

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

April 9, 2009

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, April 9, 2009, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Darrell Downing, Chair; Don Anderson; David Dennis; Shawn Farney; David Foster; Bud Hentzen; Hoyt Hillman; Bill Johnson; John W. McKay, Jr.; M.S. Mitchell and Don Sherman (In @ 1:35 P.M.). Ronald Marnell; Debra Miller Stevens and G. Nelson Van Fleet, Vice Chair were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Jess McNeely, Senior Planner; Bill Longnecker, Senior Planner; Derrick Slocum, Associate Planner; Joe Lang, Chief Deputy City Attorney; Bob Parnacott, County Counselor and Maryann Crockett, Recording Secretary.

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1. Approval of the March 19, 2009 MAPC meeting minutes:

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

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

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB 2009-17: One-Step Final Plat -- PROVIDENCE SQUARE ADDITION**, located on the northwest corner of 13th Street North and Oliver.

NOTE: This is a replat of a portion of the Ken-Mar Addition. A portion of the site has been approved for a zone change (ZON 2009-03) from B Multi-family to LC Limited Commercial. This plat is also contained within the Providence Square Community Unit Plan (CUP 2009-01, DP-319).

STAFF COMMENTS:

- A. City of Wichita Water Utilities Department advises that water and sewer services are available.
- B. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being scheduled for City Council, the zone change will need to be approved by City Council.
- C. Stormwater Engineering has approved the applicant's drainage plan subject to revisions.
- D. Access controls have been platted in accordance with the CUP approval. The plat proposes two access openings along both 13th Street and Oliver.
- E. In accordance with CUP approval, the plat denotes a 10-foot contingent street dedication along Oliver, contingent upon the removal of the existing building.
- F. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the

approved CUP and its special conditions for development on this property.

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

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

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

- 2-2. **SUB 2009-21: One-Step Final Plat -- OAK CREEK OFFICE PARK ADDITION**, located on the south side of 21st Street North and west of Greenwich Road.

NOTE: This is a replat of Lot 1, Block 1 and Reserve B of the Oak Creek Addition. This site is also contained within the proposed Parcels 3, 3A and 3B, and Reserves I and J of the Oak Creek CUP (DP-274).

STAFF COMMENTS:

- A. City of Wichita Water Utilities Department requests a petition for extension of sanitary sewer (laterals) and City water services (distribution mains).
- 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. Stormwater Engineering has approved the applicant's drainage plan subject to revisions.
- D. Traffic Engineering has approved access controls. The plat proposes one access opening along 21st Street North.
- E. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves for that Addition, but not being replatted by this Addition, the above covenants and/or other legal documents shall be provided which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
- F. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- G. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- H. The Applicant needs to request a CUP adjustment.
- I. A note shall be placed on the final plat, indicating that this Addition is subject to the conditions of the Oak Creek CUP (CUP 2004-09, DP-274).
- J. The vicinity map should be corrected.
- K. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- L. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- M. The title block should be corrected to read "An Addition to Wichita, Sedgwick County, Kansas."
- N. The plattor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. 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.)

- P. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- Q. 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.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State 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.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. 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 defer the items for two weeks.

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

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- 2-3. **SUB 2009-23: One-Step Final Plat -- SIMMONS 2ND ADDITION**, located north of Central and west of Meridian.

NOTE: This is an unplatted site located within the City. The site has been approved for a zone change (ZON 2009-05) from SF-5 Single-family Residential to TF-3 Two-family. A Conditional Use (CON 2009-04) for multi-family development has been approved.

STAFF COMMENTS:

- A. Wichita Water Utilities Department has advised that sewer is available. The applicant needs to extend water (distribution and transmission mains) to serve the lot being platted.
- 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. Stormwater Engineering has approved the applicant's drainage plan subject to revisions.

- D. On the final plat tracing, the MAPC signature block needs to reference “Darrell A. Downing” as Chairman.
- E. A vicinity map is needed.
- F. The drainage easement needs to be denoted with a dashed line and spelled correctly.
- G. The applicant is advised of the misspellings of “section” in the legal description on the preliminary plat, Killarney in the owner’s address on the preliminary plat and “corner” in the label for the southwest section corner on the final plat.
- H. 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.
- I. 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.
- J. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant’s responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). 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, **DENNIS** seconded the motion, and it carried (10-0).

2-4. SUB 2009-19: One-Step Final Plat -- ANN WALENTA COMMERCIAL ADDITION,
located on the south side of Kellogg and on the east and west sides of Oliver.

NOTE: This is a replat of a portion of the Ann Walenta Addition, Kellogg Heights Addition, and the DeWitt 2nd Addition. A portion of the site has been approved for a zone change (ZON 2008-34) from B Multi-family, TF-3 Two-family, and MF-29 Multi-family to LC Limited Commercial. The Oliver Retail Center CUP (CUP 2008-24, DP-261) was also approved for this site. The plat includes the vacation of Eilerts Street and Dellrose Avenue.

STAFF COMMENTS:

- A. City of Wichita Water Utilities Department advises that water and sewer is available. A 20-foot easement is needed for the existing water main in the proposed vacated Dellrose Ave right-of-way and for the existing sanitary sewer main in the proposed vacated Eilerts St. right-of-way. Temporary easements will be established by separate instrument for utilities that will be relocated.
- 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. Stormwater Engineering has approved the applicant's drainage plan subject to drainage easements.
- D. Access controls have been platted on the preliminary plat in accordance with the CUP approval. The final plat needs to include access controls. The plat proposes two openings along the west side of Oliver and one opening along the east side. One opening is proposed along Orme. Two openings are proposed along Glendale.
- E. A note shall be placed on the final plat, indicating that this Addition is subject to the conditions of Oliver Retail Center Community Unit Plan (CUP 2008-24, DP-261).
- F. The right-of-way widths of Pershing, Orme and Glendale needs to be denoted.
- G. The wall easement shall be referenced in the plat's text.
- H. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- I. In accordance with the CUP approval, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- K. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- L. 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.)
- M. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- N. 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.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State 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.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Westar Energy has advised that any reconstruction or relocation of existing facilities will be at the applicant's expense.
- S. 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 defer the items for two weeks.

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

- 2-5. **SUB 2009-20: One-Step Final Plat -- RED ROCK VILLAGE ADDITION**, east of 135th Street West and south of Pawnee.

NOTE: An overall preliminary plat was approved for the site in 2006. This revised preliminary plat and final plat represents the second phase of development. It is a replat of Reserves B and C in the Southwest Passage Addition in addition to unplatted property. The street layout and lot configuration have been revised reflecting an additional 6 lots.

STAFF COMMENTS:

- A. City of Wichita Water Utilities Department requests a petition for extension of sanitary sewer (mains

and laterals) to all lots being platted. The applicant needs to obtain a service area release from Sedgwick County Rural Water District #4 prior to being served with water.

- 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. Stormwater Engineering has approved the applicant's drainage plan subject to a cross-lot drainage agreement with the property owner to the east.
- D. The plat proposes one street opening along Pawnee in conformance with the original overall preliminary plat.
- E. The Applicant shall guarantee the paving of the proposed streets and alleys. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- F. Since this plat proposes the platting of a 32-foot narrow street right-of-way, adjacent 15-foot street, drainage and utility easements are needed.
- G. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineer (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. The applicant shall submit a covenant that provides four (4) off-street parking spaces per lot that abuts a 32-foot or 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- K. The Applicant has platted a 20-foot building setback along Blocks 3 and 4 which represents an adjustment of the Zoning Code standard of 25 feet for the SF-5 Single-family District. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.
- L. GIS requests that 23rd Street South be replaced with Pawnee.
- M. 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.
- N. 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.)

- O. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- P. 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.
- Q. 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.
- R. 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.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Westar Energy has requested additional easements.
- U. 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, **DENNIS** seconded the motion, and it carried (10-0).

SHERMAN (In @1:35 P.M.)

PUBLIC HEARING – VACATION ITEMS

3-1. VAC2009-05: City request to vacate a platted utility easement.

OWNER/APPLICANT: City of Wichita, c/o John Philbrick

AGENT: MKEC, c/o Greg Allison

LEGAL DESCRIPTION: The platted 20-foot utility easement, generally located in the northwest corner of Lot 1, Block 1, City Hall Complex Addition, Wichita, Sedgwick County, Kansas; see attached exhibits.

LOCATION: Generally located east of Waco Avenue, on the south side of Central Avenue (WCC #VI)

REASON FOR REQUEST: Relocation of sewer line and electric line

CURRENT ZONING: The subject property is zoned LI Limited Industrial (“LI”), GC General Commercial (“GC”) and CBD Central Business District (“CBD”). Adjacent northern and western properties are zoned LI and GO General Office (“GO”), GC and B Multifamily Residential (“B”). Adjacent southern properties are zoned LI and CBD.

The applicant proposes to vacate the described platted easement. The applicant proposes to remove the existing sewer line, manhole and electric line. There is a 5-foot wide KG & E private easement that runs through the subject easement; per the applicant’s exhibit, it appears that this easement will be ‘released.’ Per the applicant’s exhibit, it appears that there is a proposed 15-foot wide easement for the relocated sewer line and manhole; current City standards require a minimum 20-foot wide easement. The City Hall Complex Addition was recorded with the Register of Deeds October 11, 2007.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time March 19, 2009, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the described platted utility easement and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Provide Staff with all required additional easement(s) (with original signatures) dedicated by separate instrument, as needed and approved by Public Works. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
- (2) Provide Planning staff with the legal description of the vacated easement on a Word document, via e-mail, to be used on the Vacation Petition and the Vacation Order.
- (3) Dedicate 10 feet of right-of-way.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. If necessary provide franchised utilities with any needed plans for review for location of utilities and retain the easement(s) until utilities are relocated. Provided any needed guarantees for relocation of public sewer and/or

the abandonment of the existing sewer line. Completion of the listed project (give project number) can be used in lieu of guarantees.

- (5) All improvements shall be according to City Standards and at the applicants' expense.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide Staff with all required additional easement(s) (with original signatures) dedicated by separate instrument, as needed and approved by Public Works. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
- (2) Provide Planning staff with the legal description of the vacated easement on a Word document, via e-mail, to be used on the Vacation Petition and the Vacation Order.
- (3) Dedicate 10 feet of right-of-way.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. If necessary provide franchised utilities with any needed plans for review for location of utilities and retain the easement(s) until utilities are relocated. Provided any needed guarantees for relocation of public sewer and/or the abandonment of the existing sewer line. Completion of the listed project (give project number) can be used in lieu of guarantees.
- (5) All improvements shall be according to City Standards and at the applicants' expense.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

MCKAY moved, **JOHNSON** seconded the motion, and it carried (11-0).

3-2. VAC2009-06: City request to vacate a platted utility easement.

