

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

October 23, 2008

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, October 23, 2008, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Darrell Downing, Chair; G. Nelson Van Fleet., Vice Chair; Don Anderson; David Foster; Bud Hentzen; Hoyt Hillman; John W. McKay, Jr.; Ronald Marnell; M.S. Mitchell; Don Sherman and Debra Miller Stevens. David Dennis; Michael Gisick and Bill Johnson were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner and Maryann Crockett, Recording Secretary.

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1. Approval of the October 23, 2008 MAPC meeting minutes.

MOTION: To approve the October 9, 2008 Minutes, as amended.

MITCHELL moved, **HENTZEN** seconded the motion, and it carried (9-0-2).
HILLMAN and **SHERMAN** abstained.

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2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**
Items may be taken in one motion unless there are questions or comments.

- 2-1. **SUB 2008-47: One-Step Final Plat -- CLEARIDGE ADDITION**, located on the south side of Pawnee and west of 143rd Street East.

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

STAFF COMMENTS:

- A. City Water Utilities Department has required the applicant to extend water and sewer (mains and laterals) to all lots being platted.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the drainage plan subject to a drainage easement platted between Lots 34 and 35, Block 1. A revised lot grading plan is needed. County Engineering has requested the minimum pad and lowest floor elevations denoted on the plat. The minimum pad elevation around ponds 1, 2 and 3 are accepted. The minimum pad elevation along the northwest channel needs to be set three feet above the upstream cross-section, not the downstream cross-section. Lots 31, 32, 51, 52 and 53 need to note lowest floor, not minimum pad until the lots are removed from the flood plain. The existing flood plain should be noted on the plat.
- D. Reserve K needs a description in the plattor's text.
- E. Traffic Engineering has approved the access controls. The plat proposes two street openings along Pawnee and complete access control along the remaining street frontage.

- F. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- G. The paving guarantee shall include the installation of the temporary turnarounds.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. The applicant shall submit a covenant that provides four (4) off-street parking spaces per lot that abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- K. GIS has requested that "Spring Hollow," located along the east side of Block 6, be changed to "Willow Oak."
- L. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lot 47, Block 7. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. The Subdivision Committee has approved a modification.
- M. 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.
- N. On the final plat tracing, the MAPC signature block needs to reference "Darrell Downing" as Chairman.
- O. 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.
- P. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- 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 National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Westar Energy has requested additional utility easements to be platted on this property.
- W. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

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

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

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- 2-2. SUB 2008-76: One-Step Final Plat -- McPEAK 2ND ADDITION**, located east of Tyler Road and south of 2nd Street.

NOTE: This is a replat of a portion of the McPeak Addition in addition to unplatted property to the south.

STAFF COMMENTS:

- A. Wichita Water Utilities Department has advised that sewer is available. Water is only available to Lot 2 and a petition for future water for Lot 1 is needed. In lieu of assessment fees are also needed.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan subject to conditions. A 10-foot drainage easement needs to be platted along the south property line. The drainage plan shall denote elevations along the easement.
- D. On the final plat tracing, the MAPC signature block needs to reference "Darrell Downing" as Chairman.
- E. 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.
- F. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- G. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants

required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

- H. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- I. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- J. 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.
- K. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- L. Perimeter closure computations shall be submitted with the final plat tracing.
- M. 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.
- N. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

FOSTER noted that the vote should be 5-0 (not 7-0).

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

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

2-3. SUB 2008-77: One-Step Final Plat -- THE MOORINGS PLAZA II ADDITION, located south of 53rd Street North and on the west side of Meridian.

NOTE: The site has been approved for a zone change (ZON 2008-07) from SF-5 Single-family Residential to LC Limited Commercial and NR Neighborhood Retail. The Moorings Plaza II Community Unit Plan (CUP 2008-05, DP-311) was also approved for this site.

STAFF COMMENTS:

- A. Wichita Water Utilities Department has required a guarantee for the extension of sewer (mains and laterals) to serve all the lots being platted. Water is available to all of the lots adjacent to Meridian

and in lieu of assessment fees are needed. Lots 8, 9, and 10, Block 2 will need water to be extended to serve these lots.

- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the drainage plan subject to conditions. A drainage easement is needed to cover the proposed stormwater pipe. A drainage right-of-way shall be dedicated for the entire length and width of the public ditch with at least a 15-foot flat area beginning from the top of the bank. Adequate access will need to be provided along Meridian Ave for City tractors with a 20-foot mower deck. Flat slopes are needed when accessing the ditch.
- D. In accordance with the CUP, a guarantee is required for decel lanes and left turn lanes into full movement openings.
- E. In accordance with the CUP, a wall easement needs to be platted along the north and west lines of the plat.
- F. Access controls have been platted in accordance with the CUP approval. The plat proposes two openings along Meridian and remaining frontage in accordance with access management standards. The Access control note shall be corrected to reference Meridian.
- G. In accordance with the CUP approval, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. 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.
- K. 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.
- L. On the final plat tracing, the MAPC signature block needs to reference "Darrell Downing" as Chairman.
- M. The Note regarding access controls should reference Block 2.
- N. 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.
- 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 that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- 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 National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. 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.
- W. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

STRAHL commented that the applicant has submitted a revised copy of the plat on items 2-3 (SUB2008-77) and 2-4 (SUB2008-78), subject to Subdivision Committee recommendation.

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

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

2-4. SUB 2008-78: One-Step Final Plat -- THE MOORINGS 11TH ADDITION, located south of 53rd Street North and west of Meridian.

NOTE: This unplatted site is located in the County adjoining Wichita's city limits and annexation is required. The site is currently zoned SF-20 Single-family Residential and will be converted to SF-5

Single-family Residential upon annexation.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the property will be zoned SF-5 Single-family Residential.
- B. Wichita Water Utilities Department has required a guarantee for the extension of water and sewer (mains and laterals) to serve all the lots being platted.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. City Engineering has approved the drainage plan subject to conditions. Revisions to the grading plan are needed to provide 1% minimum backyard grades. Drainage easements need to be platted to handle the backyard drainage.
- E. The Applicant shall guarantee the paving of the proposed street.
- F. The scale notation shall be corrected to "1: 720".
- G. Due to Lot 3 being a double frontage lot, complete access control is needed to Crystal Beach Cir. In the alternative, Reserve A may be extended to the west.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. The applicant shall submit a covenant that provides four (4) off-street parking spaces per lot that abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- K. On the final plat tracing, the MAPC signature block needs to reference "Darrell Downing" as Chairman.
- L. GIS has approved the plat's street names.
- M. 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.
- N. 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.
- O. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

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

STRAHL commented that the applicant has submitted a revised copy of the plat on items 2-3 (SUB2008-77) and 2-4 (SUB2008-78), subject to Subdivision Committee recommendation.

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

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

3. PUBLIC HEARING – VACATION ITEMS

3-1. VAC2008-31: City request to vacate a portion of platted complete access control

OWNER/AGENT: 21st and Cranbrook, LLC, c/o Clifford Nies (applicant/owner)
Ruggles & Bohm, PA, c/o Pat Baer (agent)

LEGAL DESCRIPTION: Generally described as vacating the platted complete access control to allow one (1) full movement drive and one (1) right-in/right-out drive along the 21st Street North frontage of Lot 1, Block 1, Remington Place Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located east of Webb Road, on the southeast corner of 21st Street North and Cranbrook Street (WCC #2)

REASON FOR REQUEST: Allow one (1) full movement drive and one (1) right-in/right-out drive

CURRENT ZONING: The site and adjacent eastern property are zoned MF-18 Multifamily Residential (“MF-18”). Abutting southern and adjacent northern and eastern and properties are zoned SF-5 Single-family Residential (“SF-5”). Abutting western property is zoned B Multi-family Residential

