: Generally located north of 55th Street South, on the west side of Woodlawn Boulevard, on the north side of Idlewild Circle (BoCC #5)

REASON FOR REQUEST: Existing drive encroaching into platted complete access control

CURRENT ZONING: The site and all adjacent and abutting properties are zoned SF-20 Single-family Residential (“SF-20”)

The applicant proposes to vacate a portion of the platted complete access control to bring an existing drive, onto Woodlawn Boulevard, into conformance. There are no streets or private drives located immediately opposite the existing drive. Sedona Street is the closet street opposite the existing drive and it is located approximately 430-foot northeast of the drive. Idlewild Circle is the closest street on the same side of Woodlawn and it is located approximately 240 feet south of the existing drive. This request is associated with CON2008-34, as a condition of that case: Government Service, Riverside Township Maintenance facility. CON2008-34 was approved by the City of Derby Planning Commission August 7, 2008 and the MAPC August 21, 2008. Woodlawn Boulevard is a paved, two-lane county highway. The site also has frontage along Idlewild Circle, a sand and gravel local street. A condition of CON2008-34 was dedication of complete access control onto Idlewild. The 2030 Transportation Plan shows no change to the status of either of these roads. There is no public water or sewer on the site and the site is outside of any Rural Water District. There are no utilities located within the site’s east lot line, where the proposed vacation is located; the existing drive onto Woodlawn. The site is within the City of Derby’s area of zoning influence and has been forwarded to them for their consideration. The Prairie Estates Addition was recorded with the Register of Deeds March 2, 1979.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from the County Engineer, franchised utility representatives and other interested parties, Planning Staff recommends approval of the request to vacate a portion of platted complete access control 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 September 18, 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 portion of the platted complete access control 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 portion of the platted complete access control described in the petition should be approved with conditions:
 - (1) Vacate the platted complete access control along the site’s (Lot 1, Prairie Estates Addition) Woodlawn Boulevard frontage to allow one (1) 30-foot full movement drive,

as approved by the County Engineer.

- (2) Comply with CON2008-34 and dedicate complete access control along the site's (Lot 1, Prairie Estates Addition) Idlewild Circle frontage.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (4) All improvements shall be according to County Standards and at the applicant's expense, including the new driveway from private property onto public ROW and closing of any existing drives.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the platted complete access control along the site's (Lot 1, Prairie Estates Addition) Woodlawn Boulevard frontage to allow one (1) 30-foot full movement drive, as approved by the County Engineer.
- (2) Comply with CON2008-34 and dedicate complete access control along the site's (Lot 1, Prairie Estates Addition) Idlewild Circle frontage.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (4) All improvements shall be according to County Standards and at the applicant's expense, including the new driveway from private property onto public ROW and closing of any existing drives.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

JOHNSON moved, **SHERMAN seconded** the motion, and it carried (10-0).

PUBLIC HEARINGS

4. **Case No.: ZON2008-35** - Alison White (owner/applicant), Jim Bell (agent) Request City zone change from SF-5 Single-family Residential to B Multi-family Residential on property described as:

Beginning 377.85 feet South of the Northwest corner of the Northwest Quarter of Northeast Quarter of Section 32, Township 26 South, Range 1 East of the 6th P.M.; thence South 116.575 feet; thence East 425.14 feet; thence North 116.575 feet; thence West 425.14 feet to the point of beginning, formerly described as Lots 60, 62, 64, 66 and 68, on Arkansas Avenue, and Lots 59, 61, 63, 65 and 67, on Jackson Avenue, in Bridgewater Addition to Wichita, Sedgwick County, Kansas. Generally located southeast of the intersection of N. Arkansas and N. 37th St. (3716 N. Arkansas.)

BACKGROUND: The applicant requests a zone change from SF-5 Single-Family Residential (“SF-5”) to B Multi-Family Residential (“B”) on a 1.05 acre unplatted tract located southeast of the intersection of North Arkansas Avenue and 37th Street North. The applicant proposes to develop the property with a multi-family use.

Since the abutting property to the south is zoned SF-5 and half of the abutting property to the east is zoned TF-3 Two-family Residential (“TF-3”), screening and buffer landscaping will be required along the south east property lines zone TF-3 or more restrictive. Screening and buffering may be provided by decorative fencing, evergreen vegetation, or landscaped earth berms. The compatibility setback standards require a minimum 25-foot building setback along the affected property lines. Since the subject property has frontage along an arterial street, a landscaped street yard and parking lot screening will be required along the west property line for any new construction of buildings or parking areas. The street right-of-way and access controls will have to comply with the Subdivision Regulations and will need to be upgraded through dedications during the platting process, which will be a requirement for the rezone and to obtain any building permits.

The surrounding area is a mix of single, two and multi-family uses and zoning, along with commercial uses and zoning. The properties to the south are developed with single-family residential uses on properties zoned SF-5. Property to the north is zoned LC Limited Commercial (“LC”) and B and is developed with an apartment building and a dentist office. The property to the east is zoned TF-3 and MF-29 Multi-family Residential (“MF-29”) and is developed with duplexes. The property to the west, across North Arkansas Avenue, is zoned LC and SF-5 and is developed with a convenience store and church.

CASE HISTORY: The property is currently unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	“LC”	Dental Office
	“B”	Apartments
SOUTH:	“SF-5”	Single-family Residences
EAST:	“TF-3” & “MF-29”	Duplexes
WEST:	“SF-5”	Church & Residence
	“LC”	Convenience Store

PUBLIC SERVICES: This site has access to North Arkansas Avenue, a paved, two-lane minor arterial. The subject site is located approximately 200 feet south of the intersection of North Arkansas Avenue and West 37th Street North. 37th Street North is a paved, two-lane minor arterial. The traffic counts at the intersection of Arkansas and 37th are approximately 7,400 Average Daily Trips (“ADT”) for North

Arkansas Avenue and approximately 6,200 ADT's for West 37th Street North. Municipal water and sewer services are currently provided to this site.

Apartments, a common use in a B zone, generate approximately 7 average daily vehicle trips per unit and a dwelling unit in the SF-5 zone district can generate 9.57 average daily vehicle trips per unit. Under LC zoning, a medical office can generate 36.13 average daily trips per 1,000 square feet, a convenience store can generate 737.99 average daily trips per 1,000 square feet, a church can generate 9.11 average daily vehicle trips per 1,000 square feet and a nursery can generate 4.50 average daily trips per acre. (Source: Institute of Transportation Engineers.) By using the information above, the existing uses fronting North Arkansas Avenue between 37th St. North and 35th St. North generate approximately 1,800 average daily trips. With the proposed 16 to 24 unit apartment building, the trips increase to approximately 1,900 to 1,960 average daily trips, an increase of 100 to 160 trips per day.

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

The Comprehensive Plan’s “Residential Locational Guidelines” of for medium and high density residential state that such uses should be (1) transitional land uses between commercial and low density uses and may also serve to buffer low-density residential uses from commercial uses, (2) allocated to within walking distances of neighborhood commercial centers, parks, schools and public transportation routes while being in close proximity to concentrations of employment, major thoroughfares and utility trunk lines, (3) directly accessible to arterial or collector streets in order to avoid high traffic volumes in lower density residential neighborhoods, and (4) sited where they will not overload or create congestion in existing and planned facilities/utilities.

This request conforms to the goals and objectives of the residential land use category of the Wichita-Sedgwick County Comprehensive Plan. The goal for residential land use within the plan is to provide for rural, suburban, and urban residential areas, which provide for a variety of housing opportunities. The objective to the goal is to encourage residential redevelopment, infill and higher density residential development that maximizes the public investment in existing and planned facilities and services. One of the strategies used is the use of Community Unit Plans, Planned Development Districts and zoning as tools to promote mixed use development, higher density residential environments and appropriate buffering.

The “Wichita Residential Area Enhancement Strategy Map” targets those residential neighborhoods in the City of Wichita needing some level of special enhancement or improvement in order to ensure their future viability in terms of structural integrity, marketability, physical form and community cohesiveness. This neighborhood has been placed into “Conservation” area classification, based upon the extent of improvement and enhancement required. The Conservation category identifies the neighborhood as having residential neighborhoods that are still basically sound (structurally, socially and marketability), but need to be protected from future structural and market value de-cline. Also, these neighborhoods have an average structure age of at least 30 years and lack some residential amenities/features commonly found in the newer home market-place.

RECOMMENDATION: Based on the information available prior to the public hearing, staff recommends the application be APPROVED subject to platting within a year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is a mix of single, two- and multi-family uses and zoning, along with commercial uses and zoning. The properties to the south are developed with single-family residential uses on properties zoned SF-5. Property to the north is zoned LC Limited Commercial (“LC”) and B and is developed with an apartment building and a dentist office. The property to the east is zoned TF-3 Two-family Residential (“TF-3”) and MF-29 Multi-family Residential (“MF-29”) and is developed with duplexes. The property to the west, across North Arkansas Avenue, is zoned LC and SF-5 and is developed with a convenience store and church.
2. The suitability of the subject property for the uses to which it has been restricted: The site is developed with a single-family residence and could continue to be used for single-family residential, although the commercial and nonresidential uses abutting its west side have probably have made this type of development less desirable.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental Effects should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance, which should limit noise, lighting, and other activity from adversely impacting the lower intensity residential area to the north.
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 appropriate for “Urban Residential.” The Urban Residential category includes all densities of residential development found within the urban municipality. This category of use encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks and special residential accommodations for the elderly (assisted living, congregate care and nursing homes).
5. Impact of the proposed development on community facilities: The impact of this development on the community facilities will be minimal, with the exception of an expected increase in local traffic generated by the proposed multi-family residential development.

CHAIRMAN DOWNING announced that the case had been withdrawn.

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5. Case No.: ZON2008-39 – Estate of Lela Vireinia Tanner (Dale Tanner) / Mark Savoy Request City zone change from SF-5 Single-family Residential to NR Neighborhood Retail on property described as:

Beginning 250 feet East of the Southwest corner of the Southeast Quarter, thence East 174.3 feet, thence North 290 feet, thence West 174.3 feet to the point of beginning, Sectuib 28, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas.

AND

The North 51.33 Feet of the South 341.33 feet of the West 424.3 feet of the Southeast Quarter of Section 28, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas
Generally located 2,900 feet east of S. Webb Rd. and north of Harry (10414 E. Harry).

BACKGROUND: The applicant is seeking NR Neighborhood Retail (“NR”) zoning for 1.42, unplatted acres. The site is zoned SF-5 Single-family Residential (“SF-5”), and developed with what appears to be a vacant residence. The site has 174.3 feet of frontage along Harry Street and a long strip on its north side that extends behind the entire north side of the abutting western property.

Property to the east is zoned SF-5 and is developed as an electrical/utility substation. Further east of the site are single-family residences (built 2004 and 2007) and a vacant lot, all zoned SF-5. A tract that is partially developed with LC Limited Commercial (“LC”) subject to CUP (DP-265), and undeveloped LC property finishes out the development pattern located to the east, up to the Webb Road intersection with Harry Street. Properties located north of the site are zoned SF-5, and are part of a partially developed single-family residential subdivision; Crystal Creek Addition, recorded 8-20, 2003. Reserve C of the Crystal Creek Addition abuts the north side of the site. Properties located south of the site, across Harry Street, are developed as SF-5 zoned single-family residential subdivisions; Smithmoor 1st Addition, 9-23-1986 and the Huntcrest 2nd Addition, 10-22-1982. West of the site the abutting and adjacent properties have been rezoned to NR with a Protective Overlay (ZON2008-15, PO-211) and GO General Office (“GO”) with a PO (ZON2001-18, PO-94). Both PO’s provide use and design standards that are compatible to the established abutting and adjacent single-family residential neighborhoods. The development trend on the north side of Harry Street, between Rock and Webb Roads has been, and continues to be, a transition from residential uses to office and retail uses.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residences
SOUTH:	SF-5	Single-family residences
EAST:	SF-5	Utility substation, single-family residences, vacant land
WEST:	NR, GO	Vacant single-family residence, church

PUBLIC SERVICES: Harry Street is classified as four-lane arterial. The current standard for this type of arterial is 60 feet of half-street right-of-way (ROW). The site’s Harry frontage has only 40 feet of half-street ROW; at the time of platting ROW will be requested to the minimum standards. All other municipal services are available or can be extended.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” map depicts this site as appropriate for “urban residential” uses. The development trend on the north side of Harry Street, between Rock and Webb Roads, has been and continues to be, a conversion from residential uses to office and retail uses. The most recent example of this trend is the rezoning of the abutting western property from SF-5 to NR subject to a PO (ZON2008-15, PO-211), which makes the requested NR zoning for this site an appropriate request. Staff recommends the same provisions of PO-211 (referenced above) for this site, to ensure it is a compatible use for the abutting and adjacent, established single-family residential neighborhoods. Commercial Location Guideline Number 1 contained in *The Wichita-Sedgwick County Comprehensive Plan* states that commercial sites should be encouraged to locate near arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion. The proposed NR zoning meets the previously referenced criteria. Guideline Number 3 states that commercial sites should have site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses. The proposed NR zoning with the recommended PO meets the second criteria. Guideline Number 4 states that commercial

uses should be located in compact clusters or nodes versus extending strip developments. The north side of Harry Street, between Rock and Webb Roads is close to being completely converted from residential uses to retail and office uses.

