

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

February 5, 2004

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, February 5, 2004, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: James Barfield (In @ 2:07); Bud Hentzen; John W. McKay Jr.; Bill Johnson; Morris K. Dunlap; M.S. Mitchell; Ed Sunquist; and Bob Hernandez. Ronald Marnell, Chair; Frank Garofalo; Elizabeth Bishop and David Wells were not present. Staff members present were: John Schlegel, Director of Planning; Dale Miller, Current Plans Supervisor; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; and Rose Simmering, Recording Secretary.

SCHLEGEL Called meeting to order stating the first item today should be the election of a new Chair Pro-Tem for the purpose of presiding over the meeting today due to the resignation of Kerry Coulter.

MOTION: Nominate John McKay.

MITCHELL moved, **HENTZEN** seconded the motion, and it carried (7-0).

1. Approval of January 8, 2004 and January 22, 2004 MAPC meeting minutes.

MOTION: That the minutes for January 8, 2004 be approved.

DUNLAP moved, **HERNANDEZ** seconded the motion, and it carried (7-0).

MOTION: That the minutes for January 22, 2004 be approved.

MITCHELL moved, **HENTZEN** seconded the motion, and it carried (6-0-1) **DUNLAP** abstained as he was absent on January 22, 2004.

2. Consideration of Subdivision Committee recommendations

2-1. SUB2003-150– One-Step Final Plat – STONEYPARK ADDITION, located on the west side of Greenwich Road, north of 47th Street South. (MAPC Deferred 1-22-04).

Note: This site is located in the County within three miles of Wichita's boundary. It is located in an area designated as "rural" by the Wichita-Sedgwick County Comprehensive Plan. The site has been approved for a zone change (ZON 2001-67) from RR, Rural Residential to SF-10, Single-Family Residential. A conditional use (CON 2001-59) was also approved for a community alternative sewer system; although this plat will utilize a community lagoon. Due to its density, the plat is classified as an urban subdivision.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. **A memorandum shall be obtained specifying approval of the proposed community lagoon from County Code Enforcement. The community lagoon must be permitted by the Kansas Department of Health and Environment.**
- B. In accordance with the Conditional Use approval, a county Sewer District must be established to be responsible for the use of the community lagoon, as well as the tank and pump system to be located on each lot.
- C. In accordance with the Conditional Use approval, the sewage treatment plant and collection system design should be reviewed by the **City Water and Sewer Department**. **City Water and Sewer Department has advised that the site is located outside of their planned sewer service area and will not be served by the City of Wichita in the future.**
- D. An adjustment or amendment to the Conditional use is needed to reflect the revised site layout.
- E. The site is currently located within the Sedgwick County Rural Water District No. 3. If service is available, feasible and the property is eligible for service, **County Code Enforcement** recommends connection.
- F. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.

- G. **County Engineering** needs to comment on the status of the applicant's drainage plan.
- H. **City/County Engineering** needs to comment on the need for any improvements to perimeter streets. **City Engineering has requested a petition for contingent left turn lanes.**
- I. **City/County Engineering** needs to comment on the access controls. The plat denotes complete access control along the plat's frontage with two entrances into the site. **Access controls are approved.**
- J. In accordance with Access Management Regulations, complete access control is required for arterials intersecting with local streets. Complete access control of 75 feet is needed along 42nd St. South from Greenwich and along Stoneypark from Greenwich.
- K. A dimension needs to be added along the south line of Lot 10, Block 1.
- L. A temporary cul-de-sac needs to be platted along the terminus of Stoneypark and 42nd St. South along the west line of the plat.
- M. "Lots, Blocks, Reserves and Streets" shall be referenced in the plat's text.
- N. "Wichita" shall be deleted from the title block.
- O. The applicant shall guarantee the paving of the proposed streets to the suburban street pavement standard.
- P. Language defining Reserve "A" needs to be clarified and revised to properly reflect ownership and maintenance of the sanitary sewer district.
- Q. The Applicant shall contact **Sedgwick County Fire Department** to discuss water for fire protection. **County Fire has required the installation of a dry hydrant or a cistern.**
- R. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- S. 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.
- T. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- U. The applicant is advised that this site is located within three miles of the City Limits of Wichita and will be heard by City Council. Therefore, the City Council signature block needs to be included on the final plat.
- V. The year "2004" needs to replace "2003" within the signature blocks.
- W. The Applicant is advised that if platted, the building setbacks may be reduced to 25 feet from the internal roads.
- X. **GIS** needs to comment on the plat's street names. **Honeytree needs to be revised to La Homa or a new name. Brandon needs to be revised to Christopher or a new name. Stoneypark needs to be revised.**
- Y. 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.
- Z. For any lots with existing tree rows that may be impacted by the installation of utilities, it is recommended that 30-ft utility easements be platted in order to allow for the installation of the utilities without damage to such tree rows.
- AA. 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.
- BB. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- CC. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.

- DD. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- EE. 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.
- FF. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- GG. Perimeter closure computations shall be submitted with the final plat tracing.
- HH. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- II. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements.**
- JJ. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

DALE MILLER Planning staff presented the staff report. The agent and applicant are asking for a deferral.

MCKAY This is the second time that we have heard this, and we had a public hearing the last time. Is that correct?

STRAHL They had asked for deferral the last time, but we did hear from about five residents who spoke to the Planning Commission.

MCKAY They are asking for a deferral again?

MILLER They want to review some numbers, and if they numbers work out they may actually withdraw the plat.

SCHLEGEL Neil, did they indicate to what time they want to defer this item? Two week or indefinitely?

STRAHL No, I did not hear a time.

SCHLEGEL Do we have something in writing from them?

STRAHL No.

MILLER It was a phone call. I think if we want to, we can defer with a time frame, and we will keep notice on it, and if they haven't done something in a month we will bring it back up, and make sure people are notified.

MCKAY Is the applicant or agent here today? Let the record show that the applicant or the agent is not here today. It has been requested by the applicant for deferral of Item 2-1 indefinitely.

MOTION: To defer SUB2003-150 indefinitely.

DUNLAP moved, **SUNQUIST** seconded the motion, and it carried (7-0).

MCKAY Now because we have had a public hearing on this once already before the interested citizens here today will need to sign in on the sheet on the table then you will be notified when and if this case comes back up.

2-2. SUB2003-94- One-Step Final Plat – STONEHEDGE THIRD ADDITION, located on the east side of Rock Road and the south side of 35th Street North.

NOTE: This is a replat of a portion of the Stonehedge Second Addition. Since a portion of a Reserve area is proposed to be vacated, property owners in Stonehedge Second Addition were notified.

STAFF COMMENTS:

- A. City water services are available to serve the site. **The applicant shall guarantee the extension of sanitary sewer to serve Lot 1. A utility easement needs to be platted for the sewer extension.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.

- C. **City Engineering requests a guarantee for drainage improvements. The 40-ft drainage easement on Lot 1 needs to be extended to the east property line or in the alternative Reserve A needs to be expanded.**
- D. The plat proposes one access opening limited to rights-in/out only. **A cross-lot access agreement is needed with the property to the south.**
- E. A cross-lot circulation agreement is needed between both lots.
- F. 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.
- G. The reference to residential lots in the drainage note needs to be revised.
- 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 which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- R. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. The applicant is reminded that a compact disk (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

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

HENTZEN moved, **DUNLAP** seconded the motion, and it carried (7-0).

- 2-3. **SUB2004-07– One-Step Final Plat – HUNTER'S POINTE TAYLOR ADDITION, located south of Harry and east of 143rd Street East.**

NOTE: This is a replat of a portion of the Arbor Lakes Baptist Church Addition.

STAFF COMMENTS:

- A. Municipal services are available to serve the site. **City Engineering** needs to comment on the need for guarantees or easements. **An off-site utility easement is needed for Lot 4 for connection to sewer or in the alternative a guarantee for a sewer extension.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- D. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lots 1-3. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width.
- E. The minimum building pad elevations referenced in the plat's text need to be denoted.
- F. The reference to "commercial lots" in the drainage note needs to be corrected.
- G. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- H. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- I. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- J. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- 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 NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- P. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **SBC requests additional easements.**
- Q. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

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

HENTZEN moved, **DUNLAP** seconded the motion, and it carried (7-0).

2-4. SUB2004-02– One-Step Final Plat – THE MOORINGS SOUTH ADDITION, located north of 42nd Street North and on the west side of Meridian.

NOTE: This is an unplatted site located within the City. A zone change (ZON 2003-48) has been approved from SF-5, Single-Family Residential to LC, Limited Commercial for Lots 1 and 2, Block 4. The site is also subject to the Moorings Community Unit Plan (CUP 2003-50, DP-78).

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.

- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **Additional excavation within 1000' of levee will require permit from County Engineer as well as approval from flood control.**
- D. An onsite benchmark is needed.
- E. The Applicant shall guarantee the paving of the proposed streets including the paving of Bachman to Meridian. The guarantee shall also provide for sidewalks on at least one side of the 64-ft streets.
- F. In accordance with the CUP approval, the following transportation improvements are required: 1) The applicant shall provide a guarantee for right-turn accel/deceleration lanes along the perimeter of the commercial lots, 2) A guarantee for signalization at the Meridian/Bachman intersection and/or at any drive access from Lot 1, Block 4 shall be provided; with signalization being required if warranted by a traffic engineering study.
- G. In accordance with the CUP approval, a cross-lot circulation agreement shall be provided between Lots 1 and 2, Block 4.
- H. The plat proposes two access openings along Meridian for Lot 1, Block 4. **The two openings are approved. The plat should note that the location of the openings shall be in accordance with the City of Wichita access management standards.**
- I. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- J. Provisions shall be made for ownership and maintenance of the proposed reserves for the subsequent phase of development. 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.
- K. The strip adjoining Lot 17, Block 1 should be included within a Reserve.
- L. Blocks 1 and 3 should be included within one block.
- M. The reserves are indicated as providing for "blanket" utility uses. These utilities should be restricted to easements that are located within the reserves to avoid conflict with the possible locations of structures indicated therein (recreational facilities, club house, gazebos).
- N. If any of the intended recreational uses for the reserves includes a swimming pool, a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. Otherwise a conditional use and public hearing will be needed in the future.
- O. Because of the landlocked nature of Reserve B being platted, a means of access shall be provided to such a Reserve.
- P. 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.
- Q. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- R. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- S. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- T. 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.
- U. The year "2004" needs to replace "2003" within the signature blocks.
- V. **GIS** needs to comment on the plat's street names. **Sunset Bay needs to be revised to Sandkey.**
- W. The applicant shall submit a copy of the instrument which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the City.

- X. 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.
- Y. 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.
- Z. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- AA. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- BB. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- CC. 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.
- DD. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- EE. Perimeter closure computations shall be submitted with the final plat tracing.
- FF. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- GG. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- HH. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

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

HENTZEN moved, DUNLAP seconded the motion, and it carried (7-0).

2-5. **SUB2004-03– One-Step Final Plat – A & G FARMS ADDITION, located north of 39th Street South, on the west side of 391st Street West.**

NOTE: This site is located in the County in an area designated as "Small city growth area" by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Cheney Area of Influence.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval. **Based on the lot size being platted, this approval must be for the use of septic system.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **County Engineering** needs to comment on the status of the applicant's drainage plan. **A drainage plan is needed. Easements may be needed based on the drainage plan. Impact of the pond to the south needs to be determined. A Minimum pad elevation of 1378 needs to be platted.**
- D. **County Engineering** needs to comment on the access controls. The plat denotes one opening along 391st St. West. **Complete access control is required along the north 200 feet of the property.**
- E. Per Sedgwick County Fire Department, access drives to any structure in excess of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade construction work. Such drive to be installed according to fire department specifications: (1) Twenty feet of drivable surface is provided the entire length of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning

fire apparatus around. (2) To meet fire department specifications, the surface will need to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed).

- F. A Block shall be designated on the face of the plat and referenced in the plat's text.
- G. The MAPC signature block needs to reference "John L. Schlegel, Secretary".
- H. The MAPC signature block needs to reference "Ronald L. Marnell, Chair".
- I. The signature line for the County Commissioners Chairman needs to reference "Thomas G. Winters".
- J. The year "2004" needs to replace "2003" within the signature blocks.
- K. The Applicant has platted a 25-ft building setback which represents an adjustment of the Zoning Code standard of a 30-ft setback for the RR, Rural Residential District. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.
- L. The Applicant needs to verify the location of the pipeline easement indicated in the platting binder. The easement shall be shown if encumbering this plat, or verification provided that it is off-site or has been released.
- M. All owners that are denoted in the platting binder have not been included as signatories to the plat. These owners need to be added to the final tracing or documentation provided that such interests are no longer involved with this site.
- N. 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.
- O. 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.
- P. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. 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.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- W. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. SBC requests additional easements.
- X. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

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

HENTZEN moved, **DUNLAP** seconded the motion, and it carried (7-0).

NOTE: This unplatted site is located in the County adjoining Wichita's city limits and annexation is required. The site is located within the 100-year floodplain.