The applicant proposes one (1) full movement drive and one (1) right-in/right-out drive along the site’s 21st Street frontage. The applicant proposes 200 feet of separation between the two drives. 21st is classified as a principal arterial. 21st is a paved 4-lane road with center and frontage turn lanes. The 2030 Transportation Plan shows no change to the status of this road. There are no drives located north of the site, across 21st, as this is developed as a single-family subdivision. There is a drive into an apartment complex, located approximately 180 feet west of the site’s west lot line. There is a drive into an office building located approximately 400 feet east of Cranbrook Street, a residential road that abuts the east side of the site. There is no public water or sewer located along the site’s 21st frontage. Franchised utilities will not be negatively affected by the proposed vacation. The Remington Place Addition was recorded with the Register of Deeds May 9, 2001.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from the Traffic Engineer, franchised utility representatives and other interested parties, Planning Staff recommends approval of the request to vacate the described portions of platted complete access control with conditions:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 - 1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle and the Derby Reporter, of notice of this vacation proceeding one time October 2, 2008, which was at least 20 days prior to this public hearing.
 - 2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted complete access control and the public will suffer no loss or inconvenience thereby.
 - 3. In justice to the petitioner, the prayer of the petition ought to be granted.

- B. Therefore, the vacation of the portion of platted complete access control described in the petition should be approved with conditions:
 - (1) Vacate the platted complete access control along the site’s 21st Street frontage to allow one (1) full movement drive and one (1) right-in/right-out drive, with a minimum of 200-foot of separation and as approved by the Traffic Engineer. Dedicate access control along the site’s 21st Street frontage, allowing one (1) full movement drive and one (1) right-in/right-out drive, with a minimum of 200 feet of separation with their location width approved by the Traffic Engineer. Provide to Planning prior to the case going to Council for final action.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants’ expense.
 - (3) All improvements shall be according to City Standards and at the applicant’s expense, including the new driveways from private property onto public ROW. Provide Public Works with a guarantee to ensure that those improvements will be made. If the drives are not being immediately constructed, provide drive approach certificate, which will be

recorded with the Register of Deeds. Submit a petition for a decal lane. Either the guarantee or the drive approach certificate and the petition must be provided to Public Works (guarantee and petition) or Planning (drive approach certificate) prior to the case going to Council for final action.

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

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the platted complete access control along the site's 21st Street frontage to allow one (1) full movement drive and one (1) right-in/right-out drive, with a minimum of 200-foot of separation and as approved by the Traffic Engineer. Dedicate access control along the site's 21st Street frontage, allowing one (1) full movement drive and one (1) right-in/right-out drive, with a minimum of 200 feet of separation with their location width approved by the Traffic Engineer. Provide to Planning prior to the case going to Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (3) All improvements shall be according to City Standards and at the applicant's expense, including the new driveways from private property onto public ROW. Provide Public Works with a guarantee to ensure that those improvements will be made. If the drives are not being immediately constructed, provide drive approach certificate, which will be recorded with the Register of Deeds. Submit a petition for a decal lane. Either the guarantee or the drive approach certificate and the petition must be provided to Public Works (guarantee and petition) or Planning (drive approach certificate) prior to the case going to Council for final action.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

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

3-2. VAC2008-32: City request to vacate a portion of platted setback

APPLICANT/AGENT: Palladio Developers, LLC, c/o Gene Vitarelli (applicant/owner)
Ruggles & Bohm, PA

LEGAL DESCRIPTION: Generally described as the north 3 feet of the platted 15-foot street side yard setback that runs parallel to Sierra Hills Court on the south side of Lot 8, Block 4, Sierra Hills Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located midway between Pawnee and Harry Streets, east of 127th Street East, on the northeast corner of Sierra Hills Street and Sierra Hills Court (WCC #II)

REASON FOR REQUEST: Additional room to build house

CURRENT ZONING: Site and all abutting and adjacent properties are zoned SF-5 Single-family Residential ("SF-5")

The applicant proposes to vacate the north 3 feet of the platted 15-foot street side yard setback, making a 12-foot setback. The zoning of the subject site is SF-5. The UZC requires a minimum of a 15-foot street side yard setback for the SF-5 zoning district, which matches the platted setback. If this was not a platted setback the applicant could have applied for an Administrative Adjustment, which would reduce the SF-5's 15-foot street side yard setback by 20%, resulting in a 12-foot setback, which is what the applicant is requesting. There are no platted easements within the platted setback. There are no utilities, manholes, sewer or water lines within the described portion of the platted setback. The Sierra Hills Addition was recorded with the Register of Deeds February 26, 2003.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval of the vacation of the described portion of the platted setback with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle and the Derby Reporter, of notice of this vacation proceeding one time October 2, 2008, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted street side yard setback and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of platted street side yard setback described in the petition should be approved with conditions:
- (1) The platted 15-foot setback, which runs parallel to Sierra Hills Court and located on the south side of Lot 8, Block 4, Sierra Hills Addition, will be replaced with a 12-foot setback.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
 - (3) All improvements shall be according to City standards and at the applicant's expense.
 - (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County