RECOMMENDATION: Based upon information available prior to the public hearing, planning staff recommends that the request NR zoning be APPROVED, subject to platting within one year and the following provisions of PO-222:

1. The following uses shall not be permitted: group residence, limited; group residence, general; correctional placement residence, limited; correctional placement residence, general; and hotel or motel.
2. Residential development shall be limited to a maximum density of 17.4 dwelling units per acre.
3. Buildings shall be limited to a maximum height of 45 feet.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property is located at a mid-mile location with frontage on an arterial street. The development trend on the north side of Harry Street, between Rock and Webb Roads, has been and continues to be a conversion from residential uses to retail and office uses, including the recent NR zoning of the abutting western property; ZON2008-15, PO-211. Established single-family residences are adjacent to the south, across Harry Street, and abutt the north side of the site.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-5 and the site could continue to be used as a single-family residence. The site's location on a four-lane arterial makes it less attractive for residential use and the recent rezoning of abutting and adjacent single-family properties contribute to making the site less attractive for use as single-family residence. The location of a utility substation on the east side of the site also makes it less attractive for use as a single-family residence.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The requested NR zoning coupled with the staff's recommended PO and platting requirement are the same zoning, use restrictions and platting requirement that were placed on the property abutting the west side of the site; this reflects the development trend of the transition from residential uses to office and retail uses on the north side of Harry Street. The provisions of the PO and the platting requirement will minimize negative impact on abutting and adjacent single-family neighborhoods.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial presumably could cause the applicant a relative economic loss. Approval would introduce small retail or office uses that could be used by the residences in the immediate vicinity of the application area.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The adopted plan depicts this area as appropriate for residential uses, not commercial or office uses. However, the development trend on the north side of Harry Street, between Rock and Webb Roads, has been and continues to be the conversion from residential uses to office and retail uses. The north side of Harry, between Rock and Webb is close to being completely converted from residential uses to retail and office uses.

- 6. Impact of the proposed development on community facilities: NR uses would increase the average daily traffic volume generated by this site; however community facilities are in place to accommodate anticipated uses.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, HENTZEN seconded the motion, and it carried (10-0).

- 6. **Case No.: ZON2008-49** – West Side Church of Christ, Attn: Darrell Phipps (owner/applicant), Baughman Company, P.A., Attn: Phil Meyer (agent) Request City zone change from SF-5 Single-family Residential to LC Limited Commercial on property described as:

Lot 15, except the east 7.5 feet thereof, Hatcher-Gomez Addition, Wichita, Sedgwick County, Kansas. Generally located east of S. Meridian and north of I 235 (3500 S. Meridian Ave.).

BACKGROUND: The applicant is requesting LC Limited Commercial (“LC”) zoning for the 1.9-acre platted SF-5 Single-family Residential (“SF-5”) zoned site. The site is currently developed with a church located on the north-central part of the property. The site is located approximately 400-feet north of I-235, on the west side of South Meridian Avenue. The requested LC zoning would allow the applicant to market the site for commercial development.

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. Property to the south of the subject site is zoned LC and is currently undeveloped. Property north of the subject site is zoned B Multi-family Residential (“B”) and is developed with a church. The property abutting the east property line is zoned SF-5 and is developed with a single-family residence.

CASE HISTORY: The site is located in the Hatcher-Gomez Addition, recorded on June 7, 1955.

ADJACENT ZONING AND LAND USE:

NORTH:	B	Church
SOUTH:	LC	Vacant Land
EAST:	SF-5	Residence
WEST:	LC	Fast Food Restaurant(s)

PUBLIC SERVICES: The site has access to South Meridian Avenue, a four-lane minor arterial, with 50-foot 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 approximately 400 feet 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 “major institutional” type uses. The “major institutional” category includes institutional facilities of a significant size and scale of operation and could include a range of such uses as: government facilities, military bases, libraries, schools, cemeteries, churches, hospital and medical treatment facilities. 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 south and west by properties categorized as “local commercial” on the land use guide and many uses that are classified in the “major institutional” category can be developed on property zoned LC.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request for the LC Local Commercial zoning be APPROVED.

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 undeveloped parcels which may be occupied with future commercial development. Property to the south of the subject site is zoned LC and is currently undeveloped. Property north of the subject site is zoned B Multi-family Residential (“B”) and is developed with a church. The property abutting the east property line is zoned SF-5 and is developed with a single-family residence.
2. The suitability of the subject property for the uses to which it has been restricted: The site 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 directly across Meridian 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 “major institutional” type uses. The “major institutional” category includes institutional facilities of a significant size and scale of operation and could include a range of such uses as: government facilities, military bases, libraries, schools, cemeteries, churches, hospital and medical treatment facilities. 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 south and west by properties categorized as “local commercial” on the land use guide and many uses that are classified in the “major institutional” category can be developed on property zoned LC.
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 reported that DAB IV approved the item 8-0; however, he also indicated that there was opposition at the DAB meeting due to concerns over property values.

RUSS EWY, BAUGHMAN COMPANY, AGENT FOR THE APPLICANT commented that they were in agreement with staff recommendation on this item.

KRISTI ALMOND GUTERREZ, 2321 WEST 34th STREET SOUTH, indicated that she lived to the east, directly behind the property in question. She said they have heard “hearsay” that this is going to be a restaurant and they are concerned about the noise volume because their children’s bedroom is located on the west side of their home as well as the living area and garage. She said they are also concerned about the survey marker which is on their property and asked if the application is re-evaluating property lines, easements and how close to their property the restaurant will be built. She said it was suggested at the DAB that they be allowed some type of say in the landscaping, lighting, and how close trash cans can be to their house. She said this is going to add tons of traffic in their area which already has a Wendy’s, Subway, and Taco Bell. She said the speakers from those establishments already disturb their peace and quiet. She said this site is literally in their front yard. She also mentioned pollution from semi trucks delivering to the location. She said they realize that this request is probably going to be approved but requested that they have some sort of input.

Responding to a question from **JOHNSON, GUTERREZ** explained that their front door faces west (toward the back of the church) and their front yard is on the north.

EWY said that this was a fairly large property and that development will occur on the western portion of the site. He said it was within his ability, on behalf of the applicant, to offer to do extra landscaping along the east property line adjacent to the **GUTERREZ’s** residence. He referenced the DAB discussion and commented that they were willing to do one and one-half times the landscaping required, and to keep order boards and queuing lanes at least 150 feet from the east property line. He said they would agree to those restrictions. Regarding the stake in the **GUTERREZ’s** driveway, **EWY** said he would have to verify with the surveyors. He added that the lot was 375 feet deep.

FOSTER asked if the one and one-half times additional landscaping meant larger plant materials or increased massing. He also asked about the screen fencing.

EWY said the one and one-half times landscaping will be increased density of plant materials and more massing. He added that they plan on installing a 6-8 foot cedar fence for screening.

MOTION: To approve subject to staff recommendation, in addition to one and one-half times the landscaping requirement and the provision that no order boards or queuing lanes be within 150 feet of the east property line.

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

JOHNSON recused himself from voting on the item and left the bench.

7. **Case No.: ZON2008-50 and CUP2008-33** –John Dugan (owner), Baughman Company, P.A., c/o Phil Meyer Request City zone change from SF-5 Single-family Residential to LC Limited Commercial and creation of the Turkey Creek Commercial Community Unit Plan on property described as;

Beginning at the Southwest Corner of the Southwest Quarter of Section 36, Township 27 South, Range 2 West of the 6th Principal Meridian, Sedgwick County, Kansas; thence North 00 degrees 03’21” West along the West line of said Southwest Quarter, 627.63 feet; thence North 89 degrees 56’39” East perpendicular to the West line of the Southwest Quarter, 249.20 feet to the Southwest Corner of Lot 54,

Block C, Turkey Creek 3rd Addition, Wichita, Sedgwick County, Kansas; thence continuing North 89 degrees 56'39" East along the South line of said Lot 54 and Lot 53 in said Block C, 410.80 feet to the Northwest corner of Lot 33 in said Block C; thence South 00 degrees 03'21" East along a line of said Block C, and as extended Southerly, 630.03 feet to a point on the South line of said Southwest Quarter; thence North 89 degrees 50'50" West along the South line of said Southwest Quarter, 660.00 feet to the point of beginning, subject to road rights-of-way of record. Generally located on the northeast corner of W. Pawnee Ave. and 135th St. West.

BACKGROUND: The applicant proposes to create a Commercial Community Unit Plan ("CUP") containing approximately 8.6 acres consisting of three parcels for development. The property is currently zoned SF-5 Single-family Residential ("SF-5") and the proposed zoning is "LC" Limited Commercial. The property is located on the northeast corner of Pawnee Avenue and 135th Street West. Parcel 1 is 1.28 acres in size and is located in the southwest corner of the subject site, right at the intersection of Pawnee and 135th Street. Parcel 2 is 1.36 acres in size and is located along 135th Street West in the north and east part of the proposed CUP. Parcel 3, the largest parcel, is 4.97 acres in size and occupies approximately the east half of the subject site.

Requested uses would be those allowed by right in LC except: adult entertainment establishments; sexually oriented business; correctional placement residences; night club in the city; and tavern and drinking establishments. Restaurants that serve liquor can be developed and may serve liquor, as long as food is the primary service of the establishment. Restaurants with drive-through windows, convenience stores, service stations, and vehicle repair, limited, will not be permitted within 200 feet of residential uses. Restaurants with drive-through windows shall be designed to ensure queuing lanes for drive-through windows will not align vehicle headlights in such a manner as to face residential zoning. No overhead doors shall be allowed within 200 feet of residential uses and shall not be facing any residentially zoned district. Exterior audio systems that project sound beyond the boundaries of the CUP are prohibited.

Maximum building coverage would be 30 percent of the land area. Maximum gross floor area would be 35 percent. Building setbacks are 35 feet on arterial streets and the north and east property lines.

Buildings would have uniform architectural compatibility and shared landscape palette; parking lots would have similar or consistent lighting elements, limited to 24 feet in height, including the base, and staff will request that the lighting elements be lowered to 15 feet within 100 feet of residential use. All exterior lighting shall be shielded to direct light disbursement in a downward direction, while the use of back lit canopies and neon or fluorescent tube lighting on buildings is not permitted.

Screening walls would be located on the north and east property lines, where adjacent to residential property and are to be a 6 to 8 feet high concrete/masonry with a construction pattern and color that is consistent or compatible with the building walls. Development of all parcels within the CUP shall comply with the Landscape Ordinance of the City of Wichita, with a shared palette of landscape materials among parcels.

Each parcel would be permitted at least one free standing sign per arterial frontage with area restrictions. Parcel 1 could have up to 150 sq. ft. of signage along Pawnee, and 150 sq. ft. of signage along 135th Street West. Parcel 2 could have up to 150 sq. ft. of signage along 135th Street West, while Parcel 3 could have a maximum of two signs with a combined area of 200 sq. ft. of signage along Pawnee and one sign along 135th Street West with a maximum area of 175 sq. ft. As the frontage develops along the arterial roadways, monument type signs shall be spaced a minimum of 150 feet apart, irrespective of how land is leased or sold and share similar elements in design. Flashing signs (except for signs showing only time, temperature and other public service messages), rotating or moving signs, signs with moving lights or signs which create illusions or movement are not permitted. Portable, billboards and off-site signs are not

permitted, nor will signs be allowed on the rear of any building. Window display signs are limited to 25% of the window area and all freestanding signs must be monument type and shall have a recommended maximum height of 15 feet.

The site currently is in agricultural use and is currently unplatted. The property to the south is zoned "SF-20" Single-family Residential and to the north is zoned SF-20 and SF-5; current development to the south and north consists of farmsteads, agricultural tracts and large suburban tracts. Also, to the north of the subject site, there is vacant, platted residential property known as Turkey Creek 3rd Addition. A single-family residence and agricultural land, are located to the west on property zoned SF-20. The remainder of the Turkey Creek 3rd Addition, a platted single-family residential subdivision, zoned SF-5, abuts the east property line of the subject site.

CASE HISTORY: The property is unplatted. The property was annexed to the City of Wichita effective November 16, 2006.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5, SF-20	Residence, Agricultural Land
SOUTH:	SF-20	Residences
EAST:	SF-5	Vacant Residential Property
WEST:	SF-20	Farmstead

PUBLIC SERVICES: Two access openings are shown on the CUP for both Pawnee Avenue and 135th Street West. For both streets, the access nearest the intersection of Pawnee and 135th Street are described as being right-in/right-out only because it is less than 400 feet from the intersection. Pawnee Avenue is a paved rural major collector developed as a two-lane road. 135th Street West is a two-lane unpaved rural major collector. Construction is currently taking place to pave this stretch of 135th Street West to Kellogg (US-54). There are currently no traffic counts at this location. A petition was made in 2004 for city water and sewer service to be extended to the site as well as for the residential development to the north and east of the subject site. Over time, with the expansion of the residential development, city services will be extended to the subject site.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as within the 2030 Wichita urban growth area and as appropriate for "urban development mix." This 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. The proposed development is in conformance with this designation.