STAFF COMMENTS:

- A. Prior to this plat being forwarded to the City Council, the applicant shall apply for annexation to Wichita. If the annexation is completed prior to the plat's submittal for City Council review, only City Council approval and not County approval will be necessary.
- B. If the annexation is completed prior to the plat's submittal for City Council review, "Wichita" shall be added to the title block.
- C. Municipal services are available to serve the site. **City Engineering** needs to comment on the need for guarantees or easements.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. **City/County Engineering** needs to comment on the status of the applicant's drainage plan. **County Engineering requests a drainage plan. The floodway needs to match up with the floodway on plats to the north and south. City Engineering requests a cross-lot drainage agreement.**
- F. The railroad name need relabeled to the current owner.
- G. The section corners need to be labeled.
- H. The sewer easement needs to be located and width denoted.
- I. The 60-ft right-of-way needs to be properly depicted.
- J. The plat does not depict the 30' Arkla easement as denoted on adjoining plats.
- K. **Traffic/County Engineering** needs to comment on the access controls. The plat proposes one access opening along West Street. **One opening is approved along the north property line . A restrictive covenant is required which permits cross-lot access for the benefit of the property to the north.**
- L. The plat's text shall note the dedication of the street to and for the use of the public.
- M. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA - NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- N. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- O. The year "2004" needs to replace "2003" within the signature blocks.
- P. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations. The Subdivision Regulations state that the maximum depth of all non-residential lots shall not exceed three times the width.
- Q. 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.
- R. 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.
- S. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- T. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- U. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- V. 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.

- W. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- X. Perimeter closure computations shall be submitted with the final plat tracing.
- Y. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Z. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- AA. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS

JOHNSON I want the record to show that I abstained at Subdivision meeting on this Item and I will be abstaining today as well.

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

MCKAY moved, **HENTZEN** seconded the motion, and it carried (6-0-1, **JOHNSON** abstained).

❖ **PUBLIC HEARING — VACATION ITEMS**

3-1. VAC2003-61 – Request to Vacate a 10-Foot of a 20-Foot Platted Utility Easement, located southeast of Harry – Greenwich intersection.

OWNER/APPLICANT: RL & Valerie Smith (owner)
James Vander (applicant)

LEGAL DESCRIPTION: The 10-foot portion on Lot 68, Block 1, Smithmoor 10th Addition, of the platted 20-foot utility/drainage easement that runs parallel to the property line between Lots 67 & 68, Block 1, Smithmoor 10th Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located southeast of the Greenwich Road – Harry Street intersection, more specifically north of the Funston Street – Leanne Circle intersection, 1709 Leanne Circle

REASON FOR REQUEST: Existing carport in platted easement

CURRENT ZONING: Subject property and all adjoining properties are zoned “SF-5” Single Family Residential.

The applicant is requesting consideration for the vacation of the 10-foot portion on Lot 68, Block 1, Smithmoor 10th Addition of the platted 20-foot drainage/utility easement that runs parallel to the property line of Lots 67 & 68, Block 1, Smithmoor 10th Addition. There are no sewer or water lines in the platted easement. Storm Water has approved the vacation request. The Smithmoor 10th Addition was recorded with the Register of Deeds June 28, 2001.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchise utility representatives and other interested parties, Planning Staff **recommends approval** to vacate the portion of the platted utility/drainage easement as described in the legal description with conditions.

1. 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:
2. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time January 15, 2004 which was at least 20 days prior to this public hearing.
3. That no private rights will be injured or endangered by the vacation of the above-described platted utility/drainage easement and the public will suffer no loss or inconvenience thereby.
4. In justice to the petitioner, the prayer of the petition ought to be granted.

B. **Therefore, the vacation of the platted easement described in the petition should be approved with conditions:**

- (1) Vacate that 10-foot portion on Lot 68, Block 1, Smithmoor 10th Addition of the platted 20-foot utility/drainage easement which runs between the property line of Lots 67 & 68, Block 1, Smithmoor 10th Addition, stopping at its point of intersections with the platted 20-foot drainage/utility easement that’s runs parallel to the west property lines of Lot 68, Block 1, Smithmoor 10th Addition and the 20-foot platted drainage/utility easement that’s runs parallel to the north property lines of Lot 68, Block 1, Smithmoor 10th Addition .

- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (3) All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate that 10-foot portion on Lot 68, Block 1, Smithmoor 10th Addition of the platted 20-foot utility/drainage easement which runs between the property line of Lots 67 & 68, Block 1, Smithmoor 10th Addition, stopping at its point of intersections with the platted 20-foot drainage/utility easement that's runs parallel to the west property lines of Lot 68, Block 1, Smithmoor 10th Addition and the 20-foot platted drainage/utility easement that's runs parallel to the north property lines of Lot 68, Block 1, Smithmoor 10th Addition.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (3) All improvements shall be according to City Standards.

BILL LONGNECKER Planning staff presented staff report. The person here today that wanted to speak on this Item is the wife of the applicant and she wasn't clear on what was expected of her on this case. Her and her husband agree with staff conditions.

RACHEL VANDER, 1709 S. Leanne Circle, Wichita, KS 67207 I am the wife of the applicant James Vander and we are in agreement with staff recommendations and conditions.

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

DUNLAP moved, **JOHNSON** seconded the motion, and it carried (7-0).

3-2. VAC2003-62 – Request to Vacate a Platted 40-Foot Drainage Easement, located southwest of K-42 and Tyler, southeast of Norman and south Midco.

OWNER/APPLICANT: Custom Cupboards
AGENT: AM Consulting Inc c/o Kim Edgington
LEGAL DESCRIPTION: The platted 40-foot platted drainage easement that runs parallel to the south property line of Lot 4, Block A, Mid-Continent Industrial Park 2 Addition, Wichita, Sedgwick County, Kansas.
LOCATION: Generally located southeast of the Maize Road – K-42 intersection, more specifically the southeast corner of the Midco Street – Norman Street intersection, 3738 South Norman Street
REASON FOR REQUEST: Relocating drainage easement
CURRENT ZONING: Subject property, the north, west and south adjoining properties are zoned "LI" Limited Industrial. Property east of the site is zoned "SF-5" Single-Family Residential

The applicant is requesting consideration for the vacation of a platted 40-foot drainage easement, which runs parallel to the south property line of Lot 4, Block A, Mid-Continent Industrial Park 2 Addition. There are no sewer or water lines in the platted easement. The Mid-Continent Industrial Park 2 Addition was recorded with the Register of Deeds February 1, 1978.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted drainage easement as described in the legal description and the plat with the following conditions are met.

- 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, by publication in the Derby Reporter of notice of this vacation proceeding one time January 15, 2004 which was at least 20 days prior to this public hearing.
 - 2. That no private rights will be injured or endangered by the vacation of the above-described platted drainage 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.

B. Therefore, the vacation of the platted easement described in the petition should be approved with conditions:

1. City Public Works/Strom Water must approve relocation of the drainage easement. The applicant shall submit plans for review and approval by City Public Works/Strom Water. These plans must be approved prior to the Vacation Case proceeding to the WCC
2. Provide Planning Staff with a dedication of a drainage easement by separate instrument, which has been approved by City Public Works/Strom Water to be recorded with the Register of Deeds. This dedication must be provided prior to the Vacation Case proceeding to the WCC.
3. The vacation of the platted drainage easement will stop short of its intersections with the platted easements on its east and west sides.
4. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
5. All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. City Public Works/Strom Water must approve relocation of the drainage easement. The applicant shall submit plans for review and approval by City Public Works/Strom Water. These plans must be approved prior to the Vacation Case proceeding to the WCC
2. Provide Planning Staff with a dedication of a drainage easement by separate instrument, which has been approved by City Public Works/Strom Water to be recorded with the Register of Deeds. This dedication must be provided prior to the Vacation Case proceeding to the WCC.
3. The vacation of the platted drainage easement will stop short of its intersections with the platted easements on its east and west sides.
4. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant
5. .All improvements shall be according to City Standards.

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

HENTZEN moved, **HERNANDEZ** seconded the motion, and it carried (7-0).

❖ **PUBLIC HEARING — ZONING ITEMS**

4. **Case No.: CON2003-54** – Robert A & Brenda M McVicar Request Sedgwick County Conditional Use to allow parking of a semi-tractor and trailer as a rural home occupation on property zoned "RR" Rural Residential on property described as;

The North 660.00 feet of the West 330.00 feet of the Northeast Quarter of Section 34, Township 25 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, subject to existing Road right-of-way. Generally located South of 85th Street North and east of Ridge Road.

BACKGROUND: The applicants are requesting a Conditional Use to permit a rural home occupation to park a semi-truck and trailer, which exceeds 26,000 pounds gross vehicle weight on an approximately 4.69-acre tract of land. This property is zoned "RR" Rural Residential and is located on the south side of 85th Street North, between Ridge Road and the Wichita-Valley Center Floodway, 6333 West 85th Street North. The site is in Sedgwick County, but within the City of Valley Center's area of zoning influence and thus will be considered by the City of Valley Center's Planning Commission.

The rural home occupation guidelines of the Unified Zoning Code (UZC) permit the parking of one commercial vehicle owned by the occupant that exceeds 26,000 pounds gross vehicle weight rating. This rural home occupation becomes a Conditional Use when it fails to meet any of the qualifying conditions as listed in Art IV, Sec IV -E, a-g of the UZC. The applicants do not meet the following conditions of Art IV, Sec IV -E, a-g of the UZC for rural home occupations:

- (1) Rural home occupations that do not meet one or more of the conditions listed in Sec. IV -E.7 must be located on a minimum of 5-acres; the applicants' original 5-acre tract has been reduced to 4.69-acre tract, because of dedication of ROW by separate instrument; film 668, page 0001. The UZC allows a lot to comply with the minimum lot size, if the lot size has been reduced for public purpose and is at least 75% of the required lot size; this lot meets this requirement.
- (2) The rural home occupation may not be conducted within 600-feet of a dwelling wherein no rural home occupation is conducted; the truck would be located closer than 600 feet from a neighboring dwelling unit (north of the site) that is not conducting a home occupation.

(3) Outdoor storage is permitted provided the size of the storage/parking area does not exceed 10,000 square feet, is located behind the principal structure, is 200 feet from all property lines, and there is screening of the storage/parking area by structures, solid or semi-solid fencing and/or landscaping materials from adjacent roads and properties; the site plan does not show where the truck will be located, but it cannot be located closer than 200-feet from the property lines and the current condition of the site does not provide the required screening. The lot's configuration of 600-feet x 330-feet prevents the applicant from meeting the 200-foot requirement. The applicant will have to request that this condition is waived by the MAPC and subsequently considered for approval by the BOCC.

(4) A rural home occupation may be conducted in an accessory structure equal to the floor area of the principal structure or up to 3,000-square feet. The applicant proposes a 6,000-square foot accessory building on the site. This doubles the square footage that is allowed for an accessory building for rural home occupation. The applicant will have to request that this condition is waived by the MAPC and subsequently considered for approval by the BOCC.

The applicant's site plan shows the existing house, the existing lagoon and a proposed 6,000-square foot building on the site. The site plan does not show the proposed parking area, its surface, or existing and required landscaping. The site is currently developed with a one-story, single-family house with an attached two-car garage, and a driveway onto 85th Street North. The driveway is approximately 30-35 feet wide where it intersects 85th Street and paved with asphalt for its first 20-feet off of 85th, after that it becomes a wide gravel drive/parking area that goes to the garage and extends to the west and north of the house without being directly behind it. There are recent numerous plantings of trees in the front yard and east side yard of the house.

Agricultural fields abut the east, west and south sides of the site. There is a single-family house approximately ¼ mile east of the site, just before 85th Street crosses the Wichita-Valley Center Floodway. Across 85th Street, north of the site, is a mixture of stick framed single-family houses and single-family manufactured housing on approximately 3.5 – 5- acre tracts. West of this mixture of housing types is the Leo L Ross Addition with stick framed single-family houses on lots just over an acre in size. Housing construction in the immediate area has been staggered over time beginning with a farmhouse constructed in 1890, some houses built in the 1950's and then the majority of housing construction occurring in the 1970's through the present. The site and its immediate area is not unlike other areas west of Valley Center to Ridge Road and from 85th Street North, south into the Wichita City limits; Agricultural land interrupted by groupings of some type of single-family residential housing on unplatted tracts or subdivisions lots of an acre or more. Typically these developments are not served by public water or sewer and do not have paved roads. There are at least 100 single-family houses within a ½ mile of the site.

CASE HISTORY: The Valley Center Planning Commission approved (Unanimous) the conditional use request at their January 27, 2004 meeting, per Staff's recommendation with modification to this portion of condition #3: "Planting of the evergreens will be completed within 120 days of the approval of the Conditional Use by the governing body." The applicant is allowed 180 days for planting. No one spoke in opposition to this case at the Valley Center Planning Commission meeting.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR" Rural Residential	large tract/lot single-family residences
EAST:	"RR" Rural Residential	Agricultural, a large tract single-family residence
SOUTH:	"RR" Rural Residential	Agricultural
WEST:	"RR" Rural Residential	Agricultural

PUBLIC SERVICES: Access to the subject property is from 85th Street North a paved, two-lane county highway. The 2030 Transportation Plan projects 85th Street's status to remain a 2-lane arterial. The subject property is located outside any rural water district service area. Lagoon and well water serves the property.