OWNER/APPLICANT: First Mennonite Brethren

AGENT: MKEC

LEGAL DESCRIPTION: The 10-foot wide platted easement, which runs parallel to the west lot line of Lot 1, First Mennonite Brethren Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located on the north side of 21st Street North, midway between Tyler & Ridge Roads (WCC #V)

REASON FOR REQUEST: Easement not needed

CURRENT ZONING: The subject property and abutting northern, eastern and western properties are zoned SF-5 Single-family Residential (“SF-5”) and GO General Office (“GO”). Adjacent property south of the site is zoned GO and SF-5.

The applicant proposes to vacate the described platted easement. There appears to be no utilities, manholes, sewer or water lines in any of the easement. There is a platted 30-foot building setback which runs parallel to the west lot line of the subject site; the platted easement is located within this platted setback. The First Mennonite Brethren Addition was recorded with the Register of Deeds August 15, 1985.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time March 19, 2009, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the described platted easement and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Provide all required additional easement(s) (with original signatures) dedicated by separate instrument, as needed and approved by any utilities. The public easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds. This will be provided prior to the vacation request going to City Council for final action.
- (2) Provide Planning staff with the legal description of the vacated easement on a Word document, via e-mail, to be used on the Vacation Petition and the Vacation Order.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. If necessary provide franchised utilities with any needed plans for review for location of utilities and retain the easement(s) until utilities are

relocated. Provided any needed guarantees for relocation of public sewer and for the extension of public water.

- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

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

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

MCKAY moved, **JOHNSON** seconded the motion, and it carried (11-0).

3-3. VAC2009-07: County request to vacate platted complete access control.

OWNER/AGENT: Carol J Molz, William & Donna M Cline, and William E Martin

LEGAL DESCRIPTION: Generally described as vacating the platted complete access control to allow the existing three full movement drives onto 199th Street West off of Lots 5, 6, & 7, Block 1, Strunk's Lake La Rock Addition, Sedgwick County, Kansas, to remain

LOCATION: Generally located on the east side of 199th Street West, midway between 4th & 6th Streets, and north of Timothy Drive (BoCC #3)

REASON FOR REQUEST: To remove the “encroaching” status from the three (3) existing drives

CURRENT ZONING: All properties in the area are zoned RR Rural Residential (“RR”)

The applicants each have a drive from the back (west side) of their lots onto 199th Street West; Lots 5, 6, & 7, Block 1, Strunk’s Lake La Rock Addition. The subdivision has platted complete access control along the just described lots. The applicants were instructed by the County to apply for vacation of the described complete access control, to make the drives legal; see letter. There are no public sewers or water lines located along the lots’ 199th frontage. There are no platted easements running parallel to the lots’ 199th frontage. Sedgwick County Rural Electric has utilities located within the 199th Street West ROW, along the lots’ west lot line. The Strunk’s Lake La Rock Addition was recorded with the Register of Deeds June 15, 1968. The site is located within the City of Goddard’s area of zoning influence and the vacation request, as instructed by County Law, will be sent to their Planning Commission for review.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from County Engineering, Code Enforcement, Permits and Inspection and franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described platted complete access control.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time March 19, 2009, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the described platted 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.

Considerations (but not limited to) associated with the request to vacate the described platted complete access control have been identified, 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 lots’ 199th Street West frontage to allow the use of the existing drives; Lots 5, 6, & 7, Block 1, Strunk’s Lake La Rock Addition are each allowed one, 30-foot wide full movement drive. The drives must remain in their current location, as there is electrical line in the 199th Street West right-of-way.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants’ expense. Provide Planning with any needed easements to be recorded with the Register of Deeds, to go with the Vacation Order to the BoCC.
- (3) All improvements shall be according to County Standards and at the applicant’s expense. Provide Public Works with any needed guarantees to ensure that those improvements will be made.

- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE’S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the platted complete access control along the lots’ 199th Street West frontage to allow the use of the existing drives; Lots 5, 6, & 7, Block 1, Strunk’s Lake La Rock Addition are each allowed one, 30-foot wide full movement drive. The drives must remain in their current location, as there is electrical line in the 199th Street West ROW.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants’ expense. Provide Planning with any needed easements to be recorded with the Register of Deeds, to go with the Vacation Order to the BoCC.
- (3) All improvements shall be according to County Standards and at the applicant’s expense. Provide Public Works with any needed guarantees to ensure that those improvements will be made.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

MCKAY moved, JOHNSON seconded the motion, and it carried (11-0).

3-4. VAC2009-08: Vacation of the Hinton Avenue right-of-way.

APPLICANTS/OWNERS: Nancy & Charles Mattingly Revocable Trust

AGENTS: Savoy Company, PA c/o Mark Savoy

LEGAL DESCRIPTION: Generally described as that portion of the Hinton Avenue public street right-of-way (ROW), which is located between Mead Avenue (east), Santa Fe Avenue/railroad ROW (west), abutting the south sides of Lots 13 – 35 (odd) and the north sides of Lots 14 – 36 (even), all in the Hinton’s Subdivision of a part of East Wichita, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located south of Central Avenue, between Santa Fe and Mead Avenues (WCC #VI).

REASON FOR REQUEST: Street has long standing development on it

CURRENT ZONING: The site is a platted, undeveloped public street ROW. All abutting and adjacent properties are zoned LI Limited Industrial (“LI”).

The applicant is requesting the vacation of the described portion of Hinton Avenue. Hinton Avenue is not developed and has several buildings encroaching in it, as it is actively being used as part of the Yard Store. The applicant owns all abutting properties. This is the only portion of Hinton in this ¼ - section. Hinton does not cross the railroad tracks abutting its west side. There are no utilities, manholes, sewer or water lines within the proposed vacated ROW. This portion of Hinton Avenue was dedicated/platted on the Hinton’s Subdivision of a part of East Wichita Addition, which was recorded with the Register of Deeds June 17, 1886.

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

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time March 19, 2009, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the described platted street right-of-way and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

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

- (1) Provide Planning staff with a legal description of the approved vacated ROW on a Word document via e-mail. Provide any additional easement as needed by dedication by separate instrument, prior to this vacation case going to City Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants.
- (3) All improvements shall be according to City Standards and at the applicant’s expense, including any extension of curb along the Mead and Santa Fe Avenues’ intersections and drainage lines/gutters/outlets. Provide Public Works with all needed guarantee to ensure that those improvements will be made, prior to this vacation case going to City Council for final action.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of

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

SUBDIVISION COMMITTEE’S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide Planning staff with a legal description of the approved vacated ROW on a Word document via e-mail. Provide any additional easement as needed by dedication by separate instrument, prior to this vacation case going to City Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants.
- (3) All improvements shall be according to City Standards and at the applicant’s expense, including any extension of curb along the Mead and Santa Fe Avenues’ intersections and drainage lines/gutters/outlets. Provide Public Works with all needed guarantee to ensure that those improvements will be made, prior to this vacation case going to City Council for final action.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

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

MCKAY moved, **JOHNSON** seconded the motion, and it carried (11-0).

PUBLIC HEARINGS

4. **Case No.: DER 2009-01** - 2009 Amendments to Subdivision Regulations (3/12/09 Subdivision Committee approved 6-0)

Attached is a delineated version of proposed amendments to Articles 7, 8, 9 and 11.

Revisions to Articles 7, 8 and 9 are minor changes involving language clarification and correction of terminology in regards to storm water issues. Revisions to Article 11 “Definitions” are proposed to provide consistency with the proposed amendments to the Unified Zoning Code.

NEIL STRAHL, Planning Staff presented the Staff Report.

HILLMAN said he recalled the Subdivision Committee discussing the possible inclusion of bicycle pathways, but said he did not see that in any of the concepts or dialogue.

STRAHL reported that the City Traffic Engineer did not want bicycle pathways included since they are placed along arterials and arterials are not a cross section contained in the Subdivision Regulations.

HILLMAN referred to the parking easements in the “definitions section” which specify a minimum depth of 20 feet; however, he said the diagrams and pictures reference 14.5, 10.5, and 16.5 feet. He asked **STRAHL** to explain the difference.

STRAHL said the parking easements being referred to are those located in reserves. He said it is off-street parking which is different from the parking strip referenced in the diagrams.

MCKAY commented that they have been waiting since last November for Public Works to complete their part so the regulations could be revised. He said he would like to send a message to them to work together.

MOTION: To approve subject to staff recommendation.

MITCHELL moved, **MCKAY** seconded the motion, and it carried (10-1).

HILLMAN – No.

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5. **Case No.: ZON2009-08** – Laverne Miller (owner/applicant) Request City zone change from LC Limited Commercial to GC General Commercial on property described as:

Lots 4 and 5 Except the South 10 feet for Street and that part of Lot 6 described as beginning at the Northwest corner; thence South 90.3 feet; thence East 1.13 feet; thence Northerly 90.3 more or less to beginning, Edminster Gardens Addition, Sedgwick County, Kansas (2822 E. 31st St S., Wichita, KS 67202); generally located northeast of the intersection of K-15 and 31st Street South (2822 East 31st Street South).

BACKGROUND: The application area is located northeast corner of 31st Street South and K-15, and is currently zoned LC Limited Commercial (“LC”) and the applicant is requesting the property be rezoned to GC General Commercial (“GC”). Access to the site is off of 31st Street South. The site currently classified as being developed with an automobile service garage with a paint shop. The use of the site as an automobile service garage is a legal activity in the LC district, per the Unified Zoning Code (“UZC”); however, the use of the paint shop for detailing and vehicle body work is not permitted in the LC zoned district. This site has been used for automobile related uses over the years. The applicant has applied for the rezone to bring the site into conformance with the uses currently operating on the site. Staff recommends that a Protective Overlay (“PO”) be included with this zone change to limit the uses allowed on this site. The proposed PO will exclude all uses within the GC zone district except vehicle repair, general. The PO will also have the applicant remove all inoperable vehicles from the property and require that any vehicles waiting for repair be screened from ground view from 31st Street South and from adjoining and adjacent properties.

The zoning of the surrounding property is predominately LC. Property to the north is zoned SF-5 Single-family Residential (“SF-5”) and is currently developed with single-family residences. Property to the east of the subject site is zoned LC Limited Commercial (“LC”) and OW Office Warehouse (“OW”) and is currently developed as a bar/tavern and a warehousing operation. Property to the south of the subject site is zoned LC, and is developed with a mobile home park. Property to the west of the subject site is zoned LC and is developed with a vehicle repair shop and an available commercial building.

The subject site is in Flood Zone X, which identifies the area being in a flood insurance rate zone that corresponds to areas outside the 100-year floodplain, and by areas protected from the 100-year flood by levees.

CASE HISTORY: The application area is platted as Lots 4 & 5, Edminster Gardens Addition, recorded May 9, 1951.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Residences
SOUTH:	LC	Mobile Home Park
EAST:	LC	Bar
WEST:	LC	Auto Repair/Paint Shop/Detailing

PUBLIC SERVICES: All public services are available to the site. 31th Street, along the south side of the subject site, is a paved four-lane minor arterial, (Source: Federal Roadway Functional Classification Map, WAMPO) with approximately 22,000 average daily trips. Southeast Boulevard (K-15) is a paved four-lane freeway and expressway with approximately 30,000 average daily trips. Volutsia Street, just west of the subject site, is a paved two-lane local road with no daily trip counts. All municipal services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as “Local Commercial.” “This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of recommended uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing.” In terms of conformance with commercial goals/objectives/strategies and location guidelines, the application conforms with the Commercial/Office Objective to “Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses,” as well as Strategy III.B.6 recommends that traffic generated by commercial activities be channeled to the closest major thoroughfare with minimum impact upon local residential streets.