Commercial Objective III.B encourages future commercial areas to: "Develop future retail/commercial areas which complement existing commercial activities, and provide convenient access to the public and minimize detrimental impacts to other adjacent land uses." The tract has access due to its location on West Pawnee Avenue and 135th Street West, but currently 135th Street West is under construction to improve the road with a paved surface which will connect Kellogg (K-54) and Pawnee. No significant clusters of retail commercial activities are located at this intersection today although the northeast and southeast corners also are designated for local commercial use. Minimizing detrimental impacts to the residential neighborhood to the north and east (Turkey Creek 3rd Addition) and the single-family residences to the south and west has been improved with additional land use and site restrictions included within the CUP. Strategy III.B.2 seeks to integrate out parcels to planned centers through shared internal circulation, shared signage, similar landscaping and building materials, and combined ingress/egress locations. The proposed CUP incorporates architectural, landscaping, parking lot elements and lighting

and signage consistency and/or compatibility, cross-lot circulation, a site circulation plan, and combined ingress-egress. Strategy III.B.3 seeks to reduce access points along arterial streets; the number of access points requested on the CUP is within the range allowed by urban standards, with a right-in/right-out and full movement access on both Pawnee Avenue and 135th Street. Both right-in/right-outs are greater than 200 feet from the centerline of the opening to the centerline of the intersection. Also, the full movement openings on both streets are greater than 400 feet from centerline to centerline.

Commercial Locational Guideline #1 of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. Commercial Locational Guideline #3 recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and #4 recommends compact clusters versus extended strip development. The proposed CUP restricts the height of parking lot lighting to 24 feet, reduced to 15 feet within 100 feet of residential use and reduces the types of uses, restricts overhead doors and drive-through uses located near to residential lots.

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

- A. APPROVE the zone change (ZON2008-00050) to LC Limited Commercial subject to platting within one year;
- B. APPROVE the Community Unit Plan (DP-314), subject to the conditions of the CUP attached hereto and the following conditions:
 1. Revise General Provision #7 to state: "Signage will be permitted as allowed by the Sign Code, City Code Title 24.04, with the following additional conditions/ limitations."
 2. Revise General Provision #13A to state: "A six (6) to eight (8) foot high concrete/masonry wall shall be constructed along the north and east property lines where adjacent to residential uses."
 3. Revise General Provision #10 to limit height of lighting to 15 feet within 100 feet of residential zoning.
 4. Revise General Provision #13 to require construction of the masonry wall when any portion(s) of Parcels 3 is developed.
 5. Provide guarantees for left turn center lanes and right turn decel lanes to all full movement approaches at time of platting.
 6. Limit the height of monument sign on Parcels 1-3 to 15 feet.
 7. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
 8. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 9. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
 10. The applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-314) includes special conditions for development on this property.
 11. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site currently is in agricultural use and is currently unplatted. The property to the south is zoned "SF-20" Single-family Residential and to the north is zoned SF-20 and SF-5; current development to the south and north consists of farmsteads, agricultural tracts and large suburban tracts. Also, to the north of the subject site, there is vacant, platted residential property known as Turkey Creek 3rd Addition. A single-family residence and agricultural land, are located to the west on property zoned SF-20. The remainder of the Turkey Creek 3rd Addition, a platted single-family residential subdivision, zoned SF-5, abuts the east property line of the subject site.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned SF-5 Single-family Residential, and could be developed as such. However, the community's long established commercial development pattern has been the placement of retail zoning and commercial uses on property located at the intersections of section line roads. Further, this property appears to have been purposely left out of the residential plat that exists to the north and east of the site, creating a distinct tract that signaled the intention to develop non-residential uses on this site.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The impact of the commercial use on the nearby residential areas will be decreased by use restrictions, additional site restrictions nearer residential development, consistency in design elements such as architectural elements, landscaping, lighting and signage.
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 within the 2030 Wichita urban growth area and as appropriate for "urban development mix." This 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. The proposed development is in conformance with this designation.
5. Impact of the proposed development on community facilities: As proposed, traffic could be expected to increase on Pawnee Avenue and 135th Street West when this development is fully built out. Limits on the access, with conformance to the Access Management Policy and a possible left-turn center lane and decel lane improvements could help mitigate traffic issues in the future. Extension of other publicly supplied services, such as sewer and water, have been or will be guaranteed with platting.
6. Opposition or support of neighborhood residents: As of September 24, 2008, there has been no comment of opposition or support on the proposed CUP.

DERRICK SLOCUM, Planning Staff presented the Staff Report. He indicated that DAB IV approved the item 8-0.

FOSTER referenced the Staff Report with regard to connecting walks, because it appeared that they were walling off connections to neighborhoods making it impossible to walk to this neighborhood retail

development. He asked if staff could study how to make neighborhoods more “walkable.” He briefly mentioned the Kansas Health Summit that took place in Wichita earlier in the week.

DALE MILLER commented that if the Commission felt that was appropriate, they could direct staff to look at that and work with **MR. FOSTER**.

MITCHELL asked if 135th Street was paved, and if not, was it in the Capital Improvement Program (CIP).

SLOCUM said this section was not paved, and that he didn’t know the timeframe for that activity.

RUSS EWY, BAUGHMAN COMPANY, AGENT FOR THE APPLICANT said they are in agreement with staff comments

ROCHELLE MASON, 2614 SOUTH 135th STREET WEST said she liked countryside living. She said she believes development of the northeast corner of this intersection will diminish the value of the property like other areas where commercial sites are located. She said she doesn’t know how this can be developed without diminishing property values, tearing down trees and disturbing wildlife, and causing hardship to existing home owners in the area. She mentioned the “post-FIRM (Flood Insurance Rate Map) flood base level” and said the City is at significant risk of negligence because the existing homes are not being considered by the “pre-FIRM flood base level” measurement. She said they want to insure that the drainage plan addresses all of the needs of the residents in the area. She said this “piece-meal” approach towards development does not address water problems and referenced how drainage was handled by Tulsa, Oklahoma, by development of a natural drainage area, including trees and parks so drainage would not cause any problems for anyone. She said when they have two inches of rain the water comes across the road at higher elevations than the bridge because the water has no place to go. She said even if the ditches are cleaned out there is going to be more concrete with the development. She said they would like to see a copy of the drainage plan before any other direction is taken on this request.

JOHNNA ARMSTRONG, 2744 SOUTH 135th STREET WEST indicated that she has lived in the area for ten years and that she moved out there to be in a rural setting. She said development of the corner and the traffic the businesses will cause will be very disruptive to the residents in the area. She said drainage water impacts them because they live right next to a drainage ditch. She said this has never been a problem in the past, but now property is flooding and roads are washing away. She said this will also impact them financially as well.

There was no rebuttal from the agent, **RUSS EWY, BAUGHMAN COMPANY**.

FOSTER commented that he knows the property east of this location has had drainage problems and asked if the developer could comment on that.

EWY commented that the **BAUGHMAN COMPANY** platted Turkey Creek but that the property being discussed was an exception to Turkey Creek, 3rd Addition. He said the drainage plans are on file with the City. He said he believed surrounding development was contributing to or elevating drainage in the area. He commented that he didn’t know how much of the subdivision has been constructed to date.

FOSTER commented that he thought there was a Request for Proposal for paving along 119th Street, not 135th Street. He asked if verbiage could be added to the motion to address the drainage and flooding issues.

MITCHELL said all of the drainage area upstream is undeveloped. He said the developed area downstream has a plan and improvements made and he didn't see how this application has any bearing on those properties upstream.

Several people in the audience made comments regarding **MITCHELL's** statement.

CHAIRMAN DOWNING explained that the matter was not open for discussion between the Commission and audience members.

MOTION: To approve subject to staff recommendation.

MITCHELL moved, **ANDERSON** seconded the motion, and it carried (9-0-1).
JOHNSON – abstained.

JOHNSON back on the bench.

8. **Case No.: CON2008-38** – Andrew & Kathleen Lauer (owner(s), Bergkamp Construction, Attn: Chris Snook (applicant), Baughman Company, Attn: Russ Ewy Request County Conditional Use for mining/quarrying (soil extraction) on property zoned SF-20 Single-family Residential.

The North Half of the Southeast Quarter of Section 9, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; and the Southwest Quarter of the Southeast Quarter of Section 9, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, EXCEPT a tract described as beginning at the Northwest corner of the Southwest Quarter of said Southeast Quarter of Section 9, Township 28 South, Range 1 West; thence South 160 feet; thence East 108 feet; thence Northwest to a point 65 feet due East of beginning; thence West 65 feet to beginning. Generally located west of Ridge Road approximately 1/4 mile, north of MacArthur Road.

BACKGROUND: The applicant requests a Conditional Use to allow “Mining and Quarrying” for the excavation of fill material to be used on proposed construction projects within the city. The undeveloped property, located northwest of the MacArthur and Ridge Road intersection, is currently zoned RR Rural Residential (“RR”); the site is 59.7 acres in size, while approximately half of the 59.7 acres is to be excavated. The applicant intends to excavate to a maximum depth of approximately 20 feet, excavating from the south to the north, with a ½ percent slope from north to south, see the attached site plan. The excavation area will gather water when the creek floods, but the ½ percent slope will prevent the excavated area from retaining water, thus keeping the site a dry basin. The applicant has been working with the Army Corps of Engineers, Department of Water Resources and the Department of Parks and Wildlife to ensure they abide by any regulations and to provide any studies that those entities may require to permit the excavation. According to GIS, the average depth of the groundwater in this section is around 26 to 27 feet from the surface, although that depth varies depending on location. Proposed access to the site is off of Ridge Road, approximately a half mile north of MacArthur Road. The proposed access is via a field entrance located at the northeast end of the tract. The Cowskin Creek runs through the southern part of the site, and the property lies within the 100-year flood plain. The site is not currently fenced, but fencing of the excavation area will be a condition of approval.

Of some concern in this request is the potential for pollutants, sediment and erosion from the excavation site to enter the Cowskin Creek through possible storm water runoff. The area will be re-vegetated with native grass throughout the excavation process which will help remove any possible pollutants from

storm water runoff before entering the Creek. Also, the applicant has been working with the responsible entities to mitigate any negative impacts and to acquire the proper permits for the excavation operation.

North of the application area is property zoned LI Limited Industrial (“LI”) and is developed as agricultural land with outbuildings. The property south of the application area is under the same ownership as the application area; it is zoned RR and is currently undeveloped agricultural land. East of the application area is property zoned SF-20 Single-family Residential (“SF-20”) and RR and is also undeveloped agricultural land. West of the application area is property zoned RR and SF-5 Single-family Residential (“SF-5”) and is developed with a farmstead and use for the airport and flying fields.

Similar extraction Conditional Uses were approved in 1973 for a site approximately one mile south of the application area and in 2001 for another site approximately 1,500 feet southeast of the application area.

The site is located approximately one mile south of Mid-Continent Airport. The recommended conditions of approval require compliance with applicable local, state and federal regulations. The applicant was supplied information from the Federal Aviation Administration Office (“FAA”) Advisory Circulars (“AC”) AC150/5200-33B titled *Hazardous Wildlife Attractants on or near Airports*. Staff has been in contact with Mid-Continent staff regarding the application, and has contacted the FAA Program Manager. According to a letter received by staff on September 9, E. Bradley Christopher, Assistant Director of Airports-Operations, “the official position of the Wichita Airport Authority is that all development within the range/radius from the Airport specified in AC 1850/5200-33B, must meet the requirements of this AC. Anything less than full compliance with this AC would be opposed by the Airport Authority on the grounds of creating an undue risk to aircraft, passengers and persons on the ground, and exposing a potential hazard to air navigation in the proximity of Mid-Continent Airport.”

CASE HISTORY: Property to the south and east of the subject site (at the southeast corner of MacArthur and Ridge) was approved for a Conditional Use for the excavation of fill material on January 10, 2002 (CON2001-00061). The property is currently unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	LI	Agricultural Land with outbuildings
SOUTH:	RR	Agricultural Land
EAST:	RR, SF-20	Agricultural Land
WEST:	RR, SF-5	Farmstead / Airport and Flying Fields

PUBLIC SERVICES: The access drive to the subject site is located along Ridge Road, a paved two-lane, rural minor collector, section line road. The existing half-width right of way on this section of Ridge Road is 60 feet. The traffic count as of May 2007 was 1,905 cars per day (ADTs) on this section of Ridge. No street projects are included in the C.I.P, and the 2030 *Transportation Plan* shows this section of Ridge remaining a two-lane arterial. The applicant is proposing one drive entrance off of Ridge Road.

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan identifies this property as Employment/Industry Center within the Wichita 2030 Urban Growth Area. Employment/Industry Center includes uses that constitute centers or concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses includes manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices. The 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 political considerations, anticipated municipal population growth,

efficient patterns of municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors.

The majority of application area and the excavation site are within the FEMA 100 year flood plain and floodway. The Wichita Sedgwick County Subdivision Regulations allow for development within floodplains provided that buildings and public service facilities are elevated or flood proofed above the Base Flood Elevation.