CONFORMANCE TO PLANS/POLICIES: The Sedgwick County Development Guide of the Comprehensive Plan designates this area as outside a Small City Growth Area, but within the Valley Center area of Zoning Influence. The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Rural" development. The Rural category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services. The Wichita-Sedgwick County Unified Zoning Code (UZC) lists the parking of one commercial vehicle owned by the occupant that exceeds 26,000 pounds gross vehicle weight rating as a rural home occupation Conditional Use in the "RR" district, when it fails to meet any of the qualifying conditions as listed in Art IV, Sec IV -E, a-g of the UZC. The site appears to conform to most of these requirements (a revised, more detailed site plan would fill in missing information) with the exception of, a lack of screening/landscaping, not being able to meet the 200-foot separation from the abutting property lines and the 6,000 square foot (60-foot x 100-foot) accessory building.

RECOMMENDATION: The property will be developed in general conformance with the revised site plan approved by the Planning Director. The 6,000-square foot accessory building does not meet the 3,000-square foot maximum for accessory buildings for rural home occupation. If the applicant desires this building he may ask for the MAPC to waive the 3,000-square foot requirement (Sec IV-E, 6c) and the request will be considered by the BOCC. The applicant cannot meet the 200-foot separation from the parking/outside storage area to the abutting property lines; the applicant may ask for the MAPC to waive the 200-foot requirement and the request will be considered by the BOCC. Based on the information available prior to the public hearing, the MAPD staff recommends the application be APPROVED, subject to the following conditions:

1. One commercial vehicle exceeding 26,000 pounds owned by the applicant of this site shall be permitted. Except as noted in the Staff's recommended conditions, all conditions of Sec IV-E, 6 shall apply.
2. No vehicle repair of other vehicles other than the one tractor-trailer or any other business activity except that which is permitted by the UZC for the "RR" zoning district or this Conditional Use. All repairs will be within an approved accessory structure or a garage with concrete floors.

3. The applicant shall submit a revised site plan showing the area where the tractor-trailer will be parked and screening/landscaping within 90 days of approval of the Conditional Use by the governing body. The parking area will be behind the house located on the site and 600-feet from any adjacent residences. The applicant shall plant and maintain a solid row of evergreen trees, a minimum of 5feet in height around the parking area. A break in the solid row of evergreens will be allowed along the street frontage for access into the parking area. Planting of the evergreens will be completed within 120 days of the approval of the Conditional Use by the governing body. **Note: The Valley Center Planning Commission recommended 180 days allowed for planting.** If the applicant provides all time inside parking for the tractor-trailer no landscaping/ screening will be required. If needed additional gravel will be laid on the parking area to ensure that the one allowed tractor-trailer would always be on a gravel-parking surface.
4. Use of the site for the rural home occupation conditional use shall not occur until all conditions of the Conditional Use have been met.
5. 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 VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is rural/large tract-lot single-family residential. All properties surrounding the subject property are zoned "RR" Rural Residential, are used for agriculture or are developed with large tract/lot single-family residences.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "RR" Rural Residential and is presently used for a single-family residence and could continue to be used in conformance with its present zoning.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The conditions of the Conditional Use should minimize the detrimental affect on the adjacent properties. In rural areas it is not unusual for larger agricultural related machinery to be stored at farmsteads. Approximately ½ mile east of the site, across the Wichita-Valley Center Floodway numerous large pieces of farm equipment are parked, abutting the 85th Street North ROW, in a farmyard. The presence of one semi-tractor trailer should not be any more detrimental than farm equipment.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The UZC contains specific policies pertaining to the parking of a commercial vehicle weighing in excess of 26,000 pounds in the "RR" Rural Residential zoning district, as a rural home occupation conditional use. Although the applicant does not meet all the conditions required by the code, the conditions of the Conditional Use including the planting of screening material help the request to generally conform to the adopted plans and policies. The proposed 6,000-sqaure foot accessory building doubles the maximum size for an allowed accessory building used in a rural home occupation and suggests a commercial business that is beyond the requested Conditional Use.
5. Impact of the proposed development on community facilities: Minimum impacts on community facilities are anticipated, if the recommended conditions are applied to the site.

BILL LONGNECKER Planning staff presented the staff report. This application was considered by the Valley Center Planning Commission. They approved this Conditional Use, and they requested a change to Condition #3 which I have put in bold on your staff report.

The Valley Center Planning Commission recommended 180 days be allowed for planting rather than the 120 days. Staff has no objection with that change. It should be noted that we have several conditions that either the staff is recommending that they be waived or that the applicant is going to request that they be waived, and I put those on page 4 of the staff report listed under the recommendations.

Those listed are, the applicant is asking that a 6,000 square foot accessory building be allowed rather than the 3,000-square foot maximum for accessory building for rural home occupation. Two, the applicant is asking, and staff has noted, that the applicant cannot meet the 200-foot separation from the parking/outside storage area to the abutting property lines. That is simply because of the size and configuration of this particular property. Staff does not have a problem with that. I did not include a site plan with this particular Conditional Use because the site plan did not show us enough information, and I believe the photos of the site, and the area around it, better serves that purpose.

DUNLAP The recommendations and exceptions were all stated when Valley Center considered this Item?

LONGNECKER That is correct.

HENTZEN What type of business is this person in that owns the truck, and needs to park it there? Is it a milk truck or do you know?

LONGNECKER The gentlemen is an independent contractor, and the type of business, and what he will be hauling will depend on the contract that he has. My understanding is that he has had various products that he has hauled in the past, and he proposes to continue to operate as an independent trucker.

ROBERT MCVICAR, 6333 W. 85 N., Valley Center, KS 67147, Applicant I had a shop in Sedgwick, KS, which I sold about six months ago, and it was a 3,200 square foot building. I have no room left, and that is why I am asking for a bigger building.

MOTION: To approve subject to conditions and exceptions noted by staff today: the 180 days in lieu of the 120 days for planting, the 3,000 square foot maximum for accessory buildings for rural home occupation be waived, and waive the 200-foot separation from the parking/outside storage area to the abutting property lines.

DUNLAP moved, JOHNSON seconded the motion, and it carried (7-0).

5. **Case No.: CUP2003-54 DP151 Amendment #4** – Rebox Development LLC c/o Carol M. Schulze (owner); Circuit City c/o Fairmuhah Taghavi (applicant); Trimark Signworks c/o Jim Atherton (agent) Request Amendment to The Dugan Centre Community Unit Plan on property described as;

Part of Lot 1, The Dugan Centre Third, an Addition to Wichita, Kansas, Sedgwick County, Kansas, EXCEPT that portion described as beginning at the Northeast corner thereof; thence N 90 degrees W, along the North line of said Lot 1, 671.66 feet; thence S 00 degrees 18'20" E, along the West line of said Lot 1, 113.6 feet; thence N 90 degrees 00'E, 197.07 feet; thence S 00 degrees E, 273.65 feet; thence N 90 degrees 00'W, 56.29 feet; thence S 00 degrees E, 489.12 feet to a point in the South line of said Lot 1; thence N 88 degrees 28'28"E, along the South line of said Lot 1, 169.16 feet; thence N 50 degrees 06'17"E, 361.12 feet; thence S 61 degrees 15'05"E, 99.37 feet to the Southeast corner of said Lot 1; thence N 00 degrees 15'05" W, 688.03 feet to beginning. Generally located North of Kellogg and west of Dugan.

BACKGROUND: The applicant requests an Amendment to DP-151 Dugan Centre CUP to change the signage provisions of the CUP. The subject property is zoned "GC" General Commercial and is located north of Kellogg and east of Ridge. The subject property is developed with a shopping center.

The applicant proposes to amend General Provision #3C, which reads, "Signs shall not exceed 20 feet in height on Parcels 1, 3A, and 4." The subject property is located within Parcel 1 of the CUP. The applicant proposes to amend General Provision #3C to allow one sign to be 40 feet in height. The sign proposed for a height increase is for Circuit City and is the furthest west sign located along the Kellogg frontage on the subject property. The sign is located at a low point on the subject property and is not visible to motorists along Kellogg until it is too late to take the Ridge exit to access Circuit City. The applicant has requested the additional height so that the Circuit City sign will be visible above existing signs along Kellogg, nearly all of which exceed 20 feet in height, and signify that motorists should take the Ridge exit to reach the business.

The surrounding area is characterized by intense commercial uses along the Kellogg corridor, with residential uses to the north across Taft. The properties east, west, and south of the subject property are zoned "GC" General Commercial, "LC" Limited Commercial, and "LI" Limited Industrial and are developed with various highway-oriented commercial uses and big box retail uses. The properties north of the subject property across Taft are zoned "SF-5" Single Family and are developed with single-family residences.

CASE HISTORY: The property was platted as part of The Dugan Centre Third Addition in 1995. The Dugan Centre C.U.P. (DP-151) was approved originally in 1986, and has been adjusted and amended numerous times since it was approved.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5" Single family
SOUTH: "GC" Motel
EAST: "GC" Retail
WEST: "LC" Restaurant, theater

PUBLIC SERVICES: The proposed amendment pertains only to signage regulations and has no impact on public services.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The proposed amendments to the signage regulations are consistent with the "Commercial" designation of the Land Use Guide.

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

1. General Provision #3C shall be amended to read: "Signs shall not exceed 20 feet in height on Parcels 1, 3A, and 4, except that one sign shall be permitted at a height not to exceed 40 feet."
2. The development of this property shall proceed in accordance with the approved development plan, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
3. Any major changes in the development plan shall be submitted to the Planning Commission for consideration.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by intense commercial uses along the Kellogg corridor, with residential uses to the north across Taft. The frontage along Kellogg in this vicinity is predominately zoned "GC" General Commercial and is predominately developed with highway-oriented commercial uses and big box retail uses. The request is consistent with the zoning, uses, and character of the neighborhood.

2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "GC" General Commercial, and is currently developed with big box retail uses. The proposed changes to the signage regulations may be permitted with approval of the requested CUP amendment.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The existing provisions of DP-151 should limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Additionally, nearby residential uses are buffered from the proposed sign by the shopping center buildings.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The proposed amendments to the signage regulations are consistent with the "Commercial" designation of the Land Use Guide.
5. Impact of the proposed development on community facilities: The proposed amendment pertains only to signage regulations and has no impact on community facilities.

SCOTT KNEBEL Planning staff

MCKAY The applicant is not asking for any enlargement of the sign?

KNEBEL That is correct. However, the existing provisions of the CUP may allow a larger sign than they have now. I do not know if the existing sign is the maximum size they are currently permitted.

JIM ATHERTON, Trimark Signworks, 319 S. Oak, Wichita, KS We are in agreement with the staff comments.

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

HENTZEN moved, **JOHNSON** seconded the motion, and it carried (7-0).

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6. **Case No.: ZON2003-76** – Brentwood Development Inc., c/o Steve Miller Request Sedgwick County Zone change from "SF-20" Single-family Residential to "LC" Limited Commercial and "TF-3" Two-family Residential on property described as;

That part of the Southwest Quarter of Section 33, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at the northwest corner of Lot 25, Block 2, Brentwood South Addition, Wichita, Sedgwick County, Kansas; thence S 89 degrees 58'00" W, 345.63 feet; thence S 00 degrees 00'00" W, 889.75 feet; thence North 89 degrees 58'00" E, 348.27 feet; thence N 00 degrees 10'10" W, 889.75 feet to the place of beginning.

AND

That part of the Southwest Quarter of Section 33, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as commencing at the northwest corner of Lot 25, Block 2, Brentwood South Addition, Wichita, Sedgwick County, Kansas; thence S 00 degrees 10'10" E, 889.75 feet to the place of beginning; thence S 89 degrees 58'00" W, 667.42 feet; thence S 00 degrees 00'00" W, 432.50 feet to the south line of said Southwest Quarter; thence N 89 degrees 34'35" E, along said south line 668.70 feet; thence N 00 degrees 10'10" W, 427.95 feet to the place of beginning, EXCEPT the South 40.00 feet thereof. Generally located on the north side of Pawnee, approximately 600 feet east of Webb Road.

BACKGROUND: The applicant is requesting to rezone 13.07-acres located on the north side of Pawnee Avenue, approximately 600-feet east of the Webb Road – Pawnee Avenue intersection from "SF-20" Single-family Residential to "TF-3" Two-family Residential for 7.09-acres and "LC" Limited Commercial for 5.98-acres. The requested "TF-3" zoning is proposed for 17 duplex lots. The density would be 4.79 dwelling units per acre, which is within the density range for low-density residential development although duplexes are categorized as medium density residential by definition in the Comprehensive Plan. The 5.98-acres, for the requested "LC" zoning, is 0.02-acres under the 6-acre trigger that would require it to be developed as a CUP. The applicant has proposed no restrictions on use or specific site development requirements for the proposed "LC" acreage. Development per code would include some minimum requirements for screening, landscaping, compatibility setbacks, and signage. The requested "LC" zoning will extend the existing "LC" zoning at this intersection east along Pawnee, moving the commercial zoning towards the ¼ mile point.