Commercial Location Guideline #1 of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion. The proposed development complies with this guideline. Commercial Location Guidelines #3 recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use; #5 commercially-generated traffic should not feed directly onto local residential streets; and #6 commercial uses that are not located in planned centers or nodes (including large free-standing buildings, auto-related and non-retail uses) should be guided to other appropriate areas such as the CBD fringe; segments of Kellogg; established areas of similar development; and, areas where traffic patterns, surrounding land uses and utilities can support such development.

RECOMMENDATION: Auto body work and paint shops have traditionally been separated from more limited repair shops in the zoning code, because of their tendency to generate more noise, odors and outside storage. However, this site has been operating as a vehicle repair, general operation for many years. Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**, subject to the provisions of a Protective Overlay (PO):

1. Permitted uses are those permitted by right in the LC Limited Commercial (“LC”) zone district plus “vehicle repair, general” as allowed in the GC General Commercial (“GC”) zone district.
2. No off-site or portable signs shall be permitted.
3. All vehicles parked or stored outside of a building in need of “vehicle repair, general” must be located behind the buildings on the west side of the property and screened from ground view from 31st Street South, and from adjoining and adjacent properties. “Vehicle repair, general” work is only permitted inside an enclosed building. The outside storage of parts is prohibited. Activities deemed by the Unified Zoning Code to be “wrecking or salvage” are not permitted.
4. The site shall be developed in conformance with all applicable regulations.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The zoning of the surrounding property is predominately LC. Property to the north is zoned SF-5 Single-family Residential (“SF-5”), and is currently developed with single-family residences. Property to the east of the subject site is zoned LC Limited Commercial (“LC”) and OW Office Warehouse (“OW”), and is currently developed as a bar/tavern and a warehousing operation. Property to the south of the subject site is zoned LC, and is developed with a mobile home park. Property to the west of the subject site is zoned LC and is developed with a vehicle repair shop and an available commercial building.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC Limited Commercial. The LC district permits a wide range of retail and office uses that could be appropriate at this location.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: This property is located adjacent to or near LC, OW and LI zoned property. Approval of this request will not introduce zoning or potential uses into the area that do not already exist.
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 of the request would cause the applicant an economic hardship since one of the uses on the site is an existing vehicle repair, general operation. Approval of the request will allow this property to be utilized in a manner appropriate for this location and the proposed PO will mitigate any potential negative impacts that could affect nearby properties.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as “Local Commercial.” “This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing.” The current zoning request for GC, subject to the recommended protective overlay, for the 0.3-acre subject site is in conformance with the Comprehensive Plan’s recommended development. In terms of conformance with commercial goals/objectives/strategies and location guidelines, the application conforms with the Commercial/Office Objective to “Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses,” as well as Strategy III.B.6 Channel traffic generated by commercial activities to the closest major thorough-fare with minimum impact upon local residential streets.
6. Impact of the proposed development on community facilities: All services are in place, and any increased demand on community facilities can be handled by current infrastructure.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

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

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6. **Case No.: ZON2009-09** – Eaglenest Management, LLC, c/o Jeremy Rodrock (owner/applicant); Savoy Company, P.A., c/o Mark Savoy Request City zone change from B Multi-Family Residential to GC General Commercial on property described as:

Lots 32, 34, 36 and 38, on Dodge Avenue, Martinson's 6th Addition to Wichita, Sedgwick County, Kansas, generally located on the southeast corner of Dodge Avenue and First Street.

BACKGROUND: The applicant is requesting GC General Commercial (“GC”) zoning on Lots 32, 34, 36, 38 and half of the vacated alley on the east side of the site, Martinson’s 6th Addition, located at the southeast corner of Dodge Avenue and 1st Street. The site is currently zoned B Multi-family Residential (“B”), and is vacant. The site has access to Dodge Avenue and 1st Street, with Dodge being classified as a residential street and 1st being classified as an urban collector.

The site is part of a block-wide area with a majority of the area being zoned GC. The southeast corner is zoned LI Limited Industrial (“LI”) and the northwest corner (location of the subject site) is zoned B. Currently the only development on the block (warehouse/distribution center) is located directly to the south of the subject site, with the rest of the block remaining undeveloped. The applicant owns all the property on the block that fronts Dodge Avenue, and is requesting this zone change to match the zoning of the remainder of the applicant’s ownership on the adjacent property to the south to allow for the full development of the property.

Property to the east of the site is zoned GC, and is currently undeveloped. Property located north of 1st Street is zoned LC Limited Commercial (“LC”), and is developed with a general office use. Property south of the subject site, owned by the applicant, is zoned GC and is developed with a warehouse/distribution center. Property west of the subject site, across Dodge Avenue, is zoned SF-5 Single-family Residential (“SF-5”), and is developed with single-family residences.

CASE HISTORY: The site is currently located within the Delano Overlay District which was approved on April 11, 2003. The site is part of the Martinson’s 6th Addition, which was recorded with the Register of Deeds September 24, 1907.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	General Office
SOUTH:	GC	Warehouse
EAST:	GC	Vacant
WEST:	SF-5	Single-family Residence

PUBLIC SERVICES: All municipal services and utilities are available. Dodge Avenue is a paved residential street. 1st Street is a paved two-lane urban collector, while North Seneca Street is a paved four-lane principal arterial. Currently, there are approximately 30,000 average daily trips on the North Seneca Street near the 1st Street intersection. There appears to be 50-feet of right-of-way at this location along 1st Street and 60-feet of right-of-way for Dodge Avenue.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as “Local Commercial.” This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of recommended uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing. In terms of conformance with commercial goals/objectives/strategies and location guidelines, the application conforms with the **Commercial/Office Objective** to “Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses,” as well as **Strategy III.B.6** which recommends that “traffic generated by commercial activities be channeled to the closest major thorough-fare with minimum impact upon local residential streets.”

Commercial Location Guideline #1 of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and

gress in order to avoid traffic congestion. The proposed development complies with this guideline. **Commercial Location Guidelines #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use; **#5** commercially-generated traffic should not feed directly onto local residential streets; and **#6** commercial uses that are not located in planned centers or nodes (including large free-standing buildings, auto-related and non-retail uses) should be guided to other appropriate areas such as the CBD fringe; segments of Kellogg; established areas of similar development; and, areas where traffic patterns, surrounding land uses and utilities can support such development.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request for the GC General Commercial (“GC”) zoning be **APPROVED.**

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property to the east of the site is zoned GC, and is currently undeveloped. Property located north of 1st Street is zoned LC Limited Commercial, and is developed with a general office use. Property south of the subject site, owned by the applicant, is zoned GC, and is developed with a warehouse/distribution center. Property west of the subject site, across Dodge Avenue, is zoned SF-5, and is developed with single-family residences.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned “B” Multi-family Residential. The “B” district primarily restricts the site to residential uses. Given the existence of a commercial building immediately south of the application area, the ownership pattern, and the land being used for commercial and industrial uses to the north, south and east, similar to the subject site, this site is becoming less desirable for infill residential development.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The requested zone change of B to GC is in character with the area and would not detrimentally affect nearby property, of which most of it is zoned LC, GC or LI and is developed with warehousing or office uses.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request would allow for the possible legal expansion of an existing business onto a lot that is owned by the applicant. Failure to approve the request would make any expansion by this business at this location an illegal use on the current zoning.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as “Local Commercial.” This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of recommended uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing. In terms of conformance with commercial goals/objectives/strategies and location guidelines, the application conforms with the Commercial/Office Objective to “Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses,” as well as Strategy III.B.6 which recommends that “traffic generated by commercial activities be channeled to the closest major thorough-fare with minimum impact upon local residential streets.”
6. Impact of the proposed development on community facilities: GC uses are capable of generating

some of the highest traffic rates. Therefore, the possible dedication of additional street right-of-way and/or complete access control by separate instrument along Dodge Avenue would address potential increased demand on community facilities.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

MITCHELL asked if properties currently had access via that alley on the west.

SLOCUM said he did not believe so. He said they do have access from Dodge.

MARK SAVOY, REPRESENTING THE APPLICANT said they are in agreement with staff comments.

MCKAY commented that he owned property in the area and said he would abstain from voting on this issue.

MOTION: To approve subject to staff recommendation.

HILLMAN moved, **JOHNSON** seconded the motion, and it carried (10-0-1).

MCKAY – abstained.

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7. **Case No.: ZON2009-10 and CUP2009-07** - Greg Norris and Russ Norris (owners), Baughman Company, P.A., c/o Russ Ewy (agent) Request City zone change from LC Limited Commercial to GC General Commercial for vehicle repair, general and amendment to DP-164 Westwind II on property described as:

Lot 5, except the East 250 feet thereof, Westwind 3rd Addition to Wichita, Sedgwick County, Kansas, generally located south of 21st Street North and east of Tyler Road (8535 West 21st Street North).

BACKGROUND: Vehicle Repair, Limited is permitted on the application site under the existing LC Limited Commercial (“LC”) zoning, and under the existing DP-164 for parcel 5B with the following conditions: a 10-foot landscape buffer along the south property line; automotive repair bays are not allowed in the north 110 feet of parcel 5B; automotive bays shall be limited to the east and west side of the automotive repair building; architectural compatibility with existing buildings; and no outdoor storage of vehicles on the parcel, a violation of which will render the automotive use null and void upon proper due process and action by the City Council. The applicant now seeks a zone change from LC to GC General Commercial (“GC”) and a CUP amendment to allow Vehicle Repair, General on Parcel 5B. The Unified Zoning Code defines Vehicle Repair, Limited as “a use providing motor vehicle repair or maintenance services within completely enclosed buildings, but not including paint and body shops or other general vehicle repair services.” Vehicle Repair, General is defined as “an establishment primarily engaged in painting of or body work to motor vehicles or heavy equipment; typical uses include paint and body shops.”

The two-acre application area is developed with a multi-use commercial building which has vehicle bay doors supporting the existing vehicle repair business. North of the site, across 21st Street North, is LC zoned property developed with commercial and office uses. South of the site is property zoned TF-3 Two-Family Residential, under DP-165, and developed with multi-family residential. East and west of the site is LC zoned property also under DP-165; east of the site is a car wash, and west of the site are commercial and self-storage land uses.