The Unified Zoning Code (“UZC”) lists “Mining or Quarrying” as a Conditional Use in the RR zone district. The UZC lists 23 conditions with which “Mining or Quarrying” should comply; these conditions exist for public safety, and to mitigate any negative effects the extraction may have on surrounding properties. Not all of these conditions are applicable to the proposed fill material excavation. If the Planning Commission recommends modifications to one or more of the Unified Zoning Code conditions for the requested Conditional Use, the request will then be forwarded to the Governing Body for final action.

RECOMMENDATION: With the proper conditions in place, this proposal should not have a detrimental effect on the surrounding properties, as they are developed with agriculture, or well screened by existing natural vegetation. The conditions suggested below should mitigate potential negative impacts caused by this Conditional Use. Required permits and drainage plans should further ensure the safe operation of the Conditional Use. Existing services are adequate for the proposed Conditional Use. Because of its location in a flood plain, development of the application area for commercial or residential uses would be difficult.

For these reasons and based on information available prior to the public hearings, Staff recommends that the Conditional Use request be **APPROVED**, subject to the following conditions:

1. The extraction operation on the site shall proceed in accordance with an operational plan to be approved by the Planning Commission. The perimeter of the excavation shall conform to the approximate size and shape indicated on the approved operational plan. To assist in the enforcement of the operational plan, a copy of the approved operational plan shall be posted on the site.
2. The excavation operation will have to abide by the rules set forth in the Federal Aviation Administration Advisory Circular 150/5200-33B “Hazardous Wildlife Attractants On or Near Airports” to prevent attracting any hazardous wildlife.
3. The operational plan shall illustrate which area is to be excavated and in what phase.
4. Uses after the conclusion of the extraction operation, shall be submitted to the Planning Director for review and a recommendation to the Planning Commission as to whether or not the development plan is compatible with surrounding land uses, the Comprehensive Plan or other plans or policies being utilized by the City or County.
5. Adjacent to the perimeter of the excavation area, a minimum 48-inch high, five strand barbwire fence shall be constructed prior to the beginning of any extraction operation and shall be maintained at the locations depicted on the approved operational plan. The posts shall not be set more than 50 feet apart.
6. Sufficient overburden material shall be retained in the area of extraction to grade and construct the banks so they are formed with overburden material rather than sand.

7. The owner of the property shall be responsible for minimizing blowing dust from the site. To minimize blowing soil, overburden shall not be removed more than six months in advance of the excavation area being expanded, per the operational plan, unless the ground is covered within the next planting season with a perennial drought-resistant grass or combination of which will permit the establishment of sod cover to help prevent erosion. As part of the required operational plan, the site shall be divided into at least two distinct areas for the purpose of showing phased excavation over time.
8. All slopes shall have vegetative covering consisting of a perennial drought-resistant grass or combination of grasses that will permit the establishment of sod cover to help prevent erosion.
9. To provide for bank stabilization and safety of future uses, the side slopes of the extraction shall be no steeper than four horizontal to one vertical.
10. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the city or county legal counsel (as applicable), prior to the commencement of any extraction providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the extraction area.
11. The storage of equipment or stockpiling of sand or overburden is not permitted closer than 100 feet to any public right of way, or closer than 50 feet to any property line.
12. Nothing in the approval of a Conditional Use shall be construed to permit a contractor's material and equipment storage yard. Within 60 days after completion of the extraction operation, the land surrounding the excavation pit shall be properly graded and planted with a vegetative cover. Also, all stockpiled material and related excavation equipment shall be removed from the subject site.
13. The Conditional Use for the extraction operation shall be valid for a period of 10 years.
14. Hours of operation for extraction shall be limited to 6:00 a.m. to sunset.
15. The applicant shall make the site available to the Sedgwick County Department of Environmental Resources for the installation and management of groundwater monitoring wells.
16. Any on-site storage of fuels or chemicals must be approved by the Sedgwick County Fire District #1.
17. A drainage plan shall be submitted to and approved by County Public Works prior to starting the extraction operation. All of the area included in the extraction operation shall be graded in accordance with the approved drainage plan. Said plan shall be designed to minimize the discharge of potential contaminants into the Cowskin Creek. The extraction area shall be developed so as to not become a wetland area.
18. All operational roads shall be maintained in a sand or graveled condition and shall be treated with water or other acceptable dust retardant to minimize blowing dust.
19. All applicable local, state, and federal permits necessary for the extraction operation and for flood plain development shall be obtained and maintained.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North of the application area is property zoned LI and is developed as agricultural land with outbuildings. The property south of the application area is under the same ownership as the application area; it is zoned RR and is currently undeveloped agricultural land. East of the application area is property zoned SF-20 and RR and is also undeveloped agricultural land. West of the application area is property zoned RR and SF-5 and is developed with a farmstead and use for the airport and flying fields.
2. The suitability of the subject property for the uses to which it has been restricted: The application area could be developed for single-family residential use, but its location in a floodplain would make development of those residences difficult.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The conditions provided in the Unified Zoning Code for this Conditional Use should prevent any detrimental effect on nearby property. These conditions work to mitigate any negative dust, noise, or environmental effects. The fencing requirement should prevent trespassing and accidents on this property. The Creek buffer and drainage plan requirements should prevent pollutants and sediment from affecting downstream properties. Prevention of the extraction area from becoming a wetland area will prevent the attraction of waterfowl and other birds to the application area, as the application area is within approximately 6,000 feet of an airport facility.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The *Comprehensive Plan* does not specifically address “borrow pits”; however, the plan does recognize the uniqueness of mining and extractive resources (e.g. sand, gravel, clay soils, etc.). The Plan recommends that the extraction use location be compatible with the built and natural environment. However, the *Comprehensive Plan* does identify this property as Employment/Industry Center within the Wichita 2030 Urban Growth Area. Employment/Industry Center includes uses that constitute centers or concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses includes manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices. The 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 political considerations, anticipated municipal population growth, efficient patterns of municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors.
5. Impact of the proposed development on community facilities: Traffic to and from the requested Conditional Use at this location will increase the daily trips on this section of Ridge; this increase should not exceed the safe capacity of this road.

FOSTER mentioned a minor correction to item 19 in the Staff Report.

DERRICK SLOCUM, Planning Staff presented the Staff Report. He commented that the Airport has requested an additional condition regarding reseeded of the area. He said they have requested that grain crops not be planted and that the area be reseeded with natural grasses.

HENTZEN clarified exactly what the Airport and FAA were requesting; and commented that any water in the area would attract migrating birds.

RUSS EWY, BAUGHMAN COMPANY, AGENT FOR THE APPLICANT commented that **SCOTT BERGKAMP** and **CHRIS SNOOK** were present to answer any questions regarding the proposal. He said they have considered the Airport and FAA concerns about having a pond or wetland that will attract migrating birds. He said from a design standpoint, the 40-acre area will be open on one end to receive water that will naturally recede out. He said the borrow pits will be sloped so they do not hold water. He said they are in agreement with staff recommendations and the request from the Airport.

TAPE 1, SIDE 2

JEAN ALLISTON, 7114 WEST 36th STREET SOUTH said she resided at Ridge and 36th Street South. She asked about the road into this section, which she said was about ½ mile from her house. She said she has health issues (sleep apnea) and that she needs to rest during the day. She asked how many trucks will be going in and out of the area per hour and at what times of the day. She also mentioned that her cousin owns 40 acres directly south of the area, and that they also have health issues due to a heart attack in the 70's and bronchial problems and that the noise will disturb them also. She commented that she has lived in the area 35 years. She also asked why the company has a 10-year lease when it probably wouldn't take more than 2-3 years to extract the soil they need. She mentioned the rain last month and how the area flooded. She said there was no way they could be doing anything with 40 percent of the area under water. She said it took a week and one-half for the water to drain off the property. She said she also wondered as a gardener about worms. She said as soon as you start digging birds swoop down to the area. She asked won't that be a problem for the Airport. She concluded by asking about dirt going down into the Cowskin Creek and how that might create problems there or further downstream as well as affect the fish population. She asked how many truck loads, per hour, per day would be coming out of the area.

MR. HAUSERMAN, 4849 SOUTH LAURA, said he owned property directly to the west of this property and that he has spoken with **MR. BERGKAMP** about access in and out of his property. He said he has been guaranteed that they will not shut off access to his property. He said he doesn't see any problems with the soil extraction operation.

DEVON MCBRIDE, 1323 KNOTTINGHAM CIRCLE, STATE WIDE AIRPORT WILDLIFE BIOLOGIST FOR THE KANSAS WILDLIFE SERVICES PROGRAM WITH USDA said he spends the majority of his time at the Airport but also deals with other Airport and wildlife issues. He said at first they were concerned that this project might create a wetland or large pond; however, one of conditions in the advisory circular the Airport is required to follow is that the area drain within 48 hours after a rain event. He said if the contactors will use the topography to drain into the Cowskin in that time period; the Airport would be fine with that. He also said the Airport is not against any brome or native type hay production on the property; they just didn't want to see any cereal grains planted in that area in the future.

EWY said ten years was a standard length of time for extraction use and the landowner wanted to have that flexibility. He said they must have the appropriate state and federal permits which included a plan for erosion control and drainage. He said those processes will insure that the soil extraction doesn't negatively impact the Cowskin Creek. He said traffic will be sporadic with access directly onto Ridge Road. He concluded by mentioning that there were a number of industrial uses up and down K-42.

FOSTER clarified that the majority of traffic leaving the site will be headed north on Ridge. He asked about permanent structures at the site.

EWY said there would be no permanent structures to his knowledge. He said heavy equipment would be coming in and out of the site.

MOTION: To approve subject to staff recommendation.

MARNELL moved, **HENTZEN** seconded the motion, and it carried (10-0).

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9. **Case No.: CON2008-42** – RRM Properties, LLC, RRM, LLC and Cornejo & Sons, Inc., (applicants, owners and lessee); City of Wichita (owner-lessor) Request Conditional Use amendment to CU 425, as amended by CON2005-01, for construction and demolition landfill to add approximately four acres to the south end as Phase III, clarify prior omission of property in Phase II, and amend Condition D to eliminate the restriction to licensed waste collection vehicles and make it available to the general public during the hours of 7:00 AM to 6:00 PM Monday through Saturday on property described as:

Those portions of Government Lots 1 and 2 of Sec. 11, Twp. 28-S, R-1-E of the 6th P.M., Sedgwick County, Kansas, lying westerly of a line drawn parallel and concentric with and distant 50.0 feet westerly, as measured at right angles and radially from The Burlington Northern and Santa Fe Railway Company's (formerly, The Atchison, Topeka and Santa Fe Railway Company) Main Track centerline, as now located and constructed and lying north of the following described line: Commencing at the intersection of the north line of said Lot 2 with a line which lies 50 feet westerly of, measured normally distant from the center line of the present main track of the Railway Company; thence in a southerly direction along said line which lies 50 feet westerly of, normally distant from and parallel to said center line of the present main track of the Railway Company, a distance of 550.8 feet to the true point of beginning; thence N 80°00'W, 137.6 feet; thence N05°15'W, 60.25 feet; thence west to the left bank of the Arkansas River.

A tract of land in the Northeast Quarter of Section 10, Township 28 South, Range 1 East of the Sixth P.M., Sedgwick County, Kansas, further described as follows: Beginning at a point on the westerly right-of-way line of the A.T. & S.F. Railroad, N89° 47'W, 1526.15 feet and S37° 31'E , 859.98 feet from the Northeast corner of the said NE/4 of said Section 10; thence along said westerly right-of-way line S 37° 31' E, 1499.21 feet to the east line of said NE/4; thence along said East line S02° 46' W, 242.34 feet to the centerline of Chisholm Creek; thence along said centerline the following bearings and distances N26° 46'W, 46.59 feet, N13°15'W, 213.50 feet, N43°01'W, 349.10 feet, N28° 53'W, 472.42 feet, N49° 23'W, 417.83 feet, S25°00'W, 138.42 feet, S76°24'W, 96.58 feet, N31° 05'W, 209.45 feet, N05°10'W, 194.00 feet, N47°00'W, 25.48 feet; thence S 89°47'E, 248.34 feet to the point of beginning.

That part of the West Half (W ½) of the Southwest Quarter (SW ¼) of Section 11, Township 28 South, Range 1 East of the 6th P.M. in Sedgwick County, Kansas, bounded on the South by the Kansas Turnpike Right-of-Way; on the West by the Arkansas River; on the East by the Right-of-Way of the Atchison, Topeka & Santa Fe Railroad; and on the North by the tract of land heretofore deeded to the Atchison, Topeka & Santa Fe Railroad Company, as disclosed in Book 548 at Page 136 of the Register of Deeds of Sedgwick County, Kansas.

Government lot 1 EXCEPT: the North 680 feet; and that part lying Northeasterly of the AT & SF Railroad Right of Way; and that part lying West of the Chisholm Creed Diversion Canal; and a tract described as : Beginning at a point on the westerly right-of-way line of the A.T. & S.F. Railroad, N89° 47'W, 1526.15 feet and S37° 31'E , 859.98 feet from the Northeast corner of the said NE/4 of said Section 10; thence along said westerly right-of-way line S 37° 31' E, 1499.21 feet to the east line of said NE/4; thence along said East line S02° 46' W, 242.34 feet to the centerline of Chisholm Creek; thence along said centerline the following bearings and distances N26° 46'W, 46.59 feet, N13°15'W, 213.50 feet, N43°01'W, 349.10 feet, N28° 53'W, 472.42 feet, N49° 23'W, 417.83 feet, S25°00'W, 138.42 feet, S76°24'W, 96.58 feet, N31° 05'W, 209.45 feet, N05°10'W, 194.00 feet, N47°00'W, 25.48 feet; thence S 89°47'E, 248.34 feet to the point of beginning. Generally located southwest of K 15 and south of 31st Street South.