In general, Webb Road serves as a line between two types of development in the immediate area. On the west side of Webb Road, on both sides of Pawnee, there is uninterrupted urban scale single-family residential development, with houses having been built from the late 1980's to 2001. All of this area is in the City of Wichita. East of Webb Road, particularly on the north side of Pawnee, there is agricultural land interrupted/replaced by older large tract/lot single-family residential development, including some older subdivisions recorded in the late 1940s and 1950s. This development is still in the county, with the Wichita city limits pressing in from the north and the east. The subject site, east of Webb, will be annexed into the city as part of the platting process.

Abutting the subject site's north and west sides is an 18.99-acre Sedgwick County Public Works maintenance yard, which has been in place since the 1950s. The yard contains garages, accessory structures, trucks, gravel, dirt and other equipment or materials used by the county for maintenance on their equipment, utilities and roads. The county has recently put berms along its east side. The county property is zoned predominately "SF-20" with a small southern section of it zoned "LC". There is also undeveloped "LC" & "OW" Office - Warehouse property on the subject site's west side. At this time, there is no commercial development on the three corners zoned "LC" at the Pawnee – Webb intersection. The fourth corner (northeast) is zoned "SF-5", and is almost completely developed. North of the subject site there is a large church owned property, which is mostly field with the church sitting on its west side. The property east of the subject site is not developed, but has been platted (Brentwood South Addition) for "SF-5" development. The proposed duplex development on the subject site will have access through this single-family development on its east side rather than direct access to Pawnee. Agricultural fields are located south, across Pawnee, of the subject site.

CASE HISTORY: The site is being platted as the Brentwood South 2nd Addition. The MAPC will consider the final plat at their February 12, 2004 meeting.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-5" & "SF-20"	Sedgwick County Public Works Maintenance Yard, Church
SOUTH:	"SF-20"	Agricultural field
EAST:	"SF-5"	Vacant
WEST:	"SF-20", "LC", "OW"	Sedgwick County Public Works Maintenance Yard, vacant

PUBLIC SERVICES: Pawnee Avenue and Webb Road straddle the city – county lines at this intersection. North and west of the intersection the roads are in the city, while south and east of the intersection they are in the county. Both are paved 2-lane arterials with the 2030 Transportation Plan projecting Webb and the section of Pawnee west of the intersection to become 4-lane arterials. The 2030 Transportation Plan projects the section of Pawnee east of the intersection to remain a 2-lane arterial. 2002 traffic counts indicate 6,215 ADTs on the north side of the intersection, 3,957 ADTs on the south side of the intersection, 5,992 ADTs on the west side of the intersection and 3,698 ADTs on the south side of the intersection. The 2030 traffic projection has 12,000 ADTs on the north side of the intersection, 11,500 ADTs on the south side of the intersection, 10,000 ADTs on the west side of the intersection and 6,000 ADTs on the south side of the intersection. No improvements are shown on the Capital Improvement Program for the county or city. City water and sewer are available to the site.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide, as amended 1/02" of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this area as appropriate for "low density residential" development and industrial/transportation/utility/communication; ITUC. The proposed density for the "TF-3" area fits within the density range for "low density", but the Comprehensive Plan defines the duplex dwelling type as a "medium density" use. The Commercial Locational Guideline of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed "LC" zoning is more appropriate for the area than the ITUC uses, which should be located away from residential areas, per the Locational Guidelines of the Comprehensive Plan.

RECOMMENDATION: The proposed duplex development is probably as good a fit for its proposed location as can be expected. The proposed duplex use conforms to the density levels for low-density residential use but is considered medium density. It serves as a transition piece from the single-family residential development on its east side to the county maintenance facility yard on its northwest side. The yard presents a challenge for any abutting development, as it has been in place since the 1950s. Meanwhile development and the city limits continued to move east into the area in the 1970s, accelerating in the 1980s through the present until the yard is now almost entirely surrounded by either planned urban scale development or built urban scale development. The proposed duplex development will also serve as a transition piece between the already mentioned single-family use on its east side and proposed "LC" zoning on its southwest side.

The 5.98-acre lot proposed for the "LC" zoning is located approximately 600-feet east of the intersection. This lot would ideally be zoned "NO" Neighborhood Office, "GO" General Office or perhaps "NR" Neighborhood Retail. These zoning districts are intended for small commercial uses often used as a buffer between more intense commercial zoning and residential use. Their range of uses is limited to those with fewer impacts on nearby residential use. The commercial area is 0.02 acres below the minimum size of 6 acres of "LC" zoning whereby a Community Unit Plan would be required and as such development per code would include some minimum requirements for screening, landscaping, compatibility setbacks, and signage. Staff feels that either "NO", "GO" or "NR" zoning would be more appropriate for the proposed "LC" site, but feels a Protective Overlay on the proposed "LC" zoning could mitigate the negative impact of the commercial uses on the proposed and existing residential uses in the immediate area.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED, subject to platting within one year and PO #132

1. Signage shall be per Sign Code for the "NR" district with the including no signs shall be allowed on the rear or sides of any buildings.
2. Parking lot lighting elements (i.e. fixtures, poles, and lamps, and etc.), with light poles, including base, limited to 24 feet in height, and reduced to 14 feet within 150 feet of residential zoning. All lighting shall be behind a 20-foot setback along the north and east sides. Exterior lighting shall be shielded to prevent light disbursement in a north or eastern direction. .
3. A landscaping plan shall show location, type and specifications of all plant material, to be reviewed and approved by the Planning Department. Landscaping shall be calculated at 1.5 times the minimum ordinance requirements along the sides of the site abutting residential zoning and the street side. Parking lot landscaping shall be per the ordinance. Landscaping shall be required prior to the issuance of any occupancy permit.
4. A screening wall that is between six (6) feet and eight (8) feet high of concrete/masonry shall be constructed along the north and east property lines. This solid wall shall be constructed of a pattern and a color that is consistent with the building walls, is of uniform construction and placed within a five (5) foot wall easement.
5. Building walls and roofs must have predominately earth-tone colors, with vivid materials limited to incidental accent, and must employ materials similar to surrounding residential areas. No predominately metal facades shall be allowed.
6. All utilities installed underground.

7. Trash receptacles shall be appropriately screened to hide them from ground view.
8. Rooftop mechanical equipment shall be screened from ground level view per the Code of Wichita.
9. Maximum building height of 35-feet.
10. Prohibited uses on the "LC" lot include asphalt or concrete plant, motion picture theaters, liquor stores, tavern and drinking establishments, vocational schools, recycling collection station (public), reverse vending machine, safety service, animal care limited and general, construction sales and service, hotel, -motel, marine facility recreational, night clubs, cemeteries, correctional placement residences, group homes, and outdoor storage. Drive through restaurants, convenience stores, service stations, vehicle repair limited, car wash and nurseries and garden centers are allowed on the western half of the "LC" site only where it abuts the county yard.
11. A site plan shall be submitted within 180 days for review and approval by the Planning Director.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is agricultural, large tract/lot single-family residential and in the county or developed as urban scale residential and in the city. The area to the east has recently been platted for urban scale single-family use as the Brentwood South Addition. The city limits are pressing into the county from the north and west sides. The 18.99-acre Sedgwick County public works maintenance yard is not typical of the current predominately single-family residential development in the area as it pre-dates (1950s) the city's expansion in the 1970s and 1980s through the present. The county yard resembles an industrial use. The County has no plans to move this facility. None of the commercial zoned property has been developed.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed as intended, but its proximity to the county yard makes it less likely to be developed for single-family residential.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental effects on nearby property should be mitigated by the recommended restrictions to lower intensity commercial uses and the site development requirements to buffer the residential uses from the commercial uses.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide, as amended 1/02" of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this area as appropriate for "low density residential" development and industrial/transportation/utility/communication uses. The proposed density for the "TF-3" are fits within the density range for "low density", but the Comprehensive Plan defines the duplex dwelling type as a "medium density" use. The proposed use restrictions and site development requirements for the proposed "LC" zoning seek to follow commercial and residential objectives and locational guidelines.
5. Impact of the proposed development on community facilities: Impact should be minimal as they are addressed by the PO and the platting requirement.

BILL LONGNECKER Staff needs to note to the Planning Commission that there is an agreed change to Condition #10. Construction sales and service is to be moved from 'prohibited uses' to those uses allowed on the west half of the "LC" zoning where it abuts the County's yard.

MCKAY We don't seem to have any step down other than maybe an overlay from commercial to residential? I am not entirely comfortable with "LC" zoning at this location.

LONGNECKER Correct, staff has noted that ideally this would be zoned Neighborhood Office, General Office, or Neighborhood Retail; these zonings would be more appropriate as a step down to the single-family that is abutting on the east side of the proposed Limited Commercial. We did talk to the applicant about this, but they wanted to pursue the Limited Commercial. We also suggested a mixed use CUP. We felt with the prohibited uses that we have proposed in the Limited Commercial that, in effect, we have made a step down, and therefore our recommendation of a Protective Overlay.

SCHLEGEL This property is all under single ownership?

LONGNECKER Yes.

MITCHELL Where does the dividing line run between what is being proposed for Limited Commercial and the Twofamily Residential?

LONGNECKER Shows on the aerial.

MCKAY There is no buffer between the two?

MITCHELL If there was 6 acres here, and if a C.U.P. was required, would that make buffering simpler?

LONGNECKER The buffering that I have listed in the Protective Overlay is stated in Condition #4, a screening wall that is between six (6) feet and eight (8) feet high of concrete/masonry, along the north and east property lines, where abutting residential zoning. Condition #3 reads, the landscaping shall be calculated at 1.5 times the minimum ordinance requirements along the sides of the site abutting residential zoning and the street side. Parking lot landscaping shall be per the ordinance. Also, Condition #2, states that parking lot lighting elements are limited to 24 feet in height and reduced to 14 feet within 150 feet of residential zoning. All lighting

shall be behind a 20-foot setback along the north and east sides. Basically I have taken language that we typically use on a C.U.P., and applied it to this Protective Overlay.

CHRIS BOHM, Ruggles and Bohm We have worked with staff, and we are in agreement with the exception of Condition #5 which relates to the outside façade of the building. As it is stated, no predominately metal facades shall be allowed. The owner is completing willing to completely cover the front with wood or driv-vit or whatever, but he would like to leave the sides and the rear of the building as metal, if that is possible. The building that you saw on the pictures is just immediately west of his property and it is an all-metal building with 4 front-loading garage doors. The applicant would ask that metal sides and rear would be allowed on the building.

MCKAY I would like to make a comment. My personal opinion is that we are playing a game with this site being less than 6 acres, because your 5.98 acres or 5.99 acres could very easily qualify for a C.U.P. Just moving the lot lines a foot or less and you would have to do a CUP, and it would be so easy to do this as different surveys would come up with different acreage for this site. The applicants are playing a numbers game. Again, let me say I am not comfortable with Limited Commercial going right up against the residential on its north and east sides.

HENTZEN moved to approve and remove Condition #5 completely.

MCKAY You are going to exempt that and not put something in place of it?

HENTZEN I want to remove the last sentence on Condition #5.

SCHLEGEL Bill, when you wrote this, and you state metal facades, my understanding of the word "façade" is that it is the front of the building. Did you mean no metal elevations shall be allowed?

LONGNECKER I meant metal elevations, front, side, and rear.

SCHLEGEL I heard the applicant say is that he agrees to the front not being metal, but did not want that to apply to the side and the rear.

LONGNECKER Correct, that's the applicant's intent, but I was intending for the no predominately metal to be on all four sides. Predominately would mean you could have 51% non-metal and 49% metal, and that would meet the intent of what I have written.

MILLER We took a great deal of heat for the 21st Street and Maize project, at the northeast corner, because it has metal on the exterior on the rear and the sides in that C.U.P. One proposal could be to remove that condition on the portion that is on the west if you extend the "TF-3" line down, and allow the metal to be on the west. That would be another option.

HENTZEN I want to say if we are going to put no metal façade on this property then lets do that on the county property. I don't like the attitude that no metal buildings are allowed, period. I don't think that is a good approach. Metal buildings are here to stay, and that is the reason I wanted to eliminate that last sentence of Condition #5.

DUNLAP We have a lot of different types of metal, and a lot of different kinds of sides to buildings that are metal that don't even look like metal. I can't agree to no metal when I don't know what it is going to look like.

JOHNSON I want to comment on what Dale said and state why I am against this kind of comment. Just because you have a Marriott front and a Marriott rear, doesn't make the rest of the building work out well or look good. I still think this needs to be looked at from an architectural standpoint, and make sure that it is attractive no matter what building material is used. I don't know how we can get to that point, but we need to get off of this no metal mind set. Let's say in this particular case that there was a 4-12 pitch roof, and we ended up putting a colored architectural roof on it. Over 49% of the roof would be exposed metal. I don't like to make those types of limitations. Maybe we need to have a workshop sometime, and show the staff the diversity of metal products. I think a building needs to have architectural character rather than concentrating on wether if it is metal or any other building material.