CASE HISTORY: The Westwind 3rd Addition was approved in 1987; DP-165 was approved in 1986.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Office, commercial
SOUTH:	TF-3	Apartment complex
EAST:	LC	Car wash
WEST:	LC	Office, commercial, self-storage

PUBLIC SERVICES: At this location 21st Street North is a five-lane arterial with a central turn lane and a 165-foot right-of-way. This section of 21st carries 31,074 average daily trips. All municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The *2030 Wichita Functional Land Use Guide* of the Comprehensive Plan designates this site as appropriate for local commercial uses, defined as commercial uses that do not have a significant regional market draw. The Comprehensive Plan has an objective to minimize detrimental impacts of higher intensity land uses located near residential living environments (p. 12, Land Use-Residential Objective II. B). Strategy II.B3 states that there is a need to evaluate the effectiveness of regulations aimed at reducing or preventing the detrimental impacts of land uses that produce excessive odors, noise or safety hazards upon residential areas.

RECOMMENDATION: The primary difference between Vehicle Repair, Limited and General is vehicle body work and painting. A significant percentage of body work now consists of attaching replacement panels, with less noise than older methods of metal body work. Codes now require that vehicle painting is done with ventilation systems which mitigate odors and particulate matter. The vehicle bays on this site were specifically designed to open to the east and west, and do not face the multi-family residences south of the site. If the requested Vehicle Repair, General takes place exclusively indoors, it should have no more effect on neighboring properties than the current Vehicle Repair, Limited. Based upon information available prior to the public hearings, planning staff recommends that the requests be APPROVED, subject to the following conditions:

1. DP-164 Parcel 5B Proposed Uses shall be amended to include “Vehicle Repair, General” as the only permitted GC land use.
2. The “Additional Provisions for Parcel 5B” shall be amended to add item H. “No outdoor work or storage areas shall be permitted. If the Zoning Administrator finds that there is a violation of any of the conditions of the DP-164 Amendment #5, the Zoning Administrator may, with the concurrence of the Planning Director, declare the DP-164 Amendment #5 null and void.
3. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after final approval of this case, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North of the site, across 21st Street North, is LC zoned property developed with commercial and office uses. South of the site is property zoned TF-3 Two-Family Residential, under DP-165, and developed with multi-family residential. East and west of the site is LC zoned property also under DP-165; east of the site is a car wash, and west of the site are commercial and self-storage land uses.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC subject to the development standards contained in DP-164. Uses permitted on the site are LC permitted uses normally found in a shopping center, with the addition of Vehicle Repair, Limited. The site could continue to be used under the current zoning and CUP restrictions.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The requested CUP amendment should have no greater impact on nearby property than any other land uses permitted in DP-164.
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 designates this site as appropriate for local commercial uses, defined as commercial uses that do not have a significant regional market draw. The Comprehensive Plan has an objective to minimize detrimental impacts of higher intensity land uses located near residential living environments (p. 12, Land Use-Residential Objective II. B). Strategy II.B3 states that there is a need to evaluate the effectiveness of regulations aimed at reducing or preventing the detrimental impacts of land uses that produce excessive odors, noise or safety hazards upon residential areas.
5. Impact of the proposed development on community facilities: The proposed CUP amendment should have no measurable impact on community facilities.

JESS MCNEELY, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

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

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8. **Case No.: ZON2009-11** –Beran Properties, LLC (applicant/owner), Savoy Company, P.A., c/o Mark Savoy Request City zone change from GO General Office to LI Limited Industrial on property described as:

Lot 1, Block 1, Oak Knoll 3rd Addition to Wichita, Sedgwick County, Kansas, generally located southeast of the junction of Oak Knoll Street and Pawnee Avenue, approximately 1/3 mile east of Rock Road.

BACKGROUND: The applicant is requesting consideration for LI Limited Industrial (“LI”) zoning for the GO General Office (“GO”) zoned, 3.8-acre, undeveloped Lot 1, Block 1, Oak Knoll 3rd Addition. The applicant owns the western, abutting, 3.72-acre, LI zoned, Lot 1, Block A, Bray Lines 2nd Addition; recorded 6-19-1984. This abutting western property is developed as the applicant’s contractor’s yard; SCZ0493, “R-1” Suburban Residential to “E” Light Industrial, approved 11-04-1981. This contractor’s yard has an office, warehouses/garages, outdoor storage of concrete forms, rebar, ties, fuel, chemicals, sand, gravel, trucks, scoops, and other equipment and materials needed for the business of forming concrete walls and other concrete products. The proposed rezoning would allow the applicant to expand their business. The applicant has built a 6-8 foot masonry wall along the subject site’s east and south sides. The applicant has also placed a 6-8 foot masonry wall separating the subject site’s north ¼ from the south ¾ of the site.

Property abutting and adjacent to the site on its west and north (across Oak Knoll Street) sides are zoned LI and OW Office – Warehouse (“OW”). Besides the applicant’s LI zoned contractors yard, there is a Durham school bus staging yard, gas storage tanks (probably the oldest development in the area), an electrical substation, self storage warehouse and platted (1999), undeveloped land. A SF-5 Single-family Residential (“SF-5”) zoned, developed, single-family residential subdivision (Oak Knoll Addition, recorded 10-31-1979) abuts the south side of the site. A MF-29 Multi-family Residential (“MF-29”) zoned condo development (Oak Knoll Addition, recorded 10-31-1979) abuts the site’s east side. The southern abutting residential development existed prior to the applicant’s existing contractor’s yard. There are MF-29 and TF-3 Duplex (“TF-3”, platted mid 1970s) zoned duplexes located north of the site, across Pawnee Avenue.

CASE HISTORY: The subject site was rezoned from “AA” One Family to “A” Two Family, subject to platting, August 14, 1979. The subject site was platted as Lot 1, Block 1, Oak Knoll Addition and recorded with the Register of Deeds October 31, 1979. The site was annexed into the City between 1971 and 1980. The site was rezoned from “R-6” General Residential to “BB” Office February 13, 1995. The BB zoning request was approved, with the observation that it would serve as a transitional zoning between the existing residential development on its south and east sides and the existing contractor’s yard, gas storage businesses and other existing industrial uses west and north of it, along Rock Road and Oak Knoll Street. The site was replatted as the Oak Knoll 3rd Addition, recorded with the Register of Deeds July 29, 1999. Since subject site was first platted in 1979, it has never been developed.

ADJACENT ZONING AND LAND USE:

NORTH:	OW, MF-29, TF-3	Undeveloped, duplexes, self storage warehouse electrical substation
SOUTH:	SF-5, LI	Single-family residences, undeveloped,
EAST:	MF-29, SF-5	Condos, single-family residences
WEST:	LI	Contractors yard, school bus staging yard, gas, storage tanks

PUBLIC SERVICES: Municipal water and sewer services are available to this site. Oak Knoll Street merges with Pawnee Avenue along the north side of the subject site. Oak Knoll /Pawnee are classified as minor arterials at this location. Oak Knoll is a paved two lane road with bar ditches running on either side of it. Oak Knoll has 50 feet of half street right-of-way; the current standard is 60 feet. Pawnee is a curbed, paved 4-lane street at this location.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan designates the site as appropriate for “Urban Residential” development. The Urban Residential category includes all housing types found in the municipality. The LI zoning request does not match the Urban Residential category. The Land Use Guide designates properties abutting and adjacent to the site as appropriate for “Processing Industry” (west side of site) and (north, across Oak Knoll) “Employment/ Industry Center.”

The Processing Industry category’s uses are those associated with primary extraction, processing or refinement of natural resources or recycling of waste materials, service or non-institutional nature. The range of uses includes aggregate and concrete plants, refineries, slaughterhouses, rendering and primary agricultural processing plants, salvage and recycling yards.

The Employment/Industry Center category’s uses 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 proposed LI zoning is being requested for expansion of the applicant’s contractor’s yard, thus it is not at odds with this classification.

Industrial location guidelines state that: (a) Industrial areas should be located in close proximity to support services and be provided good access to major arterials, city truck routes, belt highways, utility truck lines, rail spurs, airports and as extensions of existing industrial uses; (b) Industrial traffic should not feed directly into local streets in residential areas; (c) Industrial uses should be generally located away from existing or planned residential areas and sited so as not to generate industrial traffic through less intensive land use areas. The subject site has direct access to a minor arterial, Oak Knoll Street, from which it can get to Rock Road, a major arterial, or Pawnee Avenue, a minor arterial at this location. There are existing industrial uses, the gas storage tanks, which have been in this area prior to the residential development. None of the development along this portion of Oak Knoll is residential, office or commercial; self storage warehouse, electrical substation, the applicant’s contractor’s yard, bus storage/staging yard, and the previously mentioned gas storage tanks, thus the proposed zone change is not introducing a new use. Traffic from the site will not be using any local roads. The site does meet the location criteria for an industrial development; with the exception that there is existing residential

development abutting its south and east sides. The single-family development was in place prior to the applicant's contractor yard.

RECOMMENDATION: The applicant's request will allow expansion of an existing business, onto property that has remained undeveloped for 30-years, i.e., at least since the time of its original platting in 1979. The gas storage tanks, located west of the site along Rock Road, appear to be the oldest development in the area, dating back to at least the mid 1950's. These storage tanks established an industrial use in the area before subsequent development around it. The single-family residential development, abutting the subject site's south side, was established prior to the applicant's contractor's yard, which will expand onto the subject site, if the requested zoning is approved. Balancing the request to expand an existing business plus develop land that has been vacant for at least 30-years while protecting the earlier developed single-family residences and the condo development is critical. Typically the MAPC considers supporting the expansion of existing businesses, while being aware of protecting the property values and character of the existing neighborhood. With that in mind, staff recommends APPROVAL of the zoning request with the following provisions of a Protective Overlay:

- (a) Provide a 25-foot setback, open space, landscape buffer on the south and east sides of the subject site, where it abuts the existing residential developments. No paving, storage, parking, or placement of equipment, trucks, bob cats, chemicals, fuels, sand, gravel, forms, rebar, ties, or any materials or products within the 25-foot setbacks, open space, landscape buffer. No trash receptacle placed within the 25-foot setbacks, open space, landscape buffer. No operation of power equipment within the 25-foot setbacks, open space, landscape buffer with the intent to maximize the distance between them and the residences located south and east of the site, thus reducing the impact of noise. Operation of power equipment shall be within the interior of the site
- (b) No stacking of materials higher than 15 feet. All dirt, gravel or sand stored on the site will be watered to control dust.
- (c) Compatibility height standards are in effect, starting at 35 feet with a maximum height of 50 feet.
- (d) No bay doors on buildings allowed on their south or east walls.
- (e) Parking of trucks and motorized equipment on the site will be in the interior of the site, with the intent to maximize the distance between them and the residences located south and east of the site, thus reducing the impact of noise. All parking and storage areas will be per City Code; gravel for the areas where there is the storage of equipment and materials, paving for any drives and circulation aisles into the storage areas. The gravels areas will be watered, as needed, to control dust.
- (f) The following uses are permitted: Church/place of worship, college/university, community assembly, limited and general convalescent care, limited and general day care, government service, hospital, library, limited animal care, automated teller machine, bank/financial institution, car wash, construction sales and service, convenience store, medical service, monument sales, nurseries and garden centers, general office, personal care service, personal improvement, post office substation, limited printing and copying, restaurant, general retail, second hand store, service station, general and limited vehicle repair, self service storage warehouse, limited manufacturing, warehousing, welding or machine shop and whole sale business services.
- (g) All lights must be no taller than 15 feet, including the base, hooded to direct light onto the site, away from residential property and no lights shall be placed within the 25-foot setbacks, open space, landscape buffer.
- (h) Landscaping shall be 1 ½ times the minimum required by the Landscape ordinance. Landscaping shall be a mix of approved medium to large deciduous trees and evergreens. Provide a landscape plan prepared by a licensed landscape architect, to be reviewed and approved by Planning prior to the Ordinance being published. The landscape plan shall include how the landscaping shall be maintained. All planting must be done within a year of approval by the governing body.
- (i) Keep the solid masonry screening wall, along the east and south sides of the subject site and shall be maintained in good repair.
- (j) No outside speakers/amplification