BACKGROUND: The applicant is requesting a Conditional Use amendment to CU-425 as amended by CON2005-00001, and previously by CON2003-00051 and CON2001-00037, for a construction and demolition (C&D) landfill. The applicant is not requesting any change in use or extension of time for operation of the C&D landfill. The property is zoned Limited Industrial (“LI”) and located southwest of the intersection K-15 with 31st Street South, including the land between K-15 and the Arkansas River, from south of the terminus of 31st Street South to I-35 (KTA).

First, the applicant requests four acres be added to the south end as Phase III.

Second, according to the applicant, the Kansas Department of Health and Environment (“KDHE”) permit included approximately 5 acres acquired subsequent to the original CU-425 approval, and this land, which is part of Phase II, would be added to the Conditional Use.

Third, the applicant has requested to eliminate the restriction that only licensed waste collection haulers can bring loads to the facility and make it available to the general public during the hours of 7:00 AM to 6:00 PM Monday through Saturday (Condition D of CON2005-00001). The applicant has stated the reason to allow the general public to bring C&D loads is for the convenience of those living in the south part of the City or County, avoiding the longer transporting of loads over city roads and streets to the C&D landfill in the north part of the city.

Total size of the Conditional Use would be 36.77 acres. The expansion areas are owned by Cornejo and Sons, Inc. and RRM, LLC c/o Ron Cornejo.

Previous cases: In the amendment, CON2005-00001, the applicant received a five-year extension of time to complete and halt construction and demolition (C&D) landfill operations by December 31, 2010. It had received two earlier extensions; CON2003-00051 that extended the time to April 1, 2005, and CON2002-00037 that extended the time to April 1, 2004. CU-425 originally had an expiration date of April 1, 2003. This application does not include a request for an extension of the time, which would remain as December 31, 2010. The applicant has stated that the majority of Phase I and II already have been filled as per the site plan, and the additional land in Phase III would allow the continued operation of the landfill through this timeframe.

Access to the site is by a driveway connecting to Highway K-15 owned by the City of Wichita and leased to the applicant.

When landfill operations cease it is expected the site will be redeveloped into a park. By a separate lease agreement, the applicant is required to fill and level the site consistent with a site plan contained in the lease agreement whenever landfill operations cease. The lease agreement expired on April 1, 2005, but was automatically extended to be coterminous with extensions to the Conditional Use permit. The permit from KDHE is granted for a ±22-acre facility with disposal permitted on ±13 acres (Phases I and II). The permit notes that the facility area was reduced from ±26 acres and disposal area from ±17 acres due to Phase III property not having been acquired at the time of permit issuance. They have now acquired this land. (The applicant will need to seek clarification and approval from KDHE on the additional land based on the “Special Conditions” of the settlement agreement between Cornejo & Sons, Inc. Construction and Demolition Landfill Permit No. 773 Item 2.e, stating that Cornejo will not seek to modify Permit No. 773 to expand its landfill). Approval of the amendment to the Conditional Use will be contingent on obtaining the appropriate permit from KDHE.

The majority of the land west of K-15 Highway, and north of the landfill site is zoned LI, and is currently used for construction activities, including a rock crusher and a building wrecking/salvage construction business. The Wichita Wastewater Treatment facility, the closed Chapin landfill, the Wichita drainage canal and the Arkansas River are located west of the application area. East of the site are: railroad tracks,

K-15 Highway, several single-family residences on property zoned SF-5 Single-family Residential (“SF-5”), and a mobile home park (at the southeast corner of 31st street and K-15) located on property zoned LC Limited Commercial (“LC”) and manufactured home park on property zoned MH Manufactured Home (“MH”) directly east of the proposed Phase III area. Several commercial uses are located at the northeast corner of 31st Street and K-15 on property zoned LC. Areas south of the landfill are undeveloped and zoned LI.

CASE HISTORY: CU-425, approved in February 1997, allowed the establishment of the C&D landfill, subject to conditions, and included the initial closure date of April 1, 2003. CON2002-37, granted in 2002, extended the deadline for closure to April 1, 2004. The applicant stated that, in part, they needed the time extension due to the nearly two years that were lost between the City’s initially conditional use permit approval in 1997 and KDHE permit approval in 1999. CON2003-51 extended the deadline to April 1, 2005, and CON2005-00001 to December 31, 2010.

ADJACENT ZONING AND LAND USE:

NORTH: LI, LC; Rock crusher, building wrecking/salvage, mobile home park, vacant commercial buildings, auto repair
SOUTH: LI; KTA, lumber yard, Chapin Park
EAST: LI, SF-5, MH; Railroad line, single-family residences, manufactured home park
WEST: LI; Arkansas River, Wastewater Treatment Plant

PUBLIC SERVICES: The site has access to K-15 Highway, a four-lane expressway. Municipal sewer and water services are not necessary for this use.

CONFORMANCE TO PLANS/POLICIES: The “Wichita Land Use Guide” depicts this site as appropriate for industrial uses. Location guidelines contained in the Comprehensive Plan indicate that industrial uses should be located near support services, and be provided with good access to major arterials, and should be extensions of existing industrial uses. The C&D site generally meets these criteria. The plan does not have location guidelines for C&D landfills. Plan objectives also recognize the need to minimize the potential for environmental contamination while maintaining cost efficiency by proper management of construction debris generated throughout the County. The Arkansas River has traditionally had a status as a “navigable stream used for interstate commerce,” under landfill regulations and other statutory and judicial interpretations. These concerns and environmental concerns were addressed in previous Conditional Use and KDHE permit reviews, and it was found to be an appropriate use under State law and KDHE regulations.

RECOMMENDATION: Phase III was originally part of the application for the C&D permit with KDHE but removed because the applicant had not obtained ownership of the tract at time of permit issuance. The additional Phase II area is located farther from the Arkansas River than the area of Phase II already filled and may have been included within the previously authorized state permit. The requested expansion would complete use of the site as a C&D facility, and by some measure, reduce the demand for C&D capacity in other locations by the volume allowed on this site. Currently, this is the only C&D facility operating in the south part of Sedgwick County. Allowing the general public to bring loads to the facility would reduce the travel distance for smaller contractors or home remodelers in the southern part of the city and county taking C&D materials to a landfill. At the District III Advisory Board meeting held October 1, 2008, the DAB recommended (8-0) to approve the Conditional Use amendment (CON2008-00042) per staff comments and with removing language from Condition L to clarify that the general public is allowed to use the landfill. This change is highlighted (in gray) in the recommendation. Based on these factors, it is recommended that the amendment be APPROVED subject to obtaining the appropriate state permit(s) and subject to the following conditions, with no changes to conditions except D, H and L.

- A. Demolition and construction wastes as defined by KAR 28-29-3(G) and City Code 7.08.020(8), shall be the only landfill material permitted. Hazardous or toxic wastes, as defined by K.S.A. 65-3430 et. seq. shall not be permitted for disposal at the site.
- B. The landfill operation shall obtain all applicable permits and proceed in accordance with all conditions established by the Kansas Department of Health and Environment (KDHE), Wichita-Sedgwick County Health Department, FEMA, the Corps of Engineers, the Department Wildlife and Parks.
- C. The deposit of material on site shall cease by December 31, 2010.
- D. The landfill ~~shall not may~~ be open to the general public. ~~The landfill shall only be open to solid waste collection vehicles licensed under Chapter 7.08 of the Code of the City of Wichita.~~ A landfill operator shall be on the site during all hours of operation for the purpose of screening incoming trucks for ~~authorization~~, inventory of the type, size and quantity loads, and direction of loads to the appropriate cells. Hours of operation shall not exceed 7:00 AM to 6:00 PM Monday through Saturday. Access to the subject property shall be prohibited except during the hours of operation.
- E. The delivery of construction and demolition waste to the site shall be only by way of the K-15 entrance.
- F. A minimum 6-foot high fence shall be installed on the earthen screening berms along the northeastern property line, if determined to be needed by the Zoning Administrator, to minimize the blowing of any materials onto adjacent properties. The fence shall be either chain link or welded or woven wire with openings no larger than two inches.
- G. Upon written notice of any violation by the City Zoning Administrator or the Wichita-Sedgwick County Health Department, the operation shall cease and the violation shall be corrected with 48 hours.
- H. A detailed grading/drainage plan shall be submitted to the Department of Public Works for review and approval prior to commencement of operations. A copy of the approved grading and drainage plan shall be submitted to the Planning Department for filing with other case materials. The operation of the landfill shall be in conformance with the approved grading and drainage plan, and with the "Site Plan, as amended" and "Sections on Construction and Demolition Area" attached as exhibits to these conditions, except that the maximum height of the fill (exclusive of the screening berm) shall be no more than 5 feet higher than the elevation of the Santa Fe railroad track in any cross-section. Landfill operations shall be staged, with berms to be constructed and seeded along the east face of the fill to screen the operations for view in that direction. No more than 6 acres shall be in operation at any one time. Prior to the opening of any new area the previous area shall be graded and seeded in accordance with the approved plan.
- I. Prior to commencement of the landfill operation the applicant/owner shall obtain a guarantee acceptable to the City Attorney and payable to the City of Wichita guaranteeing that cover material, final grading, and seeding are performed, as detailed in the approved grading plan. This guarantee shall be in the amount of \$100,000.00.
- J. The applicant/owner shall pay a yearly fee to the City of Wichita to offset the cost of landfill inspection by the Wichita-Sedgwick County Health Department. The fee shall be paid prior to the operation of the landfill and shall be \$1,000.00 for the first 12 months of operation. The fee for subsequent periods shall be established after review and recommendation by the Wichita-

Sedgwick County Health Department to the City Council. The maximum increase in the fee shall be limited to 100% for any 12-month period. In no event shall said fee exceed the actual direct and indirect cost of such inspection.

K. Prior to commencement of the landfill operation the applicant/owner shall file a restrictive covenant for the application area, which shall remain in perpetuity with the property. This covenant shall prohibit the use of the land for human habitation, prohibit the construction of structures which penetrate the final cap or cover, unless authorized by the Health Department; and require approval of the Wichita-Sedgwick County Health Department for use of the land for the production of food crops. The covenant shall be in such form as may be approved by the City Attorney.

L. The applicant/owner shall erect a sign prior to landfill operation. This sign shall be a minimum 8-foot wide by 4 foot high and be prominently displayed at the site entrance. The sign shall include the display of the following message in 4 inch or larger letters that contrast with the background:

~~NO TRESPASSING—NOT A PUBLIC FACILITY~~

**THIS LANDFILL MAY ONLY ACCEPT DEMOLITION WASTE
~~TRANSPORTED BY LICENSED SOLID WASTE TRANSPORT VEHICLES.~~
GARBAGE, ~~AND~~ HAZARDOUS WASTE, ~~AND MATERIAL TRANSPORTED~~
~~BY PRIVATE OR UNLICENSED VEHICLES~~ IS NOT ALLOWED. LANDFILL
OPERATES 7:00 AM TO 6:00 PM MONDAY THROUGH SATURDAY.**

In addition to above information, the sign shall contain all information required by state agencies. The sign shall be maintained in good repair and be clearly visible.

M. Prior to the commencement of the landfill operation, the applicant shall remove from the site all surface material which is not defined as demolition or construction waste by KAR 28-29-3(G) and City Code 7.08.020(8).

N. Prior to the commencement of the landfill operation, the applicant shall provide for installation and monitoring of a network of at least four wells, which draw water from the uppermost permanent aquifer. These wells will be installed, constructed, operated and sampled to comply with the requirements of the Wichita-Sedgwick County, and shall remain in operation for 10 years from the date landfill closure. Collection and analysis of samples from the wells will be accomplished on a quarterly basis by the Health Department on a quarterly basis, and the actual costs of the monitoring shall be reimbursed by the applicant/owner. Monitoring of runoff and methane shall also be provided for 10 years after closure of the landfill.

O. The applicant shall pave the 31st Street entrance, as well as water all unpaved roadways, as needed, in order to minimize dust. Cover material shall be applied daily to the area being filled. The operator shall be responsible for street sweeping as necessary on K-15 to minimize the accumulation of mud or debris.

P. The applicant shall install traffic detectors at the time the entrance drive is paved, in accordance with City Engineering specifications.

Q. The applicant shall install a deceleration lane to City Engineering specifications on southbound K-15 at the entrance to the landfill, prior to commencement of the landfill operation.