MCKAY Do you want to amend the motion?

JOHNSON What did we do at 53rd and Meridian? Didn't we have some type of architectural review or something like that?

SCHLEGEL It was architectural consistency on the site.

MCKAY Right, we had talked about different pitches of roof, and coloring and stuff to that effect.

JOHNSON Leave it up to the architect to come up with something unique and practical, and make it something we are all proud of. We don't want to end up with something like 21st and Maize Road, because I agree that you can spend a lot of money on the front but it didn't help improve the whole building.

SCHLEGEL So you want us to add that language?

JOHNSON I would like to ask the agent if he would be in agreement.

BOHM In speaking with the owner he wants an attractive building from the front, but given the screening walls to the north and east and the height of those walls and the extra landscaping requirement, he would like the opportunity to use metal on the sides.

JOHNSON With this plan you could. It is just that I want the walls on the side to match the front so that they don't look totally different from each other, and I think that is an architectural characteristic issue rather than a material issue.

MCKAY What fits in most peoples mind, when you mention metal, is galvanized metal roof and siding. What he is saying is that there are now so many different types of textures and finishes for metal roof and walls now that you can achieve a uniform and good looking metal building that does not look like the old metal buildings. That is what Commissioner Johnson is saying.

BOHM Maybe use some language such as "an architectural type metal façade consistent in character" that would allow some different types of materials that would be metal?

JOHNSON I guess I am leaning on you a little bit so we can get staff to look at this just so that we can use it later on another deal rather than going through this exercise every time.

MCKAY We are making a test out of you.

BOHM Could you say something about architectural steel or if steel was used it would be an architectural type steel. I don't know the terminology, but something other than just a flat out galvanized; or he would have the option of the predominately metal. I guess he could put a wainscot around the whole building as per the comment as it stands now.

MCKAY Commissioner Johnson, what is the terminology that you use in the business, metal building as far as color is concerned?

JOHNSON Believe it or not most of it when it is spec'd is going to end up being a certain gauge and certain color and finish. I can show you some stuff that is strictly all metal.

MCKAY What is the terminology that is used for the architectural spec. in this situation?

JOHNSON What he is saying is architectural metal because that is usually an after market product in some cases.

MCKAY Commissioner Hentzen, if you struck out the last sentence in that Condition #5, what I am asking is to keep things pleasing to the neighborhood to what is going to be around there.

LONGNECKER I would like to point out to the Planning Commission, this last sentence of condition #5, its kind of hitting a nail again to drive it. The whole statement, if you look at it is, building walls and roofs must have predominately earth-tone colors, with vivid materials limited to incidental accent, and must employ materials similar to surrounding residential areas. I don't see any metal building in the residential areas that are developed in the area. This was almost a redundant statement on my part, but I thought the last sentence, "cannot be predominately metal," allowed them some flexibility beyond the residential materials.

HENTZEN We are not talking about residential in this case. There is a bunch of farmland out there that is rural residential.

JOHNSON There is a church just north of the yard that is all metal.

MCKAY I don't have a problem taking that last sentence out. I feel like there should be responsibility on the owner to come up with something because of that condition.

BOHM Can we leave the sentence in and add the wording or "architectural steel"?

HENTZEN I can live with that.

MOTION: To approve as recommended with the revision of Condition #5 to add the wording "architectural steel" to the last sentence of Condition #5.

HENTZEN moved, **DUNLAP** seconded the motion, and it carried (8-0).

7. **Case No.: CUP2003-67 DP36 Amendment #1 – Nestor R. Weigand, Jr., Ross Tidemann, Herbert L. Krumsick, Louis E. Weiss, Norma Jean Weiss (owner); MKEC c/o Greg Allison (agent) Request Amendment to Pizza Hut Second Addition Community Unit Plan on property described as;**

Tract 1:

Parcel B-1

That part of Lot 1, Block A, Pizza Hut Second Addition to Wichita, Sedgwick County, Kansas described as commencing at the NW corner of said Lot 1; thence S 00 degrees 00'00" E along the west line of said Lot 1, 641.20 feet; thence N 90 degrees 00'00"E, 95.58 feet; thence S 72 degrees 00'00"E, 200 feet; thence N 54 degrees 46'03"E, 73.48 feet; thence S 33 degrees 46'58"E, 382.94 feet; thence S 00 degrees 00'00"W, 275.35 feet to a point on the south line of said Lot 1; thence N 89 degrees 40'00"E, 270 feet to the SE corner of said Lot 1; thence N 00 degrees 01'00"E, 1255.65 feet to the NE corner of said Lot 1; thence S 89 degrees 48'00"W, 828.47 feet to the Point of Beginning.

Except the North 128 feet thereof dedicated for street right-of-way purposes.

Tract 2:

Easement #1

That part of Lot 1, Block A, Pizza Hut Second Addition to Wichita, Sedgwick County, Kansas described as beginning at the NW corner of said Lot 1; thence S 00 degrees 00'00"E along the west line of said Lot 1, 641.10 feet; thence N 90 degrees 00'00"E, 95.58 feet; thence N 25 degrees 18'47"W, 130.00 feet to a point 40 feet east of the west line of said Lot 1; thence N 00 degrees 00'00"E, 523.82 feet to a point on the north line of said Lot 1; thence 89 degrees 48'00"W, 40 feet to the Point of Beginning. Generally located on the south side of Kellogg approximately 1/2 mile east of Webb Road.

BACKGROUND: The applicant is requesting to change the use restrictions on DP-36 Pizza Hut Second Addition. The request also would change signage provisions, access, and add some site development provisions.

The applicant proposes to allow all "GC" General Commercial uses except correctional placement residences; group homes; half-way houses; night clubs including adult entertainment and sexually-oriented businesses; recycling, public, private and processing center; pawn shops; tattooing and body piercing; wireless communication facilities; and uses that require conditional use permits in the "GC" district. It is staff's understanding that the amendment has been initiated to accommodate a proposed vehicle sales operation on the northern and eastern portions of the C.U.P.

The applicant has requested that allowable sign heights be increased to 35 feet and to have up to a maximum square footage for all signs (including freestanding and wall signs) not to exceed 2,100 square feet. Proposed signage has been submitted and copies are attached. The proposed wall signage shows less than three wall signs per elevation and none exceed maximum size for wall signs. The proposed freestanding signs are within the Sign Code maximum size of no more than 300 square feet per sign and total amount of freestanding signage is below that allowed by Sign Code. The amendment proposed removing the prohibition on offsite signs, but it is recommended to keep the prohibition because the Unified Zoning Code prohibits offsite signs in C.U.P.s.

Originally, the C.U.P. was designed for office use. It was a single parcel for the Pizza Hut, Inc. corporate headquarters located on the southern half of the property in 1970. This office building is now the Frank E. Hedrick Center, an office/employee center for Raytheon. The C.U.P. was adjusted administratively to divide the property into two C.U.P. parcels based on a requested lot split. (This lot split is pending and would be finalized upon receipt of a sewer extension agreement.) The Frank E. Hedrick Center is located on Parcel 2, a 7-acre panhandle shaped lot in the southwestern corner of the C.U.P. with a private drive access along western edge of the C.U.P. Parcel 1, which is 14+ acres in size, is located along Kellogg and is proposed for development with a vehicle sales operation.

The C.U.P. has standard 35-foot setbacks. It adds landscape requirements per the Wichita Landscape Ordinance, and requests a height maximum of 41 feet unless "an Airport Hazard Zoning Permit for Area A is granted prior to the issuance of a building permit" (proposed General Provision #2).

The property to the north is zoned "LI" Limited Industrial and is the Raytheon manufacturing plant and includes the runways for testing aircraft. All the property between Kellogg and the KTA is zoned "GC" General Commercial. The property immediately to the west is developed with a farm supply store, a large nightclub, and a private club. The adjacent property to the east is vacant. Generally, property along the south side of Kellogg between Webb and Greenwich is developed with a variety of car lots, manufactured home sales lots, and some specialty retail stores. Single-family residential is located on the south side of the KTA.

CASE HISTORY: DP-36 Pizza Hut Second Addition C.U.P. was approved October 28, 1969. The property is platted as Pizza Hut Second Addition, recorded December 3, 1969. The plat noted that the northern 255 feet was subject to General Provisions 10, 11, 12, and 13 of the Pizza Hut Second C.U.P. until the design of a frontage road along Kellogg. In 1998, the northern 128 feet was dedicated as right-of-way for the frontage road and the platted setback was vacated to a width of 35 feet along the northern property line (V-2088).

A vacation of access controls, VAC2004-00001, is pending. It requests vacating current access controls that limit access to one 30' opening on the west edge of the parcel and replacing it with access to a proposed street along the east edge of the C.U.P. that would connect to a Kellogg frontage road. (See "Public Facilities" for additional discussion and "Recommendations" for staff recommendation related to the access control request).

ADJACENT ZONING AND LAND USE:

NORTH:	"LI"	Raytheon manufacturing plant, runways
EAST:	"GC"	Vacant, retail, car lot
SOUTH:	"SF-5"	KTA, single-family residential
WEST:	"GC"	Farm supply store, nightclub, private club, car lots

PUBLIC SERVICES: 2002 traffic counts for Kellogg were 32,200 ADT (vehicles per day). The 2030 projected ADT was 71,700 vehicles per day. Kellogg is a four-lane principal arterial today. No frontage road exists along the subject property. It is not slated for freeway construction in the current ten-year Capital Improvements Program.

Currently, the private drive along the west edge of the property is the only point of access to the Frank E. Hedrick Center. It runs parallel to a private drive serving the farm supply, nightclub and private club, separated by a woven wire fence. While the two drives do not merge into a true "joint access point" onto Kellogg, the drives flare into one large opening so they only interrupt the flow of Kellogg at one access point.

Other normal municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "commercial" development. The C.U.P. amendment is in conformance with the *Comprehensive Plan*.

RECOMMENDATION: Moving the drive to the east side of DP-36 along the half-mile line introduces a new access point to Kellogg unless a frontage road is constructed to route traffic from the existing driveway to the new access point. However, the location of access connected to a frontage road along the half-mile line (east property line) has been acknowledged on the C.U.P. as the ultimate access location once the permanent frontage road system on Kellogg was constructed. The C.U.P. also stipulates that the property provide and/or join in a valid paving petition for the guarantee of the future improvement of the future frontage road at the time right of way is dedicated. But it must be noted that any permission to make any change to Kellogg access is regulated by KDOT, not the City of Wichita (agreement between KDOT and City of Wichita). Wichita does not have the authority to decide

when/if to establish the access point on the half-mile line.

Four existing C.U.P. general provisions pertaining to the frontage road and access were removed from the proposed Amendment #1, but staff recommends they be maintained as part of the approved C.U.P., and that a requirement for interim signalization be included if KDOT allows the other point of access prior to freeway construction. Staff also is recommending minor changes to clarify signage, use and height restrictions.

Based upon these recommendations and the information available prior to the public hearing, staff recommends the request be APPROVED subject to the following conditions:

1. Restore the following provision: "Pizza Hut, Inc. agrees and binds upon their successors and assigns, that no development shall take place on the north 255 feet of Lot 1, Block A Pizza Hut Second Addition, until such time as a frontage road system is dedicated from this property."
2. Restore the following provision: "Pizza Hut, Inc. agrees, and binds upon their successors and assigns, that said frontage road will be dedicated at the location required by the City of Wichita within said 255 feet when this portion of the property is proposed to be developed; OR when the City of Wichita determines that said right-of-way and frontage road is needed. On the event Pizza Hut, Inc., or their successors or assigns, desires to develop said property being herein reserved for future frontage road, replatting shall be required and the needed right-of-way and geometrics of construction shall be determined at that time."
3. Restore the following provision: "Pizza Hut, Inc. agrees, and binds upon their successors and assigns shall be bound to provide and/or join in a valid paving petition for the guarantee of the future improvement at the time the frontage road right-of-way is dedicated."
4. Restore the following provision: "Pizza Hut, Inc. agrees, and binds upon their successors and assigns, that when a frontage road is constructed, the private drive indicated generally along the west property line shall be relocated to the east of where the frontage road will intersect with its direct access to the highway."
5. Add a general provision: "No direct access is allowed onto Kellogg from this property. All new access shall be permitted onto the Kellogg Drive frontage road, which may have a new access onto Kellogg at the east property line with Kansas Department of Transportation approval and subject to KDOT provisions. If granted, the owner or successors and assigns shall be responsible to construct the interim frontage road from the existing opening to the new access point."
6. Add a general provision: "If in the future KDOT grants access to Kellogg frontage road for the interim prior to freeway construction, the owner of Parcel 2 agrees and binds upon their successors and assigns, to guarantee the cost of channelization and signalization of Kellogg and Kellogg Drive, if warranted by KDOT."
7. Add to General Provision #2: "Buildings, signs, light poles and any and all projections or architectural embellishments...."
8. Add to General Provision #3: "recreational vehicle campgrounds and vehicle storage yards".
9. Add to General Provision #7: "Signage shall be per the City of Wichita Sign Ordinance. In addition, the following provisions shall apply: A. No offsite or portable signs shall be permitted. B. Signs shall not exceed 35 feet in height provided such height is permitted by the Sign Code. C. The maximum square footage for all signs on the C.U.P. shall not exceed 2,100 square feet, including "Building Signs". No sign shall exceed the maximum height or area allowed by the Sign Code, and the maximum square footage of freestanding signs shall not exceed 0.8 times the lineal frontage along either Kellogg Drive or the KTA. All freestanding signs shall be spaced a minimum of 150 feet apart regardless of ownership and for each five feet of height about 25 feet, it shall be counted for spacing purposes as equaling a freestanding sign.
10. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
11. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
12. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
13. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site is developed with an office use for Raytheon (Frank E. Hedrick Center) that was originally the Pizza Hut, Inc. corporate headquarters located on the 7acre parcel in the southwest corner of the property. The remaining 14+ acres are vacant. All the property between Kellogg and the KTA is zoned "GC" General Commercial. The property immediately to the west is developed with an implement/farm supply store, a large nightclub, and a private club. The adjacent property to the east is vacant. Generally, property along the south side of Kellogg between Webb and Greenwich is developed with a variety of car lots, manufactured home sales lots, and some specialty retail stores. Single-family residential is located on the south side of the KTA.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned "GC" but restricted to office and similar uses. This is a restriction that matches the development of the other portion of the C.U.P., but is more restrictive than the rest of the development of heavy commercial types of uses along Kellogg.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Heights for signage, light poles and buildings, are restricted by the proximity to the runways for testing Raytheon aircraft. The development will position a retail use between the office and Kellogg and further reduce visibility of the office from Kellogg. The other potential effects