- (k) Dedicate 10 feet of ROW. Provide the dedication prior to the Ordinance being published.
- (l) The site shall be developed and operated in conformance with all applicable local, state and federal codes.
- (m) If the Zoning Administrator finds that there is a violation of any of the provisions of the Protective Overlay, 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 zoning is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property abutting and adjacent to the site on its west and north (across Oak Knoll Street) sides are zoned LI and OW Office – Warehouse (“OW”). Besides the applicant’s LI zoned contractor’s yard, there is a Durham school bus staging yard, gas storage tanks (probably the oldest development in the area), an electrical substation, self storage warehouse and platted (1999), undeveloped land. A SF-5 Single-family Residential (“SF-5”) zoned, developed, single-family residential subdivision (Oak Knoll Addition, recorded 10-31-1979) abuts the south side of the site. A MF-29 Multi-family Residential (“MF-29”) zoned condo development (Oak Knoll Addition, recorded 10-31-1979) abuts the site’s east side. The southern abutting residential development existed prior to the applicant’s existing contractor’s yard. There are MF-29 and TF-3 Duplex (“TF-3”, platted mid 1970s) zoned duplexes located north of the site, across Pawnee Avenue.
2. The suitability of the subject property for the uses to which it has been restricted: The subject site was rezoned from “AA” One Family to “A” Two Family, subject to platting, August 14, 1979. The site was again rezoned, this time from “R-6” General Residential to “BB” Office February 13, 1995. The BB zoning request was approved, with the observation that it would serve as a transitional zoning between the existing residential development in the area and the existing contractor’s yard, gas storage businesses and other existing industrial uses along Rock Road and Oak Knoll Street, while allowing more opportunities for the site to develop. The existence of the earlier industrial types of uses appears to have discouraged development of the site as residential. Location along Oak Knoll Street appears to offer poor visibility for office. Since subject site was first platted in 1979, it has never been developed.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Balancing the request to expand an existing business plus develop land that has been vacant for at least 30-years, while protecting the earlier developed single-family residences and the condo development is critical. The provisions of the proposed Protective Overlay (PO) are intended to provide protection for the earlier developed residential properties, while allowing the expansion of an existing business. Issues the PO attempts to address include noise, dust and the visual impact of a contractor’s yard abutting an earlier developed single-family residential neighborhood.
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 designates the site as appropriate for “Urban Residential” development. The Urban Residential category includes all housing types found in the municipality. The LI zoning request does not match the Urban Residential category. The Land Use Guide designates properties abutting and adjacent to the site as appropriate for “Processing Industry” (west side of site) and (north, across Oak Knoll) “Employment/ Industry Center.”

The Processing Industry category’s uses are those associated with primary extraction, processing or refinement of natural resources or recycling of waste materials, service or non-institutional nature. The range of uses includes aggregate and concrete plants, refineries, slaughterhouses, rendering and primary agricultural processing plants, salvage and recycling yards. The gas storage and the electrical substation reflect the uses associated with this category.

The Employment/Industry Center category's uses 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 proposed LI zoning is being requested for expansion of the applicant's contractor's yard, thus it is not at odds with this classification.

Industrial location guidelines state that: (a) Industrial areas should be located in close proximity to support services and be provided good access to major arterials, city truck routes, belt highways, utility truck lines, rail spurs, airports and as extensions of existing industrial uses; (b) Industrial traffic should not feed directly into local streets in residential areas; (c) Industrial uses should be generally located away from existing or planned residential areas and sited so as not to generate industrial traffic through less intensive land use areas. The subject site has direct access to a minor arterial, Oak Knoll Street, from which it can get to Rock Road, a major arterial, or Pawnee Avenue, a minor arterial at this location. There are existing industrial uses, the gas storage tanks, which have been in this area prior to the residential development. None of the development along this portion of Oak Knoll is residential, office or commercial; self storage warehouse, electrical substation, the applicant's contractor's yard, bus storage/staging yard, and the previously mentioned gas storage tanks, thus the proposed zone change is not introducing a new use. Traffic from the site will not be using any local roads. The site does meet the location criteria for an industrial development; with the exception that there is existing residential development abutting its south and east sides. The single-family development was in place prior to the applicant's contractor yard.

5. Impact of the proposed development on community facilities: There will be an increase of truck traffic generated by the expanded contractor's yard and the subsequent toll on the road surface. Oak Knoll already has a high number of large vehicles on it, with the bus staging yard providing a significant number of trips during the morning and evening hours. The impact on public water and sewer should be minimal.

BILL LONGNECKER, Planning Staff presented the Staff Report.

LONGNECKER reported that DAB II agreed with staff recommendations and added some additional recommendations to the Protective Overlay (PO), including the following: Condition (f) removing welding or machine shop from permitted uses and that any limited manufacturing be conducted in-doors; (h) increase density of landscaping to a minimum of every 20 ft; (b) no stacking of materials higher than 8 feet and removal of the requirement for dedication of right-of-way. He said the applicant has met with the City Traffic Engineer and it was agreed to continue the current curve of Pawnee into Oak Knoll with dedication of 10 foot right-of-way.

LONGNECKER said several people protested the application at the DAB meeting. He said at that time, the applicant met with neighborhood residents and they seemed to have come to a common agreement with the changes outlined in the revised PO provisions. He said the DAB unanimously approved the request, with the changes in the PO.

FOSTER referred to page 4, item (a) of the Protective Overlay and requested that the term "bob cats" be changed to skid steers, since Bob Cat was a specific brand of skid steerer.

MARK SAVOY, REPRESENTING THE APPLICANT, MR. KEN BERAN AND KEN WEBER, BERAN PROPERTIES, LLC said they are in agreement with staff comments as amended by DAB II and the neighbors.

LARRY STAWAR, 6510 E. 29TH ST. N, #1002 said he owned property at the multi-family complex nearby. He said he disagrees with having housing right next to Limited Industrial (LI) and asked if there

was a lesser zoning that could accomplish the goals of the business. He said this proposal could limit the ability of people living in area to obtain a loan at a reasonable rate and also mentioned devaluation of properties adjacent to the site. He said that he is also concerned about debris blowing, and added that material was stacked higher than the 8-foot wall not that long ago. He asked what else could happen if this company had financial problems and sold the property. He asked if a rendering plant could go in there or does this revert back to the original General Office (GO) zoning. He said Berans has been cooperative in building walls in the past, but also mentioned the sound of trucks backing up and the beeping. He asked about accountability and who they could contact if materials were stacked beyond 8 foot. He mentioned the additional landscaping, but added that it will take 10-15 years for trees and shrubs to grow in the area. He said his main concern was what future industry could be located at the site if the current owners sell out to an asphalt plant or meat packing plant. He said that would devalue their property values even more.

PATTY LEMAY, 10494 SW TAWAKONI, AUGUSTA said she is the manager of the condos and also owns property at the Highlands. She mentioned that the Berans has been cooperative and have compromised with them, but added that the neighbors haven't had a chance to fully explore the proposal or make their needs known other than the 5 minutes they spoke with Berans in the hall at the DAB meeting. She said she has received numerous calls and has done limited research because they just received the Staff Report on Friday before the DAB meeting. She said they believe this proposal represents a detriment to their residential neighborhood. She said the major concerns regarding the zoning change is that it will expose the complex to noise, blowing dirt, and sand and present unattractive views from balcony's and windows. She said this will also cause the value of their homes to fall and make it more difficult to get a loan on their property. She said there are 66 condominiums with 150 residents at the Highlands. She said this neighborhood should not be impacted by a zoning change to benefit a business. She said they would like to protect the peace and quiet of the neighborhood and commented that Berans bought the property with the current zoning and that they were aware it was next door to a residential area. She also voiced concern about home prices right next to an industrial area and said they have received mixed information on this. She said a DAB member told them property devaluation would not be a factor with residential and limited industrial adjacent to each, but since then she has spoken to a couple of banks and other lending institutes and was told that would affect housing prices and loan ability on the property. She said she was told that with industrial zoning right next door, lenders will be less likely to loan and/or require more of a down payment. She said they get debris from blowing dirt and sand, asphalt, and sound and truck noise, and a view of an industrial yard from their upstairs decks and balconies. She also asked about accountability and who they would call at the City and/or Berans if there are any infractions on the conditions agreed to. She asked do they have to have proof of an infraction and what kind of a response can they expect. She asked if Berans was actually going to leave someone out there to water down sand on windy Kansas days. She said the landscape buffer is great, but it takes a long time for trees to grow and fill out and in the winter trees lose their leaves anyway.

MOTION: To give the speaker one additional minute.

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

She said they are also concerned about future industry because the zoning change opens the area up to that. She said they feel like their neighborhood is being singled out as an unimportant Wichita neighborhood allowed to bear the brunt of this zoning change. She asked if rezoning to LI would be permitted in other residential neighborhoods in the City such as College Hill or Brook Hollow. She concluded by asking does any family deserve to have their quiet home setting changed because of business convenience. She asked if anyone in the audience would welcome a concrete plant next door to their home.

CLETIS CARY, 1113 POST OAK ROAD, DERBY said he is President of the Highlands Home Owners Association. He said he had a petition signed by 40 of the people in the neighborhood who are concerned about this proposal being passed.

DAVE STEWART, 2405 S. CAPRI, #101 said he has lived at the Highlands since 2004 and is currently serving on the Home Owners Association Board. He said he chose a condo for many reasons and the Highlands because of the area and the peacefulness of the community. He said he has serious concerns that peace will be interrupted because of this proposal. In addition, he said he may have trouble selling his condo in the future if this zoning is approved. He asked the Commissioners to please consider the needs of the residents in the area as they make their decision on this proposal.

KELLY FRASER, 736 N. LAKESIDE DRIVE, ANDOVER said she is a partial property owner at the Highlands. She asked if the drastic change to LI can't be compromised to a lower zoning. She said LI zoning opens up the area for potential problems in the future. She said Berans knew how the property was zoned GO when they purchased it. She said this entire parcel surrounds the neighborhood and they have to put up with the noise, wind, debris and sand that hurts the paint on their houses and cars.