R. This proposed construction and demolition waste landfill shall be in compliance with all conditions approval by the MAPC, and/or the Governing Body, as specified above or this

conditional use shall be considered null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The requested amendment does not involve a change in use or extension of the time for operation of the landfill. The majority of the land west of K-15 Highway, and north of the landfill site is zoned LI, and is currently used for construction activities, including a rock crusher and a building wrecking/salvage construction business. The Wichita Wastewater Treatment facility, the closed Chapin landfill, the Wichita drainage canal and the Arkansas River are located west of the application area. East of the site are: railroad tracks, K-15 Highway, several single-family residences on property zoned SF-5, and a mobile home park (at the southeast corner of 31st street and K-15) located on property zoned LC and manufactured home park on property zoned MH directly east of the proposed Phase III area. Several commercial uses are located at the northeast corner of 31st Street and K-15 on property zoned LC. Areas south of the landfill are undeveloped and zoned LI.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned for "LI" subject to the conditions in CU-425, as amended by CON2002-37, CON2003-00051 and CON2005-00001. One of those conditions requires that the C&D operations cease by December 31, 2010. The base "LI" zoning district allows an extensive list of uses. Since the original conditions were established, the City has opposed a request to approve a similar operation with a similar proximity to the river.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of this request expands the landfill area by five to ten percent. Allowing unlicensed haulers to access the site would increase the volume of loads brought to the site.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: This amendment modestly reduces C&D capacity required in other sites by keeping it at this location. Allowing the general public to access the site reduces the distance required by contractors and remodelers to reach a landfill site and travel over public streets with loads of landfill materials. No hardship would be imposed on the applicant as proposed.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "Wichita Land Use Guide" depicts this site as appropriate for industrial uses. Location guidelines contained in the Comprehensive Plan indicate that industrial uses should be located near support services, and be provided with good access to major arterials, and should be extensions of existing industrial uses. The C&D site generally meets these criteria. The plan does not have location guidelines for C&D landfills. Plan objectives also recognize the need to minimize the potential for environmental contamination while maintaining cost efficiency by proper management of construction debris generated throughout the County. The Arkansas River has traditionally had a status as a "navigable stream used for interstate commerce," under landfill regulations and other statutory and judicial interpretations. These concerns and environmental concerns were addressed in previous Conditional Use and KDHE permit reviews, and it was found to be an appropriate use under State law and KDHE regulations.
6. Impact of the proposed development on community facilities: Increased traffic to the site would be anticipated if it is accessible by the general public.
7. Neighborhood support or opposition. There has been significant neighborhood opposition to earlier requests to extend landfill operations at this location.

DONNA GOLTRY, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **HENTZEN** seconded the motion, and it carried (10-0).

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- 10. Case No.: CON2008-43** - First Pentecostal Church, Inc., (owners), T-Mobile LLC c/o George Wyrick (applicant), Ferris Consulting, c/o Greg Ferris (agent) Request City Conditional Use for a 120-foot wireless communication tower in SF-5 Single-family Residential zoning.

A tract of land lying in and being a part of the Northwest Quarter of the Northwest Quarter of Section 15, Township 28 South, Range 1 East of the 6th P.M., Wichita, Sedgwick County, Kansas, being more particularly described as follows: Commencing at a corner of Camelot Addition to Wichita said corner being 982.59 feet North 89 degrees 57'21" East of the Northwest corner of said Camelot Addition; thence North 00 degrees 25'30" East a distance of 50.00 feet; thence South 89 degrees 57'21" west a distance of 29.45 feet to the point of beginning; thence continuing South 89 degrees 57'21" West a distance of 60.00 feet; thence North 00 degrees 25'30" East a distance of 60.00 feet; thence North 89 degrees 57'21" East a distance of 60.00 feet; thence South 00 degrees 25'30" West a distance of 60.00 feet to the point of beginning. Generally located South of MacArthur and east of Hydraulic (4110 S. Hydraulic).

BACKGROUND: The applicant, T-Mobile Central, LLC, is seeking a Conditional Use to permit the construction of a 120-foot high monopole cell phone tower. The 60-foot by 60-foot tower site is located on the far east end of a Hydraulic fronting vacant parcel. The SF-5 Single-family Residential ("SF-5") zoned site was approved for GO General Office ("GO") zoning in 2007, subject to platting. The site is in the platting process, approved by MAPC but has not been to City Council. The applicant anticipates office development on the western portion of the site, with access from Hydraulic. The site is not identified on the official Zoning Map as within the "Cell Tower Administrative Permit" area, but it may be considered for a Conditional Use. It appears to meet the compatibility height and other standards of the Zoning Code.

The applicant's RF engineer's letter (see attached) states that the proposed facility is needed to provide and improve phone service in this section of Wichita. The RF engineer has also stated that the proposed tower will provide capacity relief for existing T-Mobile Towers in the area. The applicant has provided current and desired coverage maps.

The attached site plan shows the general tower area and a 20-foot access easement from Hydraulic. The site plan does not indicate light poles, ground lighting, power poles, cabinets, equipment or buildings located within the fenced-in area. The site plan does demonstrate existing vegetation between this site and the abutting property. The agent's letter states that the site will have a solid screening fence.

North of the site is property zoned SF-5, B Multi-family ("B"), and LC Limited Commercial ("LC"); this property is under the same church ownership as the application area, and is developed with a church facility. South and east of the site is an MH Manufactured Housing ("MH") zoned manufactured housing development. West of the site, across Hydraulic, is an SF-5 zoned single-family neighborhood.

The applicant will be required to conform to Federal Aviation Administration (FAA) standards, and verify that the tower will not pose a hazard to air navigation or interfere with other radio/communication frequencies. The applicant will be required to provided an analysis of airspace in the area prior to building permits being issued. The applicant's statement indicates that the tower will not have strobe

lights. Tower lighting must meet the FAA requirements for aircraft warning. The proposed galvanized surface of the tower will blend into the sky more readily than a red or white paint, which meets the intent of the “Design Guidelines” of the “Wireless Communication Master Plan.” The proposed tower must allow co-location for a minimum of three providers. The applicant has not indicated if the tower will have a triangular “top hat” antenna array.

CASE HISTORY: The unplatted, vacant property was approved for GO zoning in 2007 (ZON2007-49), and is in the platting process (SUB2008-25).

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5, B, LC	Vacant, church
SOUTH:	MH	Manufactured housing park
EAST:	MH	Manufactured housing park
WEST:	SF-5	Single-family residences

PUBLIC SERVICES: The site has access via a proposed access easement to Hydraulic, a paved four-lane section-line arterial street. All other municipal public services are available.

CONFORMANCE TO PLANS/POLICIES: Per the amended Wireless Communication Facility Ordinance, the site is not eligible for a tower Administrative Permit, but it may be considered for a Conditional Use.

The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan require a Conditional Use for new undisguised ground mounted facilities 120 tall in the SF-5 or GO zoning district. The plan requires compliance with compatibility height standards. The site appears to meet those setback standards; compatibility height standards do not apply to the abutting MH zoning. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: preserve the pre-existing character of the area, minimize height and silhouette, use colors and textures that blend in with the existing environment, conceal the tower in some way, be placed in areas where trees and/or buildings obscure the facility, be placed on walls or roofs of buildings, be screened through landscaping and/or fencing, and avoid use of strobe lighting. The application appears to meet these guidelines.

The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan designates this area as appropriate for “Urban Residential” development. The Urban Residential category includes all housing types found in the municipality.

RECOMMENDATION: Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to platting and the following conditions:

- A. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval.
- C. The support structure shall be a “monopole” design that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall not exceed 120 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) wireless service providers.
- E. The tower shall conform to FAA regulations in regards to analysis of airspace in the area, which includes conformation that the height of the tower is not a hazard to air navigation and that the tower

does not interfere with other radio/communication frequencies. The applicant shall submit a current copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.

- F. The 0.09-acre tower site shall be developed in general conformance with the approved site and landscape plan.
- G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- H. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North of the site is property zoned SF-5, B Multi-family (“B”), and LC Limited Commercial (“LC”); this property is under the same church ownership as the application area, and is developed with a church facility. South and east of the site is an MH Manufactured Housing (“MH”) zoned manufactured housing development. West of the site, across Hydraulic, is an SF-5 zoned single-family neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The application area is zoned SF-5 and is currently vacant. The site was approved for GO zoning, subject to platting. The site could be developed under the approved GO zoning without the Conditional Use for a Wireless Communication Tower.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The application area is over 1000 feet from the nearest single-family residential development. Future development along the east side of Hydraulic should further screen this tower from the single-family residences west of Hydraulic. The tower will be visible from the abutting manufactured housing park to the south and east, although existing trees will mitigate the visual impact. Code required screening and landscaping will continue to mitigate the visual effect of this tower on the abutting manufactured housing park.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The application area appears to conform to the Location Guidelines of the Wireless Communication Master Plan. It is possible that other facilities may be presented as alternative/co-location sites during the public hearing, in which case the applicant will need to address those claims/opportunities for possible co-location. The proposed wireless communication facility conforms to the Design Guidelines of the Wireless Communication Master Plan. The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan designates this area as appropriate for “Urban Residential” development.
5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed tower is not a hazard to air navigation and that the tower does not interfere with other radio/communication frequencies.

JESS MCNEELY, Planning Staff presented the Staff Report. He reported that DAB II had approved the request and that he hasn’t had any comments or contact from the public on the request.

GREG FERRIS, FERRIS CONSULTANTS, INC, AGENT FOR THE APPLICANT said he was present to answer questions on the proposal.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **ANDERSON** seconded the motion, and it carried (10-0).

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11. **Case No.: CON2008-44** – Daniel Phillippi (owner), T-Mobile LLC c/o George Wyrick (applicant), Ferris Consulting, c/o Greg Ferris (agent) Request City Conditional Use for a 150-foot wireless communication tower in LI Limited Industrial zoning on property described as:

The East 36 feet of Lots 77, 79, 81 and 83, North Park Addition to Wichita, Sedgwick County, Kansas. Generally located south of 14th Street North and west of Santa Fe.

BACKGROUND: The applicant, T-Mobile Central, LLC, is seeking a Conditional Use to permit the construction of a 150-foot high monopole cell phone tower. The 36-foot by 70-foot tower site is located southwest of the Santa Fe and 14th Street North intersection, west of the elevated rail corridor. The site is currently vacant and used for outdoor storage. The site is not identified on the official Zoning Map as within the “Cell Tower Administrative Permit” area, but it may be considered for a Conditional Use. The LI Limited Industrial (“LI”) zoned site appears to meet the compatibility height, setback and other standards of the Zoning Code.

The attached RF engineer’s letter states that the proposed facility is needed to provide and improve phone service in this section of Wichita, and nearby towers would not meet these coverage needs. The RF engineer has also stated that the proposed tower will provide capacity relief for existing T-Mobile Towers in the area. The applicant has provided current and desired coverage maps. The agent states in the attached letter that grain elevators immediately east of the rail corridor cannot support a tower function, as dust from the elevators are not compatible with the communication equipment.

The attached site plan shows the general tower area, with the tower four feet west of the east property line along Santa Fe. The LI zoning district does not require a street side set-back. This location keeps the tower 150 feet from TF-3 Two-family Residential (“TF-3”) zoning west of the site; 150 feet would be the code required height compatibility setback from TF-3 or less intense zoning. The applicant indicates that the entire 36 by 70 foot site will have a screening fence enclosure. The site plan does not indicate light poles, ground lighting, power poles, cabinets, equipment or buildings located within the fenced-in area.

The applicant will be required to conform with Federal Aviation Administration (FAA) standards, and verify that the tower will not pose a hazard to air navigation or interfere with other radio/communication frequencies. The applicant has submitted a letter from the FAA stating that the tower would not interfere with aircraft. The applicant’s statement indicates that the tower will not have strobe lights. Tower lighting must meet the FAA requirements for aircraft warning. The proposed galvanized surface of the tower will blend into the sky more readily than a red or white paint, which meets the intent of the “Design Guidelines” of the “Wireless Communication Master Plan.” The proposed tower must allow co-location for a minimum of three providers.

North of the site, across 14th Street North, is LI zoned property under the same ownership as the application area, and used for steel fabrication. South of the site is an LI zoned single-family residence also owned by the applicant, further south are LI zoned residences and warehousing. East of the site is the LI zoned elevated rail corridor, further east are LI zoned industrial uses including grain elevators. The elevated rail bed is over 20 feet tall. West of the site is an LI zoned residence owned by the applicant, further west is an LI and B Multi-family Residential (“B”) zoned residence. Further west, across an alley, are TF-3 Two-family Residential (“TF-3”) zoned residences fronting Saint Francis Street.

CASE HISTORY: The property includes the east 36 feet of lots 77, 79, 81, and 83 of the North Park Addition, platted in 1886. Much of the neighborhood, not including the application area, was rezoned as part of a Neighborhood Plan in 2004.

ADJACENT ZONING AND LAND USE:

NORTH:	LI	Manufacturing
SOUTH:	LI	Single-family residences, warehousing
EAST:	LI	Rail corridor, manufacturing and grain elevators
WEST:	LI, B, TF-3	Single-family residences

PUBLIC SERVICES: The site has access to Santa Fe and 14th Street North, both unpaved local roads at this location with a 50-foot right of way (ROW). All other municipal public services are available.

CONFORMANCE TO PLANS/POLICIES: Per the amended Wireless Communication Facility Ordinance, the site is not eligible for a tower Administrative Permit, but it may be considered for a Conditional Use.