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

SUBDIVISION COMMITTEE’S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) The platted 15-foot setback, which runs parallel to Sierra Hills Court and located on the south side of Lot 8, Block 4, Sierra Hills Addition, will be replaced with a 12-foot setback.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant’s expense.
- (3) All improvements shall be according to City standards and at the applicant’s expense.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

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

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

PUBLIC HEARINGS

4. **Case No.: ZON2008-34 and CUP2008-24** - S J Ram, LC, c/o Donald Walenta and Jeff Walenta (owner); Ruggles & Bohm, P.A., c/o Chris Bohm (agent) Request City zone change from TF-3 Two-family, B Multi-family, and MF-29 Multi-family Residential to LC Limited Commercial, DP-261 Amendment #1 to add 3.4 acres to the Community Unit Plan and add four parcels, with the expansion area being east and west of Dellrose north of Orme, on the east side of Pershing extending 50 feet south of the CUP boundary and between Oliver and Glendale extending 120 feet south of the existing CUP boundary (including Eilerts Street right-of-way) on property described as:

Lots 1 and 2, Block A and Lot 1, Block B, Ann Walenta Addition, Wichita, Sedgwick County, Kansas.

Together with

Lots 14, 15, 16, 17, 18, 19, 20 and 21, Block 1 and Lots 6, 7, 8, 9, 10, 11, 12 and 21, Block 2, Kellogg Heights Addition, Wichita, Sedgwick County, Kansas.

Together with

The North 72.05 feet of Lot 1, DeWitt 2nd Addition, Wichita, Sedgwick County, Kansas.
Generally located south of Kellogg, east and west of Oliver Avenue.

BACKGROUND: The applicant proposes to amend DP-261 Oliver Retail Community Unit Plan to add 3.4 acres and five parcels to the CUP. DP-261 was originally approved in 2002 for five acres lying east and west of Oliver Avenue south of Kellogg, extending to the south to Orme Street. The expansion area is located (1) east and west of Dellrose Avenue north of Orme Street, (2) on the east side of Pershing

Avenue extending 50 feet south of the CUP boundary and (3) between Oliver Avenue and Glendale Avenue extending 120 feet south of existing CUP boundary (including Eilerts Street right-of-way). Total acreage with the proposed expansion is 8.54 acres.

The CUP would permit those uses allowed by right in the LC district with the following exclusions: adult entertainment establishments, group residences, correctional placement residences, private clubs, taverns and drinking establishments and nightclubs. No drive-in or drive-through facilities or gas islands would be allowed within 200 feet of residential zoning. Queuing lanes would not be permitted to direct headlights onto residential zoned property. Overhead doors could not face residential zoning.

The CUP provides architectural standards, consistent design of lighting elements with a general height limitation of 24 feet that is reduced to 15 feet within 200 feet of residential zoning, and avoidance of neon or florescent lighting on buildings. It provides a landscape buffer with a planting ratio of 1.5 times the Landscape Ordinance when near residential zoning. A standard masonry wall is required where the property abuts residential zoning.

Perimeter setbacks are 35 feet on the entire CUP, which is a change from the original approval. Earlier, the setbacks had been reduced to 10 feet along the common property line with residences on Dellrose Avenue and Pershing Avenue. However, in exchange for the reduced setbacks, the landscape buffer was increased and no dumpsters, loading docks or outdoor work and storage areas were to be permitted in the setbacks.

Maximum building coverage would be 30 percent and maximum gross floor area would be 35 percent of total land area. Maximum building height would be 45 feet, subject to compatibility height restrictions. The requested number of buildings is two for Parcel A and one for the other parcels. Internal site circulation and cross circulation are required and pedestrian connectivity is being requested.