MARK SAVOY said he was a little bit surprised after the revisions to the PO and unanimous approval by the DAB, they thought they had the problems solved and answered. He said the purpose of the rezoning request was so that Berans could build a warehouse so that all equipment could be housed inside. He said they believe they have toned down the zoning with the PO, which almost reduces the uses to Limited Commercial (LC). He said they would like to explore the possibility of retail uses on the North end of the property and wanted a little flexibility. He said everything they are currently doing on the site meets code, and that they would eventually like to put the entire area under concrete which will reduce the debris. He said currently they don't build or make products on site, that it is simply a contractor's yard. They come in the morning, get their equipment and leave and take it to the work site.

MOTION: To give the speaker two additional minutes.

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

He said the applicant has also agreed to do heavier landscaping and put in more mature trees or larger caliper trees than would normally be required.

KENT WEBER, 8401 E. OAK KNOLL, VICE PRESIDENT OF BERAN CONCRETE, APPLICANT said he believes the neighbors, who have been extremely nice, need to know that the zoning to LI with the PO will endure even if they (Berans) pack up and leave and sell the site to someone else. He said the zoning and PO will stay intact. He said they have hired a Landscape Architect to put a plan together for more landscaping than is required and have invited several members of the home owners association to help them with that. He said they intend to have LI zoning on both sides of the parcel but added that they don't want to impact the neighborhood. He said their insulated buildings are set to the south and the crews work within them. He said they have even put the doors on the north side to abate sound.

MOTION: To give the speaker one additional minute.

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

He said they plan to add an 80' x 140' building to the east and build a sound and dust buffer. He said one of the issues at the DAB was a pile of material on the east lot that was too high. He said that pile is now under eight feet. He said they are also working on the water system to keep the dust down. He said there is a crew assigned to keep the concrete paving swept. He said the PO also dictates that travel surfaces be rigid pavement. He concluded by saying that it is not in their best interest to be at odds with the neighbors and added that as far as accountability is concerned, call him.

MCKAY commented that there are a lot of other businesses that can operate with the PO if they should sell or go somewhere else including, but not limited to: limited animal care, limited vehicle repair, and welding and machine shop.

WEBER said he believed welding and machine shop were excluded at the DAB meeting.

LONGNECKER clarified that welding and machine shop were removed from the PO at the DAB meeting. He added that vehicle repair general was left in, but with the provision that it be conducted inside a building.

MCKAY asked why?

LONGNECKER responded that was the agreement reached with the applicant.

TAPE 1, SIDE 2

MCKAY said he wanted to address concerns people have if the current owner sells the property. He asked why the PO wasn't limited to what the applicant said he was going to use it for which was his business.

LONGNECKER said if the business does sell, they would like to have the property re-occupied. He said if the Planning Commission finds the uses staff has recommended are a nuisance and/or degrade the value of the property, they have the discretion to recommend that those uses be taken off of the PO.

MCKAY asked why not go with a Conditional Use Permit instead of changing the zoning.

LONGNECKER said the applicant was looking at some possible retail uses that are not permitted in Office Warehouse (OW) zoning.

MCKAY asked if the LI zoning affected that.

LONGNECKER explained that LI zoning allows some retail uses that are not permitted in OW zoning. He said the applicant was looking at possible retail uses on the north quarter of the property. He said right now they are looking at expansion of their construction yard into the south $\frac{3}{4}$ of the property.

MCKAY said the presentation and Staff Report refer to what this business wants to do. He said it still doesn't address the neighbor's main concerns.

MILLER commented that another option discussed was LI zoning with a PO limiting it to construction sales and service and then all uses permitted in the GO district. He said that didn't address the applicant's needs for development of the northern end of the property.

MCKAY asked the applicant if they would agree to that.

There was discussion that GO zoning did not include any retail uses.

MCKAY asked about a Conditional Use with retail uses.

GOLTRY said under a GO zoning retail uses were limited to personal care and animal care only.

CHAIRMAN DOWNING asked the applicant if that was acceptable to them.

WEBER said they would have to discuss that.

SAVOY said the neighbors are concerned that if Berans sells the site that it could become a hog rendering plant, or asphalt or rock crushing plant and those uses are already eliminated by the PO. He said some of the things they are concerned have already been eliminated.

MCKAY said the proposed purpose of the zoning change was to expand the business, not set up a Planned Unit Development (PUD) or Community Unit Plan (CUP). He said either expand the business only or set up a PUD or CUP, and not leave the neighbors in the lurch.

SAVOY commented that they do have a desire to be able to do something different on the north end of the property that wasn't industrial.

MCKAY asked about a lot split and doing a different zoning on one end. He mentioned he was having a tough time with this proposal as submitted.

SAVOY commented that the applicant's main concern was to be able to use the area as a warehouse to store equipment inside. He said they are also looking for a little flexibility.

MCKAY said they just said they wanted to use it for something else. He suggested they zone it based on their need for retail use.

CHAIRMAN DOWNING commented that he didn't think they were going to resolve this at this meeting. He brought the matter back to the Commission for discussion and/or comments. He also suggested that the item be deferred for a couple of weeks so that staff and the property owner can refine some of the proposed uses.

MOTION: To defer this until staff and the owner have time to re-work issues.

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

JOHNSON said he could not support the motion and said that the applicant had already done what the DAB had asked him to do. He said the DAB voted unanimously to approve the proposed zoning request with the revised PO. He also noted that the Commission usually supports expansion of businesses.

JOHNSON MADE A SUBSTITUTE MOTION: To approve subject to staff recommendation and changes made by DAB II.

JOHNSON moved, **DENNIS** seconded the motion, and it failed (7-4). **ANDERSON, DOWNING, FARNEY, HENTZEN, HILLMAN, MCKAY, SHERMAN** – No.

THE ORIGINAL MOTION TO DEFER was then voted on and it carried (11-1). **JOHNSON** voting no.

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9. **Case No.: CON2009-07** - Sedgwick County, c/o James Weber (owner/applicant) requests a County Conditional Use to permit the construction of a storm water pump station on property described as:

A tract of land located in the Northeast Quarter of Section 28, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas described as: commencing at the Northeast corner of said Northeast Quarter; thence on an assumed bearing of South 80 degrees 50 minutes 07 seconds West a distance of 900.00 feet to a point on the North line of said Northeast Quarter; thence S 00 degrees 09 minutes 53 seconds East a distance of 50.00 feet to a point of beginning; thence South

00 degrees 09 minutes 53 seconds East a distance of 180.00 feet; thence South 89 degrees 50 minutes 07 second West a distance of 406.71 feet; more or less, to a point 1330.08 feet East of the West line of said Northeast Quarter; thence N 00 degrees 37 minutes 52 seconds East a distance of 180.02 feet to a point 1330.08 feet East of the West line of said Northeast Quarter; thence N 89 degrees 50 minutes 07 seconds East a distance of 404.21 feet, more or less, to the point of beginning; generally located 900 feet west of Ridge Road on the south side of 45th Street North (7453 West 45th Street North).

BACKGROUND: Sedgwick County Public Works is seeking Conditional Use approval for a “utility, major,” on property zoned SF-20 Single-family Residential (“SF-20”) to permit the construction of a storm water pump station, as defined per Section II-B, #13(h) of the Unified Zoning Code (UZC.) A “utility, major” is a Conditional Use in all zoning districts.

The applicant has stated that a future storm water pump station will be situated on an approximately 1.67-acre unplatted site located approximately 900 feet west of Ridge Road, along the south side of 45th Street North, on property owned by Sedgwick County. The application area is currently unplatted and undeveloped. Access to the site would be from 45th Street North. According to the submitted site plan, the application area is located in the floodway and the 100-year floodplain of the Little Slough. The site plan shows the pump located on the site, just outside of the floodway.

The applicant is seeking Conditional Use approval for the entire 1.67-acre site. The submitted preliminary site plan locates the pump station on the west side of the subject site. The proposed pump station will be positioned to provide adequate drainage for the area along Ridge Road between K-96 and 53rd Street North in northwest Wichita.

Recommended development standards include: paved parking and circulation areas, including the plant access road; identification of the location, height and type of support structure for any communication support structures; installation of a minimum of a 6-foot security fence; maximum height of lighting standards, including base, shall be 15 feet; setbacks shall be as depicted on the site plan and utilities serving the plant will be underground.

Property to the north is zoned SF-20 and is currently undeveloped, but there is one residence to the northeast of the subject site. Property located directly to the east and south is under the same ownership, and is developed with a single-family residence. Property to the west is zoned SF-20, and is also developed with a residence. The property to the west also has a County Board of Zoning Appeals case on it that allows for the placement of a manufactured home (COBZA 9-90). All property surrounding the subject site is located in the unincorporated Sedgwick County.

CASE HISTORY: The property is currently unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-20	Residence
EAST:	SF-20	Residence
SOUTH:	SF-20	Vacant
WEST:	SF-20	Vacant

PUBLIC SERVICES: The site can access to 45th Street North, a two-lane, unimproved, minor arterial. There are no traffic counts along this stretch of 45th Street. There are not any traffic counts within two miles of the subject site. Currently there are not any municipally supplied services to the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” map (adopted 2005) of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this property as “Employment/Industry Center” within the Wichita 2030 Urban Growth Area. This category encompasses areas with uses that constitute centers or concentrations or 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 current zoning of the site is SF-20, and “utility, major” is a Conditional Use in the SF-20 district, per the regulations detailed in the Unified Zoning Code (“UZC”). The property immediately surrounding the area is shown on the “2030 Wichita Functional Land Use Guide” map as a similar classification as the subject site. Utility location guideline 2 (p.36, 1999 Comprehensive Plan Update) states that utilities with significant noise and odor and other nuisance elements should be located away from residential areas.

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

1. In addition to the uses permitted in the SF-20 Single-family Residential (“SF-20”) zone district, the site may be developed with a “utility, major” use, and accessory uses as depicted on the approved site plan. The site shall be developed in substantial conformance with the approved site plan.
2. The applicant shall obtain all permits necessary to construct the storm water pump station prior to the operation commencing and the site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
3. In addition to other code required development standards, the site shall be developed with: paved parking and circulation areas, including the plant access road; identification of the location, height and type of support structure for any communication support structures; installation of a minimum of a 6-foot security fence; maximum height of lighting standards, including base, shall be 15 feet; setbacks shall be as depicted on the site plan and utilities serving the plant will be underground.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article 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: Property to the north is zoned SF-20 and is currently undeveloped, but there is one residence to the northeast of the subject site. Property directly to the east and south are under the same ownership and developed with a single-family residence. Property to the west is zoned SF-20 and is also developed with a residence. The property to the west also has a County Board of Zoning Appeals case on it that allows for the placement of a manufactured home (COBZA 9-90). All property surrounding the subject site is located in the unincorporated Sedgwick County.
2. The suitability of the subject property for the uses to which it has been restricted: The site could continue to be used by Sedgwick County as currently zoned. However, the proposed pump will provide additional drainage capabilities to an area that is lacking such service, and will provide for, and support a more efficient future growth pattern for the area.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Primary anticipated impacts on adjoining property could be noise. Detrimental effects on nearby residential uses in the area should be minimized by the conditions of the Conditional Use, which should limit negative activity from adversely impacting these existing uses.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The “2030 Wichita Functional Land Use Guide” map (adopted 2005) of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this property as “Employment/Industry Center” within the Wichita 2030 Urban Growth Area. This category encompasses areas with

uses that constitute centers or concentrations or 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 current zoning of the site is SF-20 and “utility, major” is a Conditional Use for the SF-20 zone, per the regulations detailed in the Unified Zoning Code (“UZC”). The property immediately surrounding the area is shown on the “2030 Wichita Functional Land Use Guide” map as a similar classification as the subject site. Utility location guideline 2 (p.36, 1999 Comprehensive Plan Update) states that utilities with significant noise and odor and other nuisance elements should be located away from residential areas.