The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan require a Conditional Use for new undisguised ground mounted facilities 150 tall in the LI zoning district. The plan requires compliance with compatibility height standards. The site appears to meet those setback standards; compatibility height standards do not apply to the abutting LI zoning, but do apply to the TF-3 zoning to the west. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: preserve the pre-existing character of the area, minimize height and silhouette, use colors and textures that blend in with the existing environment, conceal the tower in some way, be placed in areas where trees and/or buildings obscure the facility, be placed on walls or roofs of buildings, be screened through landscaping and/or fencing, and avoid use of strobe lighting. The application appears to meet these guidelines.

The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan designates this area as Urban Residential; immediately to the east, across Santa Fe, is designated as Employment/Industry Center. This site is within the east boundary of the Midtown Neighborhood Plan, adopted as an amendment to the Comprehensive Plan in 2004. The Midtown Neighborhood Plan Future Land Use Concept designates this west side of Santa Fe for multi-unit residential and a potential park. The Midtown Neighborhood Plan does not otherwise address cell towers specifically, but does speak about neighborhood preservation in general. Cell towers have been approved for sites within City Parks in recent years.

RECOMMENDATION: The application area, along Santa Fe and the elevated rail corridor, is the industrial edge of the Midtown Neighborhood. The elevated rail tracks and nearby grain elevators are similar in character to a cell tower. Staff would note that the tower location at four feet from the Santa Fe ROW meets code requirements, but is very close to the public street. The location close to Santa Fe Street keeps the tower site the minimum 150 feet from TF-3 zoning to the west. The site meets the minimum standards of the code and the applicant's coverage criteria. Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request be **APPROVED** subject to the following conditions:

- A. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval.
- C. The support structure shall be a "monopole" design that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.

- D. The support structure shall not exceed 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) wireless service providers.
- E. The tower shall conform to FAA regulations in regards to analysis of airspace in the area, which includes conformation that the height of the tower is not a hazard to air navigation and that the tower does not interfere with other radio/communication frequencies. The applicant shall submit a current copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.
- F. The tower site shall be developed in general conformance with the approved site plan.
- G. The tower site shall be screened with a 6 to 8 foot screening fence which meets code requirements for screening.
- H. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- I. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North of the site, across 14th Street North, is LI zoned property under the same ownership as the application area, and used for steel fabrication. South of the site is an LI zoned single-family residence also owned by the applicant, further south are LI zoned residences and warehousing. East of the site is the LI zoned elevated rail corridor, further east are LI zoned industrial uses including grain elevators. The elevated rail bed is over 20 feet tall. West of the site is an LI zoned residence owned by the applicant, further west is an LI and B zoned residence. Further west, across an alley, are TF-3 zoned residences fronting Saint Francis Street.
2. The suitability of the subject property for the uses to which it has been restricted: The application area is zoned LI and is currently vacant, used for outdoor storage. The site could be developed under the existing LI zoning without the Conditional Use for a Wireless Communication Tower.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The application area is 150 feet from the TF-3 zoned single-family residences, and abuts LI zoned residences. The tower could have a negative visual effect on the nearby residences. However, the character of the area is already influenced by an elevated rail corridor, and nearby grain elevators. Therefore the requested tower should have no more effect on surrounding residences than the existing industrial facilities in the immediate area.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The application area appears to conform to the Location Guidelines of the Wireless Communication Master Plan. The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan designates this area as appropriate for "Urban Residential" development. The Midtown Neighborhood Plan Future Land Use Concept designates this west side of Santa Fe for multi-unit residential and a potential park.
5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed tower is not a hazard to air navigation and that the tower does not interfere with other radio/communication frequencies.

JESS MCNEELY, Planning Staff presented the Staff Report. He said DAB VI approved the request with a slight modification to item G of the proposed conditions listed in the Staff Report to require

screening to be eight foot high and include security features on top of the fence. He said the agent has agreed with the recommendations of the DAB.

GREG FERRIS, FERRIS CONSULTANTS, INC., AGENT FOR THE APPLICANT said he made a commitment to the DAB and they are willing to insert that language into the conditions.

Responding to **MITCHELL's** question regarding security, **FERRIS** indicated that the location of the tower is an isolated area. He said they will install barbed wire on top of the fence.

MOTION: To approve subject to staff recommendation including the extra items requested by the DAB and agreed to by the agent.

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

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12. **Case No.: CON2008-45** – Westar Energy (applicant), Lloyd G. Humbolt, Living Trust (owner), PEC, c/o Rob Hartman (agent) Request County Conditional Use for a communication tower (300-foot monopole) on property zoned RR Rural Residential.

Beginning at a point approximately 1010 feet South of the Northwest corner of said Southwest Quarter, said point being on the East right-of-way line of 127th Street; thence South 600 feet along the east right of way line to a point; thence East 600 feet to a point; thence North 600 feet to a point; thence West 600 feet to the point of beginning. Generally located on the east side of 127th Street East, 1/4 mile north of 103rd Street South.

BACKGROUND: The applicant, Westar Energy, is seeking a Conditional Use to permit the construction of a 300-foot high, galvanized steel lattice, guy supported tower. The 8.3-acre subject tract is zoned RR Rural Residential (“RR”), and is located approximately ¼-mile north of 103rd Street South on the east side of 127th Street East. Wireless Communication Facilities over 65-feet in height in the “RR” zoning district may be permitted with a Conditional Use. The subject property is located in an unincorporated portion of rural Sedgwick County.

The applicant indicates (exhibit #2) that the proposed facility (a Private Land Mobile Radio system) is needed to provide and extend internal voice and mobile data communications for company operations, including storm restoration situations for (exhibit #1, page 6) sections of Sedgwick, Sumner and Cowley counties, which includes the cities of Mulvane, Derby, Belle Plaine and Udall. The applicant states that three existing towers in the analysis area emerged as possible sites, but did not provide the coverage that the proposed Mulvane tower did. Those towers are the Alletal Peck tower, the SMSA Derby tower and the Rose Hill tower. The nearest Westar towers with a height of approximately 300-feet are located in eastern Sedgwick County, in Cowley County near Atlanta and in Harvey County near Newton.

The area around the site is mostly active agricultural fields or grasslands broken up by drainage, and groups of hedges or trees. The nearest residences are located approximately 600 feet south of the site (built 1955, site’s owner’s property), approximately ¾-mile northeast of the site (1980) and approximately ¾-mile southwest (1960s- 19990s) of the site. There are two active rail road lines that merge around 95th Street South, located approximately 1 ½ -mile northwest of the site. All the surrounding properties are zoned “RR.”

The tower is proposed to be located in the middle of the 8.3-acre site, surrounded by a 75-foot (x) 75-foot fenced/gated area, as shown on the attached (exhibit #3) “Site Plan.” Also located within the area surrounded by an 8-foot tall chained linked fence, are a propane tank and 15W generator, which can provide four- to-five days of emergency/back up power, and a 12-foot (x) 16-foot prefabricated concrete

equipment building with aggregate stone finish. A 20-foot wide gravel drive surrounds the fenced area, with access to the site via a 12-foot wide gravel drive to 127th Street East.

The 8.3-acre site (600-feet {x} 600-feet) provides enough area between the equipment compound and the abutting “RR” zoned properties around it that the screening requirement is not active: Unified Zoning Code (UZC) Art. IV, Sec. IV-B.3.b.1. Art. IV Sec. IV-C.5.b. of the UZC requires a 300-foot setback for the tower from abutting properties, and again the 8.3-acre site exceeds that standard.

The applicant has provided a letter (exhibit #4) from the Federal Aviation Administration (FAA) stating that the proposed tower poses no hazard to air navigation or to communication frequencies and wattages. The applicant has attached an analysis/map of airspace in the area (exhibit #5), which shows airfields, private landing strips and existing towers. For aircraft warning the FAA requires dual lighting of the tower consisting of red lights at night and medium intensity flashing white lights during the day, which is what the applicant proposes (Exhibit A). The applicant has proposed the flashing lighting to avoid painting the tower red and white, and thus avoid continued maintenance and maintenance cost of the paint. The proposed galvanized surface of the tower will blend into the sky more readily than a red or white paint, which meets the intent of the “Design Guidelines” of the “Wireless Communication Master Plan.” The proposed tower will allow co-location for other wireless providers at 150-feet and 175-feet, which they state is the typical elevation for cellular radio system antennas. Other heights could be considered if the tower was modified and still meet the industry standards. Modifications would be at the user’s expense. The tower will not have a triangular “top hat” antenna array.

CASE HISTORY: The “RR” zoned subject property is unplatted farmland. The owner of the current property/site and the applicant had applied for a Conditional Use, CON2007-34, for a 300-foot galvanized steel lattice, guy supported tower, last year. That site is located approximately ½-mile northeast of the current site. CON2007-34 was located inside the City of Mulvane’s “zoning area of influence,” the current site is not. Planning staff had recommended approval of CON2007-34 and subsequent recommendations and actions were: denial by the Mulvane Planning Commission, approval by the MAPC and denial by the BoCC.

ADJACENT ZONING AND LAND USE:

NORTH:	“RR”	Agriculture, farmstead
SOUTH:	“RR”	Agriculture, farmstead
EAST:	“RR”	Agriculture
WEST:	“RR”	Agriculture

PUBLIC SERVICES: No municipally supplied public services are required. The applicant will extend electrical and phone service to the site. The site has access to 127th Street East, an unpaved Rockford township road. 103rd Street South, located less than ¼-mile south of the site, is a paved two-lane county highway. The 2030 Transportation Plan shows no change to the current status of 127th or 103rd.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights-of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the

existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing; and 9) painting towers red and white instead of using strobe lighting. Since the time the Wireless Communication Master Plan was adopted, the FAA changed their regulations to require daytime strobe lighting; whereas, when the plan was adopted, the FAA allowed painted towers red and white instead of using the proposed lighting.

The site is outside the cities of Mulvane's, Derby's and Wichita's 2030 growth areas, and is classified as a "rural area." The 2030 Functional Land Use Guide, defines "rural functional land use" as land being outside of all Sedgwick County's cities' 2030 growth areas and meant to accommodate agricultural uses, rural uses no more offensive than those agricultural uses found in Sedgwick County and predominately larger lot residential subdivisions (2-acres or more in size) with provisions for individual or community water and sewer services.

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

- A. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a "guyed lattice" design that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall be 300 feet in height and shall be designed and constructed to accommodate communication equipment for at least six wireless service providers, with no triangular "top hat" antenna array.
- E. The tower shall be lighted only with a dual lighting system consisting of red lights at night and medium intensity white flashing lights during the day that conforms to FAA regulations. The applicant shall submit a current copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.
- F. The 8.3-acre site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.
- G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- H. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is rural. The properties surrounding the subject property in all directions are zoned "RR" Rural Residential and are used for agriculture, farmsteads, or large tract single-family residences. Wireless communication facilities of this size are typically located in rural areas, where they will affect the fewest number of people and can be consistent with the zoning, uses, and character of the rural areas of Sedgwick County.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential and is currently used for agriculture. The site is suitable for continued agricultural use. A Conditional Use may be granted to permit a wireless

communication facility in the “RR” Rural Residential zoning district; however, the facility should conform to the guidelines of the Wireless Communication Plan as much as possible. The proposed facility conforms to most of the plan’s guidelines.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental effects on the “RR” zoned properties and agricultural activities in the area should be minimized to a degree by the Conditional Use standards of the Unified Zoning Code, which should limit noise, lighting, and other activity from adversely impacting these properties. The site’s 8.3-acre size should also mitigate some of the negative impact of the tower on the surrounding area. The property owner where the proposed site is located also owns all property within a ¼-mile or more of the site, which should help minimize impact on the area.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility appears to conform to the Location Guidelines of the Wireless Communication Master Plan since there are no other towers or tall structures in the vicinity of the site which can accommodate the communication needs of the applicant. The proposed wireless communication facility conforms to the Design Guidelines of the Wireless Communication Master Plan by minimizing the height, mass, proportion, and silhouette of the facility through its guyed lattice design; by utilizing an unobtrusive color with a matte finish to minimize glare; and by being placed in an area where existing vegetation obscures some of the facility from view. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned “TF-3” or more restrictive. The site’s 600-foot (x) 600-foot, 8.3-acre site exceeds that standard.
5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed tower does not detrimentally impact the operation of airports in the vicinity.

SHERMAN recused himself from this item and left the bench.

DALE MILLER, Planning Staff presented the Staff Report.

Responding to **MITCHELL**’s question, **MILLER** indicated that this location was outside any “Zoning Area of Influence” (ZAOI).

DOUG YOUNG, MANAGER, FIELD COMMUNICATION DEPARTMENT, WESTAR ENGERGY said there has been tremendous growth in the area as evidenced by the number of customers. In addition, he said this tower also affects Westar’s ability to communicate to its people in the field. He said this tower is tied into staff safety and Westar’s ability to perform well for its customers. He said this location gives the best coverage. He said they studied use of towers north and east and found this proposed tower location had better coverage than the one by Rose Hill. He commented that they have a PowerPoint presentation with the results of the study of the proposed site as well as the study of all the other towers in the area. He said while working on this proposal they have been asked to do numerous studies and other items, and they have done them. He said this location is what is best for customers and employees. He said **DAVID HULINSKY, PROJECT ENGINEER, BLACK & VEATCH**, was present to give the PowerPoint presentation.