are realigning access to businesses along the south side of Kellogg, as anticipated by the original C.U.P.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The proposed development is in conformance with the "Land Use Guide, as amended 1/02" of the *1999 Update to the Comprehensive Plan* designation for "commercial" development.
5. Length of time the land has been vacant as currently zoned: The property has been currently zoned and approved as a C.U.P. since 1969 and has remained vacant since that time.
6. Impact of the proposed development on community facilities: The addition of a new access point onto Kellogg would be a safety concern and determination of this action is a KDOT responsibility. The recommended conditions allow for the possibility of the new access point only if KDOT approves, the traffic is rerouted from the existing opening to the new point, and requires a guarantee for channelization and signalization.

MOTION: To defer for 2 weeks at the applicant's request.

DUNLAP moved, **HERNANDEZ** seconded the motion, and it carried (7-0).

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- 8a. **Case No.: CUP2003-64 DP272 (Associated with ZON2003-71)** – Hoa Van & Susie X. Nguyen (owners/applicants); Ruggles & Bohm, P.A., c/o Chris Bohm (agent) Request Creation of The Asian Garden Commercial Community Unit Plan on property described as;

That part of the SE 1/4, Section 18, Township 28 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas described as commencing at the S.W. Corner of the SE 1/4, of said SE 1/4; thence N 00 degrees 14'11"E, along the west line of the SE 1/4 of said SE 1/4, 60.00 feet to the place of beginning; thence continuing N 00 degrees 14' 11"E, along said west line, 529.90 feet; thence S 89 degrees 59'31"E, parallel with the south line of said SE 1/4, 512.08 feet; thence S 00 degrees 28'01"W, parallel with the east line of said SE 1/4, 509.92 feet; thence N 89 degrees 59'31"W, parallel with the south line of said SE 1/4, 117.02 feet; thence S 84 degrees 18'10"W, 201.16 feet to a point 192.92 feet east of the place of beginning; thence N 89 degrees 59'31"W, parallel with south line of said SE 1/4, 192.92 feet to the place of beginning.

That part of the SE 1/4, Section 18, Township 28 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas described as commencing at the S.W. Corner of the SE 1/4, of said SE 1/4; thence S 89 degrees 59'31"E, along the south line of said SE 1/4, 709.70 feet; thence N 00 degrees 28'01"E, parallel with the east line of said SE 1/4, 80.00 feet to the place of beginning; thence N 89 degrees 59'31"W, parallel with the south line of said SE 1/4, 200.00 feet thence N 00 degrees 28'01"E, parallel with the east line of said SE 1/4, 509.92 feet; thence S89 degrees 59'31"E, parallel with the south line of said SE 1/4, 125.13 feet to a point on a curve said curve having a radius of 75.00 feet and a central angle of 92 degrees 52'27", lying south of a chord, having a bearing of S 42 degrees 38'13"E and a length of 108.69 feet; thence along said curve, an arc distance of 121.57 feet to a point 429.92 feet north of the place of beginning; thence S 00 degrees 28'01"W, parallel with the east line of said SE 1/4, 429.92 feet to the place of beginning. Generally located North of 47th Street South and west of Rock Road

and

- 8b. **Case No.: ZON2003-71 (Associated with CUP2003-64 DP272)** – Hoa Van & Susie X. Nguyen (owners/applicants); Ruggles & Bohm, P.A., c/o Chris Bohm (agent) Request Sedgwick County Zone change from "SF-20" Single-family Residential and "RR" Rural Residential to "NR" Neighborhood Retail and "LC" Limited Commercial on property described as;

CUP LEGAL

That part of the Southeast Quarter of Section 18, Township 28 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas described as commencing at the Southwest corner of the Southeast Quarter, of said Southeast Quarter; thence N 00 degrees 14'11" E, along the west line of the Southeast Quarter of the said Southeast Quarter, 60.00 feet to the place of beginning; thence continuing N 00 degrees 14'11" E, along said west line, 529.90 feet; thence S 89 degrees 59'31" E, parallel with the east line of said Southeast Quarter, 509.92 feet; thence N 89 degrees 59'31" W, parallel with the south line of said Southeast Quarter, 117.02 feet; thence S 84 degrees 18'10" W, 201.16 feet to a point 192.92 feet east of the place of beginning; thence N 89 degrees 59'31" W, parallel with the south line of said Southeast Quarter, 192.92 feet to the place of beginning.

That part of the Southeast Quarter of Section 18, Township 28 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas described as commencing at the Southwest corner of the Southeast Quarter of said Southeast Quarter; thence S 89 degrees 59'31" E, along the south line of said Southeast Quarter, 709.70 feet; thence N 00 degrees 28'01" E, parallel with the east line of said Southeast Quarter, 80.00 feet to the place of beginning; thence N 89 degrees 59'31" W, parallel with the south line of said Southeast Quarter, 200.00 feet; thence N 00 degrees 28'01" E, parallel with the east line of said Southeast Quarter, 509.92 feet; thence S 89 degrees 59'31" E, parallel with the south line of said Southeast Quarter, 125.13 feet to a point on a curve said curve having a radius of 75.00 feet and a central angle of 92 degrees 52'27", lying south of a chord, having a bearing of S 42 degrees 38'13" E and a length of 108.69 feet; thence along said curve, an arc distance of 121.57 feet to a point 429.92 feet north of the place of beginning; thence S 00 degrees 28'01" W, parallel with the east line of said Southeast Quarter, 429.92 feet to the place of beginning.

LEGAL DESCRIPTION FOR NR ZONING DISTRICT:

That part of the SE1/4, Section 18, Township 28 South, Range 2 East of the 6 th P.M., Sedgwick County, Kansas described as commencing at the S.W. Corner of the SE1/4, of said SE1/4; thence N00 degrees 14'11"E, along the west line of the SE1/4 of said SE1/4, 60.00 feet to the place of beginning; thence continuing N00 degrees 14'11"E, along said

west line, 529.90 feet; thence S89 degrees 59'31"E, parallel with the south line of said SE1/4, 462.08 feet; thence S00 degrees 28'01"W, parallel with the east line of said SE1/4, 509.92 feet; thence N89 degrees 59'31"W, parallel with the south line of said SE1/4, 67.02 feet; thence S84 degrees 18'10"W, 201.16 feet to a point 192.92 feet east of the place of beginning; thence N89 degrees 59'31"W, parallel with the south line of said SE1/4, 192.92 feet to the place of beginning.

LEGAL DESCRIPTION FOR LC ZONING DISTRICT:

That part of the SE1/4, Section 18, Township 28 South, Range 2 East of the 6 th P.M., Sedgwick County, Kansas described as commencing at the S.W. Corner of the SE1/4, of said SE1/4; thence S89 degrees 59'31"E, along the south line of said SE1/4, 709.70 feet; thence N00 degrees 28'01"E, parallel with the east line of said SE1/4, 80.00 feet to the place of beginning; thence N89 degrees 59'31"W, parallel with the south line of said SE1/4, 250.00 feet; thence N00 degrees 28'01"E, parallel with the east line of said SE1/4, 509.92 feet; thence S89 degrees 59'31"E, parallel with the south line of said SE1/4, 175.13 feet to a point on a curve said curve having a radius of 75.00 feet and a central angle of 92 degrees 52'27", lying south of a chord, having a bearing of S42 degrees 38'13"E and a length of 108.69 feet; thence along said curve, an arc distance of 121.57 feet to a point 429.92 feet north of the place of beginning; thence S00 degrees 28'01"W, parallel with the east line of said SE1/4, 429.92 feet to the place of beginning. Generally located North of 47th Street South and West of Rock Road.

BACKGROUND: The applicant is requesting to create the Asian Garden Commercial Community Unit Plan on an 8.46 acre unplatted tract located on the north side of 47th Street South, approximately 600 feet west of Rock Road. The applicant is also requesting to rezone the subject property from "SF-20" Single Family and "RR" Rural Residential to "NR" Neighborhood Retail and "LC" Limited Commercial.

The character of the surrounding area is dominated by McConnell Air Force Base and the adjacent Boeing and Cessna aircraft manufacturing plants, all of which are located north and west of the subject property. The properties to the south and east of the subject property are predominately used for agriculture, with pockets of residential development on large lots. The immediately adjoining properties are currently used for agriculture and are zoned either "SF-20" Single Family or "RR" Rural Residential with the exception of the properties immediately at the corner of 47th Street South and Rock Road, which are zoned "LC" Limited Commercial.

The applicant proposes to develop 2.23 acres with uses permitted in the "LC" Limited Commercial zoning district and 6.12 acres with uses permitted in the "NR" Neighborhood Retail zoning district. A maximum of 109,153 square feet in a maximum of 17 commercial buildings is proposed. A maximum building height of 80 feet is proposed, with the exception of Parcel 1 where building height is proposed to be limited to 35 feet. Three access points to 47th Street South are proposed, with two full movement drives and one limited to right turns only. Building setbacks of 35 feet are proposed along 47th Street South and where adjacent to residential zoning. Signs are proposed to be permitted per the Sign Code of the City of Wichita with additional restrictions on off-site and portable signs, window display signs, and flashing signs. Ground signs are proposed to be monument type with a maximum height of 20 feet. Landscaping is proposed per the Landscape Ordinance of the City of Wichita. A 6-8 foot high screening wall is proposed where adjacent to residential zoning.

Due to the subject property's close proximity to McConnell Air Force Base, planning staff reviewed the request with Air Force staff, and as proposed, the request significantly complies with the Air Force's Air Installation Compatible Use Zone (AICUZ) study. From the review, planning staff has determined that two aspects of the request are incompatible with operations at the Air Force Base and has recommended conditions of approval to address these incompatibilities. First, the applicant proposes that buildings be permitted to be 80 feet in height on Parcels 2 and 3; however, tall structures should be limited in close proximity to the Air Force Base. Therefore, planning staff recommends that all structures on the subject property be limited to 35 feet in height. Second, the applicant proposes all uses permitted in the "NR" Neighborhood Retail and "LC" Limited Commercial zoning districts, which includes uses discouraged by the AICUZ study such as residential uses, motels, hospitals, nursing homes, educational facilities, and cultural facilities; therefore, planning staff recommends that these uses not be permitted on the subject property.

CASE HISTORY: The subject property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-20" & "RR"	Agriculture
SOUTH:	"SF-20"	Agriculture
EAST:	"LC"	Agriculture
WEST:	"SF-20"	Agriculture

PUBLIC SERVICES: The site has access to 47th Street South, a four-lane arterial street. Traffic volumes on 47th Street South are approximately 7,400 vehicles per day and are projected to increase to approximately 13,200 vehicles per day in the 2030 Transportation Plan, which recommends 47th Street South remain a four-lane arterial street. As proposed, commercial development on the subject property would generate sufficient traffic in the peak hour to trigger the requirement for a traffic study to determine the necessary street improvements to handle the additional traffic generated by the subject property. The traffic study will need to review and the street improvements will need to be approved through the platting process. The site is not currently served by water or sewer service, and the method of providing water and sewer service to the subject property will need to be reviewed and approved through the platting process.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide in the Comprehensive Plan indicates that the site is appropriate for "Rural" development. The "Rural" designation is intended to accommodate agricultural uses and large lot residential subdivisions; however, the subject property is near the intersection of two heavily traveled arterial streets, adjoins commercially zoned property, and is located near the Air Force Base where residential development is discouraged. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial uses be located adjacent to arterial streets; in compact clusters; and have site design features that limit noise, lighting, and other aspects of commercial activity that may adversely impact surrounding residential areas. The proposed commercial development conforms to the Commercial Locational Guidelines.