5. Impact of the proposed development on community facilities: This storm water pump station will allow for a more efficient growth pattern for the community and provide additional drainage capabilities to an area that is currently lacking such service.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

MITCHELL asked about the County BZA case directly west of the property.

Staff could not recall the exact details of the case.

JIM WEBER, DEPUTY DIRECTOR PUBLIC WORKS, SEDGWICK COUNTY said they are in agreement with staff comments.

MCKAY commented that it appears that they have already started construction.

KENT DODDS, 650 DAISY LANE, ANDOVER commented that he and his brother own the first four lots west on 45th Street from Ridge Road. He said the County has torn up a lot of stuff down 45th Street. He said they made calls and asked what was going on, but couldn't get a good solid answer. He said they don't oppose the pump station; however, he said the trees along 45th Street provided a wind break for their property. He said they have maintained and mowed the area and kept it clean. He said since 45th Street is a dirt road they get a lot of dust off of it whenever there is a north wind. He said they asked about being able to put trees back in there and were told no, the County would not be putting trees back in and that he and his brother did not own the land. He said they were asking about the possibility of putting some more wind break trees back along the road after they were done. He said that was their only question.

JOHN DODDS, 4565 N. RIDGE ROAD said he lives on the very first block at 45th Street and Ridge Road. He said the trees were his main concern also. He said there were 3 rows of Walnut trees planted there by his great, great grandfather from the time of the depression to stop erosion. He said 45th Street is a pretty heavily traveled road and that there is an extreme amount of dirt and noise that rattles the house. He said no one even told him that they were going to take out all of the trees. He said he went out and asked them to stop. He said he would have personally taken the trees himself which were around 100 years old. He said he called 3 people and asked if they could just put in another tree row, not full size trees, and he would maintain it. He said just something to help block the noise and dirt from 45th Street.

FOSTER asked for clarification as to where the trees were removed.

DODDS explained it was on the south side of 45th Street, along his property line. He said there are approximately three elm trees left.

HILLMAN commented that this is the right-of-way for the pump station. He asked about the setback along the road.

DODDS also asked who will maintain the area, since he was told that he doesn't own the land.

JIM WEBER briefly explained what was going on. He said the 4 parcels owned by **MR. DODDS** were platted in 1992 and the standard right-of-way of 75 feet at the intersection tapered to 50 across the remainder of the property was provided at that time. He said he has no doubt that **MR. DODD'S** grandparents planted the trees when the right-of-way was 20-30 foot and they were on private property. He said when the area was platted the trees became part of public right-of-way. He said they don't just rip trees out for the fun of it and that this is the large quarter that they need to bring the storm sewer to the pump station. He said it was unavoidable that the trees had to go. He said they do not replace trees in a dedicated right-of-way. He said they don't replace trees when they buy right-of-way, but that they may pay for them, but since this is a dedicated right-of-way, they will not pay for trees they already own. He said in the future it would be wiser for **MR. DODDS** to plant his tree row on his property. He said this is an unfortunate side effect of the project, and has nothing to do with the pump station other than this is where the storm sewer needs to go. He concluded by saying that the road was maintained by the Township who will mow it. He added that the County will seed and put vegetation back on the property.

HILLMAN said since 100 year old Walnut trees do have a value, he asked if there was anything the County could contribute to assist the property owner in re-establishing trees along their property.

WEBER said they are not planning to.

FOSTER asked about right-of-way for the pump station.

WEBER said he believes it is 50 feet and that it is not intended to be platted.

MOTION: To approve subject to staff recommendation.

MITCHELL moved, **ANDERSON** seconded the motion, and it carried (10-1).

HILLMAN – No.

ANDERSON commented that this issue could have been avoided if there had been some communication and a clear understanding of what was going on there before they started tearing the place up. He said to start construction and then come to the Planning Commission for permission was ridiculous in his opinion, to handle it that way administratively.

DENNIS commented that he concurred. He said he understood that when the parents platted the property, they gave away their rights to that property and they probably didn't know at that time that they were giving away all those walnut trees. He said he thinks the way it was handled was terrible. He said as a public servant he would not expect the County to go in and not communicate what they were doing with the neighborhood. He said and then to bring it to the Commission and ask for their blessing after they have already begun work is inexcusable. He said he hopes the landowners in the area will let their County Commissioners know that it is inexcusable too. However, he said he will support the motion because there is not much choice.

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- 10. Case No.: CON2009-09 – BWA, LLC, Attn: Dr. Bruce Albright (owner); Terri Grooms (lessee) Request City Conditional Use to permit a doggy day care/boarding kennel on property zoned LC Limited Commercial on property described as:**

Lot 1, Hendrickson Addition to Wichita, Sedgwick County, Kansas, generally located north of Central Avenue, midblock between Anna Street and Baehr Street (4710 West Central Ave.).

BACKGROUND: The applicant is requesting a City Conditional Use to permit a doggy day care/boarding kennel, with limitations on size (25 lbs) and number of dogs on a 0.21 acre site zoned LC

Limited Commercial, located north of Central Avenue, midblock between Anna Street and Baehr Street (4710 West Central).

Kennel, boarding/breeding/training is a Conditional Use in the LC zoning district. Because this site is below two acres in size, all animals would have to be harbored indoors, with no discernable noise or odor at the property lines, and be in compliance with the “Supplementary Use Regulations” of Article III, Section III-D.6.k of the Unified Zoning Code (“UZC”).

The lessee proposes to use the existing building for keeping up to 35 dogs a day, with an estimated 20 dogs (under 25 pounds) at the facility at any one time. Daycare hours of operation would be from 6:00 A.M. to 6:30 P.M. Monday through Friday and 8:00 A.M. to 5:00 P.M. Saturday. Boarding would be limited to a maximum of six dogs and would be restricted to dogs also using the facility for daycare. Staff would be on-site overnight to care for the boarded dogs to avoid barking problems during the night. Noise abatement modifications of the building are offered. An indoor waste removal system is to be used. The lessee has submitted a detailed list of conditions of the conditional use to apply for operation of the property should it be approved for Conditional Use of a doggy daycare under the auspices of kennel, boarding/breeding/training.

The property to the north is zoned SF-5 Single-Family Residential (“SF-5”) and is occupied by single-family residences. The house on the adjoining property to the west, fronting onto Central, is zoned SF-5 and is vacant. West of Anna Street, the property is zoned LC and occupied with a small commercial strip center and a bank. The property to the east of the site is zoned LC and occupied by a house converted to office use. East of Baehr Street, a church is located on property zoned SF-5. The property south along Central is zoned GO General Office (“GO”) and LC and is occupied by several office buildings. The general pattern of development along this stretch of Central Avenue is local commercial use with a few residual residences and SF-5 tracts, but all in areas shown on the 2030 Wichita Land Use Guide for “local commercial” use.

CASE HISTORY: The property is platted as Hendrickson Addition, recorded June 13, 1988.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-Family Residences
SOUTH:	GO, LC	Offices, single-family residences
EAST:	LC, SF-5	Offices, church
WEST	LC, SF-5	Vacant residential, strip center, bank, offices

PUBLIC SERVICES: The property has access via one allowed drive entrance onto Central Avenue, a four-lane arterial with a continuous center turn lane for the area abutting the site. In 2007, the traffic volume (Annual Average Daily Traffic “AADT”) at Central Avenue and West Street ranged from 15,700 to 20,000 on each leg of the intersection. All normal utility services serve the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide,” 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identifies the site as “local commercial.” The “local commercial” category includes commercial, office and personal services that do not have a regional draw. The Commercial Location Guidelines of the *Comprehensive Plan* recommend commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Additionally, the Commercial Location Guidelines recommend that commercial-generated traffic should not feed directly onto local residential streets. A kennel can be considered for a Conditional Use in the LC zoning district, per the standards of the UZC “Supplementary Use Regulations,” Article III, Section III-D.6.k. The proposed operation incorporates extra features to limit impact on the surrounding residential area in order to limit the noise and activity conflicts, including harboring all animals indoors, noise abatement, limitations on the number and size of dogs, and limitations on the hours of operation.

RECOMMENDATION: Typical operation of a dog kennel on a 0.21-acre site adjoining residential zoning would violate the Commercial Location Guidelines. However, the proposed additional conditions of the Conditional Use offered by the applicant compensate for many of the adverse impacts of the use and make it more compatible with the adjoining residential use. Based on these additional conditions plus the information available prior to the public hearing, staff recommends the application be APPROVED subject to the following conditions:

1. The Conditional Use shall comply with Article III, Section III-D.6.k of the UZC, including no outside runs or kennels, and applicable federal, state and local requirements. All dogs being walked outside must be within the six to eight-foot wooden fenced area and always with a handler.
2. The property shall be developed and maintained in accordance with a revised site plan, including operational standards provided by the applicant, approved by the Planning Director, showing lighting, landscaping, setbacks, easements, a 6-8 foot wooden privacy fence around the area where the dogs will be walked and the building in conformance with the UZC.
3. The kennel operator shall have on file proof of rabies vaccinations by a licensed veterinarian and proof of identification and ownership for all dogs.
4. Cleaning of board kennel facility shall be performed as often as necessary to maintain sanitary conditions, and a “suitable method” of eliminating excess water from animal housing facilities shall be provided as determined by the Environmental Services. Interior surface materials shall be constructed of non-porous materials that are impervious to moisture.
5. Sufficient quantities of food and water shall be provided to keep the dogs in good physical condition. The animals shall be fed at least once daily and provided clean water at all times. Food and water containers shall be located to minimize contamination and shall be cleaned as often as necessary to maintain sanitary conditions.
6. All waste materials shall be disposed of in such a manner as to minimize odors and disease hazards. The boarding kennel shall be maintained in a sanitary manner as required by applicable codes.
7. The animals confined in the boarding kennel shall be maintained in good physical condition, free of infectious diseases and parasites.
8. The applicant shall obtain all applicable permits including, but not limited to, building, health and zoning.
9. The boarding facility shall be open to the unannounced inspection by Code Enforcement personnel during reasonable daylight hours to insure continued compliance with the above requirements.
10. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property to the north is zoned SF-5 Single-Family Residential (“SF-5”) and is occupied by single-family residences. The house on the adjoining property to the west, fronting onto Central, is zoned SF-5 and is vacant. West of Anna Street, the property is zoned LC and occupied with a small commercial strip center and a bank. The property to the east of the site is zoned LC and occupied by a house converted to office use. East of Baehr Street, a church is located on property zoned SF-5. The property south along Central is zoned GO General Office (“GO”) and LC and is occupied by several office buildings. The general pattern of development along this stretch of Central Avenue is local commercial use with a few residual residences and SF-5 tracts, but all in areas shown on the 2030 Wichita Land Use Guide for “local commercial” use.
2. The suitability of the subject property for the uses to which it has been restricted: The site is

suited for low intensity types of commercial or office use to which it is zoned.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Typical operation of a dog kennel on a 0.21-acre site adjoining residential zoning would violate the Commercial Location Guidelines. However, the proposed additional conditions of the Conditional Use offered by the applicant compensate for many of the adverse impacts of the use and make it more compatible with the adjoining residential use.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide,” 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identifies the site as “local commercial.” The “local commercial” category includes commercial, office and personal services that do not have a regional draw. The Commercial Location Guidelines of the *Comprehensive Plan* recommend commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Additionally, the Commercial Location Guidelines recommend that commercial-generated traffic should not feed directly onto local residential streets. A kennel can be considered for a Conditional Use in the LC zoning district, per the standards of the UZC “Supplementary Use Regulations,” Article III, Section III-D.6.k. The proposed operation incorporates extra features to limit impact on the surrounding residential area in order to limit the noise and activity conflicts, including harboring all animals indoors, noise abatement, limitations on the number and size of dogs, and limitations on the hours of operation.
5. Impact of the proposed development on community facilities: The site will have a small impact on traffic, but should not have any additional significant impacts on community facilities.