FOSTER referred to page six of the staff report, which was the analysis of potential site comparisons and said maybe he was not interpreting that correctly but it looked like a 10% gain and he was not convinced that was much of a gain for this tower.

DAVID HULINSKY, PROJECT ENGINEER, BLACK & VEATCH, 10950 GRANDVIEW DRIVE, OVERLAND PARK, KANSAS commented that this tower will provide ten square miles of additional coverage, which is a significant amount.

TROY TURNER, 13511 EAST 95th STREET SOUTH said he lived due north of the tower. He said this is the second tower proposal by Westar. He said with the first proposal, his property was within the 1,000 foot circle; however, now his property is one foot outside the 1,000 foot circle. He said he has been in contact with Brad Murray LLC and that no one has contacted them concerning co-locating on their tower. He said he believes this tower location was moved 2,460 feet south so the applicant could get out of going in front of the two boards that voted the issue down previously. He asked if the MAPC approves this request, that it go back before the Sedgwick County Commission. He also alleged that the applicant did not check into co-locating on the Haysville Tower.

HULINSKY commented that he had a PowerPoint presentation which reflects in detail how they accomplished “due diligence” on this tower location. He said Westar’s mission is a critical operation such as power restoration in an emergency. He said most cellular towers do not have the reliability that Westar requires in an emergency. He said most sites also do not have back up power. He said they believe they have found the optimal site within the 16-mile diameter search. He said the Brad Murray location does not provide optimal coverage and that some wireless systems such as Motorola 900 MHZ create conflicts.

MARNELL asked about the mobile units.

HULINSKY commented that they assessed over 21 existing towers in this area in an effort to find a tower they could co-exist on, which would decrease Westar Energy’s capital costs.

MOTION: To approve subject to staff recommendation.

MITCHELL moved, **MARNELL** seconded the motion, and it carried (8-1-1).
FOSTER – no; **SHERMAN** – abstained.

SHERMAN back on the bench.

13. Case No.: Tax Increment Financing District: C.O.R.E. Redevelopment District Request Finding of Consistency of Redevelopment Plan with Comprehensive Plan. Generally located Central, Topeka, Murdock and Santa Fe.

Background: A tax increment finance district is a tool available under Kansas Statutes to stimulate economic redevelopment. It allows a city to finance in blighted or deteriorating areas, all or a portion of public infrastructure and redevelopment costs using captured incremental real estate tax revenues generated by the redevelopment activity.

The City of Wichita via Ordinance No. 47-867 has established the C.O.R.E. Redevelopment District (tax increment financing) to encourage the mixed-use redevelopment of a nine-block neighborhood area centered near the intersection of Topeka and Elm Street. This tax increment financing district is bounded as follows: on the west by the alley west of Topeka Avenue, on the east by Santa Fe Avenue, on the south by Central Avenue and on the north by Murdock Avenue (see attachment “A”).

Current land uses in the C.O.R.E. Redevelopment District consist of several retail stores, office buildings, single and multi-family housing, warehouse and light industrial buildings, and the Wichita Metro High School.

The proposed C.O.R.E. Redevelopment Project Plan (see attachment "B") will impact many of the 134 parcels in the district. The redevelopment will consist of a 36 unit seniors/disabled persons apartment building, two seven-story office/retail buildings each containing 32 residential condominiums, 32 low-income/market rate apartments, 48 market rate apartment units, 29 brownstone-type row houses, a grocery store and additional office/retail spaces along Central Avenue (including parking lots and two parking decks), neighborhood park, retention of the Wichita Metro High School, and renovation of the Judge Wall house into a community center. As its contribution to this mixed-use redevelopment project, the City will reimburse the land purchase costs, assist with site preparation, and provide public improvements such as streets, utilities and park areas. All public infrastructure improvements necessary to support this redevelopment project plan will be paid through special assessment financing. Land purchasing and site preparation costs will be financed through tax increment financing.

It is estimated that project construction will begin before the end of 2009 and be completed by the end of 2014. Total assessed valuation for the C.O.R.E. Redevelopment District in January 2008 is estimated to be \$1,329,852, with projected total assessed valuation for the District as of January 1, 2015 estimated at \$11,475,763. Therefore, captured assessed valuation as of January 2015 is estimated at \$10,146,181. The tax increment income derived thereof will be sufficient to pay for the land acquisition, demolition and site improvement project costs currently estimated at \$8,646,000.

Pursuant to K.S.A. 12-1772, each redevelopment project plan undertaken as part of a tax increment finance district must be prepared in consultation with the planning commission. Accordingly, the MAPC has a responsibility to review the proposed C.O.R.E. Redevelopment Project Plan and make a determination of consistency with the Wichita-Sedgwick County Comprehensive Plan.

The MAPC is advised that the C.O.R.E. Redevelopment Project Plan area falls within the residential revitalization area as designated on the *Wichita Residential Enhancement Strategy Map*. Public investment in capital improvements and infrastructure for these areas are recommended strategies of the Comprehensive Plan. The Plan (pg 45, Table 1) also advocates tax increment financing as a recommended implementation action in Wichita's neighborhood revitalization area. Furthermore, the C.O.R.E. Redevelopment Project Plan area falls within the *Center City Neighborhood Redevelopment Plan* adopted by the MAPC and the Wichita City Council in early 2000, and is consistent with the overall direction and intent of redevelopment policies contained in this plan.

Recommended Action: That the Metropolitan Area Planning Commission pass a resolution finding the proposed C.O.R.E. Redevelopment Project Plan to be consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

Attachments: Attachment "A". Map of C.O.R.E. Redevelopment District and Project Area.
Attachment "B." C.O.R.E. Redevelopment Project Plan, October 9, 2008.

DAVE BARBER, Planning Staff presented the Staff Report.

HENTZEN clarified that they were not being asked to recommend the use of T.I.F. districts for development.

BARBER commented that the MAPC is only being asked to find that the project plan is consistent with the Comprehensive Plan.

MITCHELL asked if eminent domain was being used to secure properties for the project.

BARBER commented that **ALLEN BELL** could answer that question.

MARNELL asked for clarification of the acronym C.O.R.E.

STAFF reported that C.O.R.E. stood for Center City Organized Redevelopment Effort.

FOSTER commented that the plan is a very large endeavor. He said he was interested in any parallel efforts to provide maintenance and monies to make sure this project continues. He asked about long-term costs to the City.

BARBER explained that the City's investment will include land acquisition and site preparation and improvements such as streets, and water through special assessments. He said after development, these items would fall under the City's general maintenance program.

ALLEN BELL, PROGRAM DEVELOPMENT DIRECTOR, presented the CORE Redevelopment Plan, being marketed as the Renaissance Square Project Development Plan. He briefly reviewed the development plan as follows:

- Sponsor - Center City Organized Redevelopment Effort (C.O.R.E.)
- Developer - Grant Gaudreau (Inner City Development Company)
- Architect - Law-Kingdon Architecture.
- 9-block site between Santa Fe and Topeka (½ block west) & Central and Murdock
- Two 7-story buildings with 35,000+ SF Office/Retail and 32 residential condos each
- 29 brownstone-type row houses
- 35,000 SF Grocery Store
- 160,000 additional SF commercial/retail space
- 116 apartments (disabilities, low income and market rate)
- Total 209 residential units
- Construction completion expected in 2015

Use of Tax Increment Financing:

• Land acquisition	\$6,500,000
• Demolition	\$ 300,000
• Site Improvements	<u>\$ 900,000</u>
Total	\$7,700,000

Summary of TIF Analysis:

• 2008 Assessed Value	\$ 1,329,582
• Projected 2015 Assessed Value	\$11,475,763
• Captured Assessed Value	\$10,146,181
• 2007 Tax Levy	118.050 mills
• Levy available for TIF	96.550 mills
• Projected Property Tax Increment	\$ 979,614
• Projected TIF Expenditures	\$8,646,000
• Average Annual Debt Service	\$ 847,324
• Surplus Annual TIF Revenue	\$ 206,749

TAPE 2, SIDE 1

FOSTER asked about the 116 apartment units, some of which will be for disability/low income/market rate and asked **BELL** to define market rate.

BELL said the distinction was the way in which development will be financed as well as how the units will be tenanted. He said low income housing tax credits are available which provide equity financing for multi-family housing rented to families qualifying under the income guidelines, which is normally a percentage of the median income in an area. He said "market rate" will have no special financing with special tax credits and will not be restricted in terms of who they can be leased to.

FOSTER commented that he was concerned that the project not miss the mark on the whole issue of bringing all levels of people in the community into the development mix, and he didn't think they would achieve the purpose of redevelopment if they didn't do that.

MARNELL referred to the recommended action and commented that was the focus of the Commission's duty on this issue. He said this is not an opportunity to go on fishing expeditions for our own social, private and tax agendas. He asked if the project complied with the Comprehensive Plan; and said it was a simple yes or no answer.

MITCHELL asked again about eminent domain since it is not included in the Comprehensive Plan, and said if it is used for the project, then the project would not comply with the Comprehensive Plan.

BELL said they have no intention of using eminent domain in the project; and added that the Kansas Legislature amended the law so that eminent domain cannot be used for redevelopment purposes unless there is a specific authorization from the Legislature.

ANDERSON said this reminds him of déjà vu because years ago he appeared before the Planning Commission when he was the Director of Housing and Economic Development when the City wanted to build this building (City Hall) because it was a redevelopment project. He said this project is a redevelopment project in an area that obviously needs some attention - but he was not sure that it needed to come to this body (Planning Commission) for approval because the Comprehensive Plan is so vague and has so many holes you could drive a truck through it. He said he wasn't sure that the MAPC needed to make any decision today and asked why the issue was in front of the Commission in the first place. He said in the entire Comprehensive Plan there is not one mention of a project like this.

DIRECTOR SCHLEGEL stated that the Commission was not being asked to approve the project, but rather to fulfill a requirement of State Statutes that requires that the Commission find that the project is consistent with the Comprehensive Plan.

ANDERSON commented that we need to consider changing the State Statutes so that this body can take some meaningful action to advise the City Council on how they should act on this issue.

BELL said a finding by this Commission that this project is in compliance with the Comprehensive Plan is a "check and balance" feature in the law to insure the overall development and economic health of the community.

TONY RANGEL, CHAIRMAN C.O.R.E. COMMUNITY DEVELOPMENT CORPORATION, stated that the Commission expressed some interesting questions on the project. He explained that C.O.R.E. is a faith based organization that has been around for about a decade. He said it started when ten major downtown churches got together to see how they could serve the community. He said looking at doing something to create a neighborhood became their focus and mission. He said one of the main focuses was providing housing for all residents in the community. He said this project is meant to be a

blending of people in the community. He said they expected and planned for different faiths, vocations, and races and completed two market analyses of the area. He said they are a non-profit agency and “urban pioneers” interested in creating a neighborhood in this 9 block area. He concluded by stating that if C.O.R.E. doesn’t work, this area will never be redeveloped because 50% of it is vacant and 50% is abandoned. He said there is no development - only some parking. He mentioned some of the organizations C.O.R.E. partners with include Via Christi, the City of Wichita, the State of Kansas and other broad based community agencies and organizations.

MOTION: To pass a resolution finding the proposed C.O.R.E. Redevelopment Project Plan to be consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

MARNELL moved, **VAN FLEET** seconded the motion, and it carried (10-0).

CHAIRMAN DOWNING asked staff for guidance on the walkability issue.

DIRECTOR SCHLEGEL said there is no requirement in the code.

MILLER commented that was correct and that was why he suggested the Commission direct the interested member and staff to work on that.

MOTION: To appoint **MR. FOSTER** to work with staff on the walkability issue.

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

MITCHELL also asked that staff look into how walkers reach gaps from residential or business areas.

MARNELL said he was going to oppose the motion based on past history with different projects. He said when this type of idea was submitted to developers, it got no support at all. In addition, he said residents were often opposed to public sidewalks being installed in close proximity to their yards.

DIRECTOR SCHLEGEL said he is concerned about spending staff time working on something if the Commission does not want to support the idea. He said staff does not want to spend time working on code revisions and have the issue go nowhere.

JOHNSON said he wondered if it would be appropriate to have more thought on the item and ask **MR. FOSTER** to develop an outline on what his ideas are on the issue instead of just throwing something out there. He said he doesn’t really know what the issue is so he doesn’t know how he feels about it.

CHAIRMAN DOWNING suggested that the item be tabled and that **MR. FOSTER** “flesh out” his idea in more detail. He also withdrew his motion and requested that the second also withdraw their second of the motion.

MITCHELL agreed to withdraw his second of the motion.

FOSTER asked for permission to request information from staff.

DIRECTOR SCHELGEL said certainly.

JOHNSON said he wanted to compliment staff and **DIRECTOR SCHLEGEL** on the presentation to the City Council which he said was very professionally done.

CHAIRMAN DOWNING said he also thought it was an outstanding presentation.

HENTZEN commented that he echoed **JOHNSON's** compliment and said he felt this was the best group of planners and best Planning Commission in the 56 years he has been in the County.

MARNELL commented that he felt this was the best Planning Commission.

The Metropolitan Area Planning Department informally adjourned at 3:30 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)