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

- A. APPROVE the zone change (ZON2003-00071) to "NR" Neighborhood Retail and "LC" Limited Commercial subject to platting within one year.
- B. APPROVE the Community Unit Plan (DP-272 Asian Garden Commercial CUP) subject to platting within one year and subject to the following conditions:
 1. The maximum building height on all parcels shall be 35 feet.
 2. The permitted uses on Parcels 1 and 2 shall be all uses permitted in the "NR" zoning district except that the following uses shall be prohibited: residential uses, correctional placement residence, day care, group home, library, parks and recreation, school, and bed and breakfast inn.
 3. The permitted uses on Parcel 3 shall be all uses permitted in the "LC" zoning district except that the following uses shall be prohibited: residential uses, college or university, convalescent care facility, correctional placement residence, day care, government service, group home, hospital, library, parks and recreation, school, bed and breakfast inn, hotel or motel, and recreation and entertainment.
 4. Prior to publishing the resolution establishing the zone change, the applicant shall record a document with the Register of Deeds indicating that this tract (referenced as DP-272 Asian Garden Commercial CUP) includes special conditions for development on this property.
 5. The applicant shall submit four 24" x 36" and one 11" x 17" revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is dominated by McConnell Air Force Base and the adjacent Boeing and Cessna aircraft manufacturing plants. The adjacent properties located immediately at the corner of 47th Street South and Rock Road are zoned "LC" Limited Commercial. The request is consistent with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is currently zoned "RR" Rural Residential and "SF-20" Single-Family Residential. Due to the site's proximity to the McConnell Air Force Base where noise significantly impacts adjacent uses, use of the subject property for residential uses permitted by the current zoning is discouraged.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The recommended conditions of approval, including the limitation on the proposed uses, and the applicant's proposed signage restrictions, architectural control, and landscaping requirements should mitigate detrimental affects on surrounding properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Wichita Land Use Guide in the Comprehensive Plan indicates that the site is appropriate for "Rural" development. The "Rural" designation is intended to accommodate agricultural uses and large lot residential subdivisions; however, the subject property is near the intersection of two heavily traveled arterial streets, adjoins commercially zoned property, and is located near the Air Force Base where residential development is discouraged. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial uses be located adjacent to arterial streets; in compact clusters; and have site design features that limit noise, lighting, and other aspects of commercial activity that may adversely impact surrounding residential areas. The proposed commercial development conforms to the Commercial Locational Guidelines.
5. Impact of the proposed development on community facilities: The applicant will be required to make street improvements and provisions for water and sewer service through the platting process. These improvements should mitigate any negative impacts of the proposed development on community facilities.

DATE: February 4, 2004

TO: Metropolitan Area Planning Commission

FROM: Scott Knebel, Senior Planner, Current Plans

SUBJECT: CUP2003-64 (DP-272) & ZON2003-71 – Asian Gardens Commercial CUP and associated zone change to "NR" & "LC". Generally located north of 47th Street South and west of Rock Road.

After reviewing the staff report, the applicant's agent contacted planning staff and indicated that the proposed Asian Gardens Commercial CUP would contain one single family residence on Parcel 1 along with numerous commercial structures clustered around an "Asian Garden" containing landscaping, a reflection pond, and a path system. The applicant requested that planning staff

clarify that the proposed "Asian Garden" would not be prohibited by the recommended condition that parks and recreation not be permitted on the subject property. The applicant also requested that planning staff amend the recommendation to allow one single-family residence on Parcel 1.

The proposed "Asian Garden" is a landscaping amenity to a commercial development and not park and recreation, and therefore, would not be prohibited by the recommended provisions of the CUP. Allowing one single-family residence on the subject property is consistent with the recommendations of the AICUZ study; therefore, planning staff hereby amends recommended condition of approval #2 as follows:

2. The permitted uses on Parcels 1 and 2 shall be all uses permitted in the "NR" zoning district except that the following uses shall be prohibited: residential uses, except that one single family residence on Parcel 1 shall be permitted, correctional placement residence, day care, group home, library, parks and recreation, school, and bed and breakfast inn.

SCOTT KNEBEL Planning staff

HERNANDEZ Is this property directly in the flight path for McConnell?

KNEBEL There is a crosswind runway, but the main runway actually runs from southwest to northeast, and the Airport Overlay District, which is designed to protect the Air Force Base from incompatible uses, is over a mile from this property.

MCKAY Do you know if this property is within the noise overlay off of the south end of McConnell Air Force Base?

KNEBEL You mean what decibel levels are expected for this property?

MCKAY No, there is a definite federal regulations with a cone off of the south end and the north end of McConnell. Is it inside that?

KNEBEL No, it is not inside that. There are noise contours that go around the edges.

MCKAY There are definite rules and regulations that say what you can and cannot do inside of that cone.

KNEBEL It is outside of that.

DUNLAP Scott, the crosswind runway hasn't been used since after World War II.

MCKAY Also, for the record in the handout today there are a number of protest petitions in reference to this project.

CHRIS BOHM Ruggles and Bohm we are in agreement with staff.

MORRIS SHORT, 7425 E. 47th Street South Wichita KS 67037 My wife Sandy and I live across the street from this proposed Asian Community. Several years ago we purchased a nice piece of property surrounded by farm ground, and we have some real nice neighbors. I think what is proposed will hurt my property values considerably, maybe as much as 25%. I had two people who wanted first chance at my property if and when I decided to sell it and retire. When I advised one of them of this proposal they are no longer interested in my property. It is hard to tell exactly what this developer is planning. If anybody is familiar with Greenwich Road, there is a nice temple that has multi-colored statues out front, and I wouldn't want to be living around it. Also, according the Wichita Police Department, there are at least 18 Asian gangs in Wichita, and I could foresee some of that activity going on over there, and that is one of my concerns. Paul Harvey today said that in the last 5 years 300 million acres of farm ground has been black topped over. I think we are going to run out of farm ground if that keeps up.

HENTZEN How many acres do you own?

SHORT The deed says 6.99 acres.

JOE WIGGINS, 7424 E. 47th St. S., Wichita, KS 67037 I am wondering about the sewer. Where it is coming from, and who will be paying for it, and what will this do as far as our water pressure? Being that it is going to be a commercial development, I feel they will be using some. I think they will disturb our community and neighborhood. I would like to know what this wording "Community Unit" means?

MCKAY That means they have to have a designated plan upfront so you know what it is.

MILLER It is the Community Unit Plan Regulation. It requires them to indicate what their uses are and how big and that sort of thing.

MCKAY Here is an additional copy of the Community Unit Plan.

SHORT Reading this material, you have pretty well already passed this development. There is not much we can do but voice our opinion.

MCKAY Also, for the record, there are protest petitions that represent 20% or better of the land around this property, so that will make a difference when this goes to County Commission. Do you folks understand that?

KNEBEL Since the protest petition represents over 20% of the land area within a 1,000 foot radius that will require a 3/4 majority vote for the County Commission to approve it, which with the County Commission that will be 4 affirmative votes instead of 3.

MCKAY So your petitions will go forward to the County Commission, and you will still have a voice there.

SCHLEGEL Do we know when this will be going to County Commission?

MILLER This case will be going forward to County Commission on March 3, 2004.

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

DUNLAP moved, **HERNANDEZ** seconded the motion, and it carried (7-0).

❖ **PLANNING COMMISSION ITEMS**

9. **Case No.: DR2004-01** – Request Amendment to the April 19, 2001 Edition of the Wichita-Sedgwick County Unified Zoning Code (UZC) To Article III-B.14.e and Article IV-B, pertaining to outdoor portable storage containers and to screening requirements

**WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT**

DATE: January 27, 2004
TO: Metropolitan Area Planning Commission
FROM: Donna Goltry, Principal Planner, Current Plans
SUBJECT: Proposed Unified Zoning Code Amendment for Portable Storage Containers

Regulations for the placement and use of portable storage containers were added to the Unified Zoning Code (“UZC”) in 2001. The suppliers of these units have requested amendments to allow permanent placement of the containers and to lessen the restrictions on where the units can be placed on properties.

Currently, the containers must be within ten feet of the principal building in addition to meeting side and rear setback requirements and being a minimum of 20 feet from any abutting property zoned TF-3 or more restrictive. The proposed changes would allow the containers to be more than ten feet from the building, but only if the containers were screened in accordance with the UZC, and from view of residential zoning, or arterial streets by landscaping, berms, or by other nonresidential buildings. Also it increases the maximum size of units from 200 to 320 square feet for properties where the principal buildings are less than 3,200 square feet.

Currently, portable storage containers can only remain on an “LC” Limited Commercial property for a total of 120 days and must be removed for 60 days prior to being placed in the same location again. This would allow permanent placement in “LC”.

Additionally, the Office of Central Inspection (Central Inspection) has suggested licensing suppliers of the containers operating within the city instead of regulating the placement of individual portable storage containers. The proposed amendment would eliminate the requirement for the owner of the container to notify the zoning enforcement officer within 72 hours of placement of a portable storage container. Instead, Central Inspection would license the providers of the portable storage containers. Those suppliers who failed to meet code requirements could have their licenses reviewed by the Board of Code Standards and Appeals for possible suspension or revocation.

For portable storage containers purchased by individual businesses rather than leased, enforcement would be from observed or reported violations being reported and would rely on the standard UZC enforcement remedies within the city. This would be the enforcement mechanism for all portable storage containers in the unincorporated areas of Sedgwick County.

A copy of the proposed amendment with delineated changes and a more detailed memo from Central Inspection is attached. All district advisory boards have reviewed the proposed changes prior to presenting it to MAPC for consideration. Minutes of the DAB meetings also are attached.

Delineated

December 19, 2003

Proposed UZC Changes for Portable Storage Containers

Art. III-B.14.e. SPECIAL LC DISTRICT REGULATIONS. The following special regulations shall apply to property in the LC district.

- (1) **Large Projects** . Projects in the LC district on sites of six acres or more shall be subject to the community unit plan (CUP) standards of Sec. III-C.2.
- (2) **Outdoor display**. Merchandise which is for sale within a building may be displayed in areas immediately adjacent to and within ten feet of the building, subject to the following standards.

- (a) No portion of the display shall be on publicly owned property unless the applicant shall first have obtained appropriate approval for such use from the Governing Body.
- (b) No required off-street parking space or loading area shall be utilized for display.
- (c) No food or drink shall be displayed outside the building except in accordance with standards and prior written approval of the Wichita-Sedgwick County Health Department; outdoor service of food and drink accessory to the service of food and drink within a building is permitted without limitation as to distance from the building, in accordance with the provisions of Sec. III-D.6.w of this Code and all other applicable standards and licensing requirements.
- (d) These provisions shall in no way be deemed to authorize the outdoor display of motor vehicles, rental trailers, rental equipment, used furniture, used appliances, used plumbing, used housewares, used building materials, or similar items, except as such may otherwise be authorized under an appropriate section of the Code.
- (e) Christmas tree and associated sales may be conducted on property zoned LC even though no building shall exist

(3) Outdoor storage. Storage of merchandise available for sale shall be allowed outside of an enclosed building in the LC district only in compliance with the following standards.

- (a) **Fence or wall enclosure.** The area used for outdoor storage shall be enclosed by a fence or wall not less than six feet in height nor less than the height of the merchandise to be screened except for outdoor storage within a portable storage container when subject to the special provisions contained herein. The fence or wall shall be comprised of material capable of screening the merchandise from view. One opening, not exceeding ten feet in width, may be left open during business hours, but must be gated and capable of screening merchandise from view when closed. When the material of the enclosure is not of the same general material as the main building, screening as required by Sec. IV -B.3 and landscaping as approved by the Zoning Administrator shall be provided and maintained outside the enclosure. For outdoor storage areas within a CUP the fence or wall screening provisions may be modified provided that a design plan is submitted with the CUP application and such plan is deemed by the Planning Commission to provide an acceptable environment for the surrounding area based on the physical characteristics of the property, distances from adjacent properties and public streets, and the type of merchandise to be stored.
- (b) **Size of storage area.** The enclosure around the storage area shall be attached to the principal building, and the area within such enclosure shall not exceed ten percent of the floor area occupied by the principal use within the building. Such enclosure shall comply with the same setback as is required for the main building. The area within the enclosure shall be calculated as floor area in determining the number of required off-street parking spaces. Outdoor storage of between ten percent and 20 percent may be allowed upon application and approval of a Conditional Use processed in accordance with Sec. V -D of these regulations.
- (c) **Conflicting provisions.** The provisions of this section shall not be deemed to prevent the display of merchandise required in the servicing of vehicles when located on service islands at filling stations, nor shall it supersede any of special conditions of approval imposed on development projects, plans or permits.
- (d) **Exemptions.** These outdoor storage requirements shall not apply to holiday tree sales and associated temporary activities.
- (e) **Temporary placement of portable storage containers in LC.** On any zoning lot located in the LC zoning district, one or more portable storage containers may be permitted as accessory storage to the principal use(s) provided the following conditions are met:

- ~~1) The portable storage container shall be limited to a maximum of no more than 120 days continuous use, with a required separation of 60 days between placements.~~
- 1) ~~2)~~ The floor area contained in the portable storage container shall be limited to no more than ten percent of the floor area of the principal use and be considered part of the total outdoor storage allowed on any site, except that for principal buildings with less than ~~3,200~~ ~~2,000~~ square feet in size, the container may be up to 320 ~~200~~ square feet in size. In buildings with multiple tenants, no single user shall be permitted more than ten percent of the floor area of its use.
- 2) ~~3)~~ Portable storage containers shall be located at least five feet behind the wall line of the principal building and be subject to screening provisions specified herein.
- 3) ~~4)~~ Portable storage containers shall be required to meet side and rear setback requirements for buildings; ~~shall be separated by no more than ten feet from the principal building, except when screened in accordance with the screening standards Article IV.B.3, or when screened from view of a residential zoning district or arterial street by landscaping, berms, or by other non-residential buildings;~~ and

shall be located at least 20 feet from any abutting property zoned TF-3 or more restrictive.