DONNA GOLTRY, Planning Staff presented the Staff Report.

GOLTRY reported that DAB VI approved the request 9-1, subject to staff recommendations.

FOSTER asked **GOLTRY** to report on the six questions in the DAB report.

GOLTRY commented that there are 11 parking spaces on the revised site plan. She said the applicant doesn't anticipate more than three to four folks dropping off or picking up animals at any one time, and she added that there is also some potential for off-site parking if it came down to that to meet Unified Zoning Code parking requirements. She said the applicant can report on the Kennel license. She said the privacy fence is wooden. She said as far as “why dogs bark?” she said that the applicant submitted some interesting testimony on that question, which was included within the Staff Report. She said the applicant will only board a total of six animals overnight and they will be those animals that customarily come to the site for “doggy day care.”

HILLMAN said the Staff Report says 35 dogs.

GOLTRY clarified it would be a total of 35 dogs for “doggy day care” but only six dogs for overnight kenneling.

TERRI GROOMS, 1530 SMITH CIRCLE, #101, APPLICANT said in reference to the DAB questions, they can service up to 35 dogs in a day for the doggy day care, but will only board six dogs overnight. She said there will be no more than 2-3 at the site at a time. She said if the Commission has concerns whether the conditions will be met, as she explained to the DAB, that limiting the number of dogs, the size of the dogs, providing a sound abatement system, and insuring that no dog will be outside are the conditions that she has set up for her business as a business owner to “build a better mouse trap” so to speak. She emphasized that no dogs will be walked outside on a leash or otherwise and mentioned the use of a new nationally recognized indoor doggy potty system.

HENTZEN asked if the business was operating there now.

GROOMS replied no, that they were doing modifications to the building and waiting until they received the conditional use approval.

FOSTER asked about special ventilation and how the noise from dogs will be handled, if that was a part of the facility renovation.

GROOMS said they will use the same sound abatement system that is typically used in dog shelters, which is an acoustical panel system. She said there is usually a lot of dog barking in humane facilities or other facilities where animals are caged, but when dogs are interacting with humans and other animals and getting exercise, barking is at a minimum.

MOTION: To approve subject to staff recommendation.

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

FOSTER asked about the landscape buffer along Central and wondered if the left side would get trampled and not survive. He asked if that 19 feet could be adjusted a couple of feet on one side.

GOLTRY said a 19 foot clearance is actually cutting it pretty tight. She said they were trying to meet in the middle and still provide as much access as possible. She said there will be a separation between the sidewalk and parking lot on the east side of the approach and that they felt the landscaping on the east edge of the property line would draw a person's eye without dedicating the full three-foot width along the sidewalk.

11. Case No.: Arena Neighborhood Phase I Redevelopment Project Plan Request Finding of Conformity of the Arena Neighborhood Phase I Redevelopment Project Plan with the Wichita-Sedgwick County Comprehensive Plan

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 Nos. 47-475 and 48-124 has established and expanded the Center City South Redevelopment District (tax increment financing). This expanded tax increment financing district is irregularly bounded on the north by 1st Street between Main Street and Broadway, and Douglas from Broadway to Santa Fe; on the east by Santa Fe from Douglas to English, Emporia from English to Waterman, and St. Francis from Waterman to Lewis; on the South by Lewis from St. Francis to Market, and Waterman from Market to Main; on the West by Market from Lewis to Waterman, and Main from Waterman to 1st Street (see Attachment "A"). The expanded District excludes the Intrust Bank Arena property. Properties within the District are currently zoned CBD-Central Business District. Existing land uses include residential, commercial, office and warehouse - a large percentage of land area is also vacant or used as surface parking lots.

Two-thirds of the Center City South Redevelopment District falls within the *Arena Neighborhood Revitalization Plan* area. This Plan envisions long-term redevelopment that will help create a vibrant, mixed use neighborhood connecting two existing entertainment districts in downtown Wichita - WaterWalk and Old Town. Redevelopment activity within the District is expected to increase as the Intrust Bank Arena nears completion. The City anticipates that the redevelopment investment activity

around the Arena will create an increase in assessed property values sufficient to support TIF financed public improvements needed to support the existing public investment in the Arena as well as anticipated future private redevelopment investments. Plans are already in the works for several private redevelopment projects within the District.

Through the development of the Arena Neighborhood Phase I Redevelopment Project Plan, City and County officials have worked closely together to plan and coordinate those initial public infrastructure improvement projects needing completion before the Intrust Bank Arena opens. These projects have been segregated by importance and will be funded as redevelopment occurs. Sedgwick County has committed cash funds to pay for a portion of the street improvements listed below. The City will reconstruct the following streets prior to the opening of the Arena in January 2010:

- Emporia- Waterman to William (\$1,536,029 cost: 33% TIF funded in the amount of \$512,041)
- St. Francis - Arena Site to Douglas (\$646,000 cost: 40% TIF funded in the amount of \$262,577)
- William - Emporia to Commerce (\$739,958 cost: 51% TIF funded in the amount of \$380,176)
- Topeka - Waterman to Lewis/Kellogg (\$1,348,503 cost: 24% TIF funded in the amount of \$320,200)

This first phase of the Project Plan also includes the development of a streetscaping design manual and arena wayfinding system (\$150,000 cost: 50% TIF funded in the amount of \$75,000).

The assessed valuation for properties in the TIF District as of January 2007 was \$14,404,457. The 2008 assessed valuation increased 7% to \$15,540,921. The TIF feasibility study assumed a 2% value appreciation per year. That incremental value is expected to pay for \$1,550,000 of TIF expenditures over the life of the district.

Pursuant to K.S.A. 12-1772, a 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 Arena Neighborhood Phase I Redevelopment Project Plan and make a determination of its consistency with the Wichita-Sedgwick County Comprehensive Plan.

The MAPC is advised that the Arena Neighborhood Phase I Redevelopment Project Plan falls within the *Arena Neighborhood Redevelopment Plan* area adopted by the MAPC and the Wichita City Council in November 2007 as an element of the Wichita-Sedgwick County Comprehensive Plan. Staff has determined that the Project Plan is consistent with the implementation actions and redevelopment policies contained in the *Arena Neighborhood Redevelopment Plan*.

Recommended Action: That the Metropolitan Area Planning Commission pass a resolution finding the proposed Arena Neighborhood Phase I Redevelopment Project Plan to be consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

Attachments: Exhibit "A". Expanded Center City South Redevelopment District Map.
Exhibit "B". Arena Neighborhood Phase I Redevelopment Project Plan, April 9, 2009.

MCKAY commented that he owned property in the middle of this TIF and asked Counsel if he should step down from the bench.

BOB PARNACOTT, COUNTY COUNSELOR said since this issue was about compliance with the Wichita-Sedgwick County Comprehensive Plan and not a zoning issue, he did not believe **MR. MCKAY** needed to recuse himself; however, he suggested **MCKAY** do whatever he felt comfortable with.

Arena Redevelopment TIF Project Plan

DAVE BARBER, Planning Staff presented the Staff Report.

FOSTER asked what the life of the TIF fund was.

MARK ELDER, URBAN DEVELOPMENT STAFF said 20 years which is what is allowed by statute; however, the financing will be about 17 years.

FOSTER said the information provided refers to Phase I of the project and asked how the rest of the project will get paid for.

ELDER said the first Phase is the most important in terms of construction in order for the area to open. He said there are three phases for road reconstruction that are outlined in the district project plan. He said as those occur, property values increase in the area and they re-evaluate additional income. He said generally they can fund more improvements as property values increase in the area.

FOSTER said on page 4 the total assessed value for the project area in 2008 was \$5.8 million. He said further into the document it somehow goes up to \$15.5 million.

ELDER referred to the map at Exhibit 2. He said the difference between the \$5.8 and \$15.5 million is the assessed value of the entire TIF District. He said the project plan assessed value is for the project area only.

FOSTER asked about the Streetscape Design and Arena wayfinding mentioned on page 6 and clarified that the \$75,000 was for the study only, and included no engineering fees.

SCOTT KNEBEL, Planning Staff commented that the \$75,000 was one-half the cost for the project Streetscape Design manual which are conceptual generalized guides and Arena wayfinding which is engineering design for construction of the wayfinding system.

FOSTER referenced Exhibit 4 which showed \$150,000.

KNEBEL explained that the \$150,000 figure included \$75,000 from Sedgwick County.

FOSTER said as a general comment the reason he is asking questions is the Commission had previously approved a TIF and it came out later that the project feasibility fell through.

MOTION: To find that the Arena Redevelopment TIF Project Plan is consistent with the Wichita-Sedgwick County Comprehensive Plan.

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

NON-PUBLIC HEARING ITEMS

Other Matters/Adjournment

OTHER MATTERS/ADJOURNMENT

DIRECTOR SCHLEGEL reminded Commissioners of the upcoming Workshop and requested topics for discussion.

HILLMAN suggested sending an e-mail to everyone reminding them of the workshop and asking for ideas and suggestions.

DALE MILLER said an e-mail has already been sent; however, the e-mail sent to **HILLMAN** came back because of his firewall.

DIRECTOR SCHLEGEL reminded Commissioners of the Airport Workshop tomorrow at the Hilton Inn Wichita Airport from 8:00 A.M. until 12:00 P.M.

He said he understood that about 72 people have registered from all over the state.

The Metropolitan Area Planning Department informally adjourned at 3:10 p.m.

State of Kansas)
Sedgwick County) ^{ss}

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

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

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

(SEAL)