- 4) ~~5)~~ Required screening may consist of the wall(s) of the portable storage container if the container has no openings or signs facing a public street or adjacent property in a residential zoning district and if the wall(s) match the predominant material and colors of the existing structure or are an earth tone color that complements and appears inconspicuous against the color of the principal building, or other screening materials as permitted in the Code per Sec. IV -B.3.
- 5) ~~6)~~ Signage on portable storage containers shall be limited to one sign per container, not exceeding two square feet. The signage shall not be visible from any abutting street or any adjacent property in a residential zoning district.
- 6) ~~7)~~ Vertical stacking of portable storage container and stacking of any other materials or merchandise on top of any portable storage container shall be prohibited. No running gear shall be left underneath any portable storage container.
- 7) ~~8)~~ No portable storage container shall be placed or located on a required parking space, circulation aisle/lane, or fire access lane.
- 9) ~~Within 72 hours of the placement of any portable storage container, the owner of the container shall notify the Zoning Administrator, on a form furnished for said purpose by the office of the Zoning Administrator, of the location of said container.~~

Exception: Portable storage containers temporarily placed on zoning lots during a period of ongoing construction on the same zoning lot are exempted from the above requirements.

Art. IV -B. SCREENING AND LIGHTING

1. **Purpose.** The screening and lighting standards of this section are intended to protect residential districts from adverse visual impacts associated with nonresidential development.
2. **Applicability.** Screening as required by Secs. IV-B.3.a and IV-B.3.b shall be provided as specified in Sec. IV-B on all properties developed for all uses except single family and duplex when such uses are established on property within, adjoining, or across a street or alley from residential zoning districts, except when separated by a major barrier.
3. **Screening Standards.** Screening may be provided by decorative fencing, evergreen vegetation, or landscaped earth berms. Fences shall be not less than six nor more than eight feet in height except that within 20 feet of street right-of-way, the height shall be reduced to three feet. When evergreen vegetation or landscaped earth berms are proposed for screening, a landscape plan shall be submitted to the Planning Director and the Zoning Administrator for review and approval. Screening shall be provided in accordance with the following standards:
 - a. **Screening along interior side and rear yards.** Screening of nonresidential uses shall be provided along all side or rear lot lines adjoining or across an alley from a residential zoning district, and screening of multifamily and manufactured home park uses shall be provided along all side or rear lot lines adjoining or across an alley from property zoned TF-3 or more restrictive. Solid screening with fencing or evergreen vegetation may be omitted for multi-family, manufactured home park, office and institutional uses along any side or rear lot line, or portion thereof whenever such development provides at least a 15-foot-wide landscape buffer adjacent to such lot line or portion thereof. The buffer shall provide a minimum of one tree and five shrubs for every 30 lineal feet of adjacent property line or equivalent, with at least one-third of the trees being evergreens, or applicable standards of the City of Wichita Landscape Code if these are more stringent.
 - b. **Screening of mechanical equipment and outdoor work and storage areas.**
 - (1) **Nonresidential screening from ground level view.** Except along local or collector streets bounded on both sides by the LI or GI district, screening shall be provided on all nonresidential development sufficient to reasonably hide from ground level view all loading docks, trash receptacles, ground level heating, air conditioning and mechanical equipment, free-standing coolers or refrigeration units, outdoor storage including portable storage containers, outdoor work areas or similar uses from any residential zoning district or public street right-of-way located within 150 feet of such uses.
 - (a) Screening for portable storage containers in the LC district may be satisfied by meeting the requirements in Sec. III-B.14.e(3)(e).

- (b) Screening for portable storage containers in the GC and more intensive districts may consist of the wall(s) of the portable storage container if the container has no openings or signs facing a public street or adjacent property in a residential zoning district and if the wall(s) match the predominant material and colors of the existing structure or are an earth tone color that complements and appears inconspicuous against the color of the principal building when these conditions are met:

- 1) Located at least five feet behind the wall line of the principal building that faces a street,
- 2) Meet side and rear setback requirements for buildings, are separated by no more than ten feet from the principal building, except when screened from view of a residential zoning district or arterial street by landscaping, earth berms, or by other non-residential buildings, and are located at least 20 feet from any abutting property zoned TF-3 or more restrictive, or

If these conditions are not met, screening shall be provided with a screening wall or fence as required in this section of the Code.

- (2) **Nonresidential screening from roof-mounted equipment.** Except along local or collector streets bounded on both sides by the LI or GI district, roof-mounted heating, air conditioning and mechanical equipment on new buildings located within 150 feet of a residential zoning district or public street right-of-way shall be either screened from ground level view or set back a minimum of five feet from the top edge of the building wall for every foot in height above the height of the wall.

- (3) **Trash receptacles in multi-family and manufactured housing district.** Screening shall be required for trash receptacles on properties developed for multifamily or manufactured home park uses from any residential zoning district or public street right-of-way located within 150 feet of the receptacle.

- c. **Driveway openings on alleys.** Whenever properties are developed adjacent to an alley, screening may be omitted at driveways deemed essential for ingress and egress from the alley to uses established on the property.
- d. **Use of screening areas.** Landscaped yards required by this section shall not be used for driveways, parking, loading, outdoor storage, outdoor display, work areas, recreational areas, signs or similar uses.
- e. **Materials used in screening walls and fences.** Screening walls and fences shall be constructed of standard building materials customarily used for wall and fence construction such as brick, stone, concrete masonry, stucco, concrete or wood.
- f. **Deferral of screening requirements.** If screening exists on either side of a developing property line that meets or exceeds the standards of this section, additional screening shall not be required. However, if at any time the existing screening fails to meet the requirements of this section, compliance shall be attained by the property owners in the less restrictive zoning district.

DONNA GOLTRY Planning staff presented staff report.

DARYL NIKKEL, HOC Storage Systems, 3888 N. Mead, Wichita, KS 67204 We are in support of the changes and we have worked with staff and Kurt Schroeder on this amendment. The District Advisory Boards have approved this as well.

KURT SCHROEDER, OCI Over the past three years, since we first put these regulations in place, we have really gotten a lot fewer complaints, mostly because of the requirement making everyone paint their units and making them a nice color. Generally speaking, at the D.A.B. meetings during the last round, there were a lot of complaints, and we saw a lot of ugly units and things like that. At this time, most of them are looking pretty good.

MCKAY We are taking away the time limit?

SCHROEDER Yes.

MCKAY In the old one we had to have foundations if they were going to be there any longer for a certain period of time has that been taken out of this?

SCHROEDER That is a Building Code requirement - it was never in the Zoning Code.

MCKAY I am saying, is that going to be a requirement?

SCHROEDER No.

MCKAY So that will come out of the Building Code requirement?

SCHROEDER Yes, they can stay there year around not on a permanent foundation.

MCKAY That was one of the requirements- was the foundation.

DUNLAP By changing this and making it a licensing effort, there will be a bond and you will be selling licenses to the applicants.. Do you have any requirements for that license.

SCHROEDER Yes. We have the draft ordinance and it has been circulated to the D.A.B.'s as well. It is basically very similar to the Sign Code licensing. They would have a review by the Board of Code Standards and Appeals on their License if they violated the Code.

DUNLAP Have you set a fee structure yet?

SCHROEDER I believe it will be \$60.00 per year.

BARFIELD If you are going to licensing, is that going to require additional manpower to enforce this, do you have the manpower?

SCHROEDER We have to enforce it now, so whenever there is a violation or complaint we have to issue notices and respond to it. We like the licensing better. That was kind of a trade off because it really puts those license holders on notice, and if they have to go to a hearing on their license, it is pretty effective in providing enforcement. You don't go to court and do all those kinds of things necessarily. It probably means less manpower.

BARFIELD Basically you only respond to complaints.

SCHROEDER We do respond to complaints, and if we are out and see a container out in the middle of lot somewhere where it shouldn't be, we will start an enforcement there.

MCKAY What he is saying is that if they have to register and get permit it would be easier to track, then it would be a hit and miss type of situation.

SCHROEDER We did have that requirement that they submit a permit, but that was difficult for them, numbers and things like that. I think the licensing is a stronger way to make sure they comply.

DUNLAP Having been a license holder in the sign business I can tell you we did a lot of things that I would normally expect the City to do but we did it to protect our license. Because if that license gets challenged or taken away they are out of business.

BARFIELD I have had people from OCI approach me to put a fine on me for a sign that I did not own.

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

MITCHELL moved, **HENTZEN** seconded the motion, and it carried (8-0).

10. Other matters/adjournment.

MITCHELL This may not be the appropriate moment but I want to comment Agenda Item 6 that plan on Webb Road Greenwich and Pawnee that County yard issue. I do think we ought to talk about this business of 5.99 instead of 6.0 instead of 5.8 or whatever it is. The agent has already gone but I was going to ask him how much he would have had to fudge that line between those two parcels that he divided in order to make 6.0. It appears to me that the C.U.P. is a lot easier for everyone to understand we have a drawing in hand and I think we ought not to put an end run around that provision.

MCKAY That was the point I was trying to make. Once we quit using the Overlay as a C.U.P. tool.

MILLER We do as much encouragement that direction as we can. We have some people who are very legalistic and if they are 5.99 they are not going to do it.

MCKAY The only thing about it is this all you have to do is if it is that close have them provide you with a survey proofing it is 5.99 because I bet if you did a survey on this piece of property nobody in this room we are arguing over little bitty things.

MILLER The strongest signal that could be sent is the next time that we have one of these is that they have to do some redo's or additional things that would have complied with a C.U.P. that would be that strongest signal that this Commission could send to the developers.

MITCHELL For the record, if a application comes in again where that device is used I will recommend against approval.

MCKAY I think it is a mind set of all of us. We have been looking at Overlays for 4-5 years and so that is easy to say we will do an Overlay and add and subtract a bunch of stuff that is on the zoning. But if you go to a C.U.P. I would have like to have seen that whole piece of ground a C.U.P. saying this is what we are going to do up here and this is what we are going to do with this Parcel down here. Even though the ownership is the same the Single-family on one side and the commercial going right up against it. He said we are going to put up a 6-foot fence but the building is going to be 25 feet high. Maybe that is going backwards as far as what some people might be saying but I agree with Mitch let's have some feeling from the rest of you.

DUNLAP This kind of skirts the regulation by slicing the line does not feel good to me either.

SCHLEGEL Should we lower the limit?

MITCHELL It might discourage someone from buying 5.99 acres instead of 6.0 and I sure don't want to see that started.

SCHLEGEL Do we want to lower the limit? It is now 6.0 acres.

DUNLAP I don't think so.

SCHLEGEL Then how do we communicate to an applicant? That is the standard now in the Code.

MILLER Again, I think the strongest message is that when you get 5 1/2 or whatever the magic number is that is under 6.0 if the commission then requires that the Protective Overlay reflect what would have been in a C.U.P. that will send a very strong message to people who are paying attention.

MCKAY Let's take this as an example today with the 5.98 and we would have said what would have been the requirements for a C.U.P. with an Overlay.

MILLER We picked up most of the things that would have been in a C.U.P. There was like a 35-foot setback that would have been required. There also would have been some signage stuff that would have been required additional to what was in the Protective Overlay. Although he did restrict it to "NR" there is only a 2-foot difference. There are some tweaks, frankly we are used to this Commission going the other way so we were trying to be more flexible.

MCKAY It was so obvious today that they played a game.

MILLER I suppose when the plat comes in if it turns out that he plats more than that then there maybe a way to review that.

MCKAY All he has to do is drop that one arm down 2-feet and go across the east to get his 5.99 that is the game I am saying is being played.

MILLER I am thinking of one agent in particular that is very legalistic about things and if it is not exactly black and what then that is what they are going to ask for.

MCKAY We can always have the tendency to change it a little bit.

DUNLAP They may not want to bring the second one to us if they do it to us once.

MILLER This discussion helps us to get a better feel.

DUNLAP Dale you can now say that we are paying attention to that item.

The Metropolitan Area Planning Department informally adjourned at 2:43 p.m.

State of Kansas)
Sedgwick County) ^{SS}

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

Given under my hand and official seal this _____ day of _____, 2004.

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

(SEAL)