The CUP sign plan is generally consistent with the Wichita Sign Code, with requested monument type signs on Oliver Avenue to no more than 20 feet in height. No freestanding signage is requested on Pershing Avenue, Orme Street, Glendale Avenue, and signage for Parcel B is shared with Parcel E. Building signage along the west façades of buildings on Parcel B and south and west façades of Parcel E should be prohibited by the Wichita Sign Code because of insufficient distance between the buildings and the residential zoning boundary. This protection could be extended by prohibiting building signage on the west façades of all buildings on Parcels A-E and the south 100 feet of the east façade of Parcel G. Off-site signs, billboards, portable signs are prohibited, window signage is restricted to 25 percent and electronic signage will be limited to those that do not change the message more quickly than once per second.

The property is vacant except for Parcel E that has an existing commercial strip center with several tenants and is anchored by a vehicle repair, limited, use. The property to the west along Pershing Avenue is zoned TF-3 and developed with single-family residences. Jefferson Elementary School is located south of Orme Street and west of Oliver Avenue on property zoned TF-3. The property east of Glendale consists of a vacant commercial building on property zoned LC that was most recently used for vehicle sales, two four-plexes on property zoned LC and GO General Office (“GO”) and single-family residences on property zoned MF-29. The property south of the proposed CUP boundary and east of Oliver Avenue is zoned LC, B, NR Neighborhood Retail (“NR”) and MF-29. It is occupied by a small retail strip center and the associated parking lot on the LC and B-zoned property, a retail use on the NR property and duplexes on the MF-29 property. Kellogg borders the CUP on the north, with the College Hill neighborhood located to the northwest of Kellogg and Oliver Avenue and the Crown Heights South neighborhood located to the northeast. The zoning in these neighborhoods near Kellogg is TF-3 and SF-5.

CASE HISTORY: The existing CUP was approved by Wichita City Council November 5, 2002, and the property is platted as the Ann Walenta Addition, recorded August 4, 2003. The expansion areas are

located in De Witt Second Addition, recorded July 29, 1964, and Kellogg Heights Addition, recorded May 7, 1930.

The property has had a complicated history. The applicant has sought rezoning of the southeast corner of Kellogg and Oliver (Parcels F and G) most recently as a Planned Unit Development for a big box retail (PUD2006-00002) that was denied by the Wichita City Council on January 9, 2007. In 1985 an expansion of LC zoning for the southwest corner of Kellogg and Oliver was approved but never perfected and the case was closed for failure to plat (Z-2697). Another case was filed, recommended for denial at MAPC and withdrawn (Z-2698). Meanwhile the applicant sought BZA approval (47-85) for storage of rental cars that was denied. At that time, a rental car business could be operated in LC by special use approval of BZA. A subsequent BZA case for this use was granted in District Court.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5, TF-3	Kellogg freeway, single-family residential
EAST:	LC, GO, MF-29	Vacant commercial, four-plexes, single-family residential
SOUTH:	TF-3, LC, B, NR	Jefferson Elementary School, retail center, duplexes
WEST:	TF-3	Single-family residential

PUBLIC SERVICES: Traffic counts for annual average traffic volumes (“AADT”) on Kellogg at Oliver showed westbound Kellogg at 68,000 AADT in 2005. The traffic counts in 2006 were 23,307 AADT for Oliver Avenue at Kellogg and 21,479 for Oliver Avenue at Orme Street. Traffic counts for Orme Street in 2006 were 8,898 AADT west of Oliver Avenue and 12,422 AADT east of Oliver Avenue.

Primary access is from Oliver Avenue, a four-lane arterial with right-turn lane onto Kellogg Drive and being widened south to Orme Street. No access is requested from the Kellogg off-ramp west of Oliver. No direct access is shown onto Kellogg Drive east of Oliver Avenue and is limited to two openings onto Glendale Avenue. Eilerts Street would be closed and vacated by replat. Access to Pershing Avenue would be available; however, the previous CUP stipulated that the internal site circulation and cross lot access within the CUP should be designed to minimize traffic onto Pershing Avenue. One full movement opening is shown onto Orme Street at the present location of Dellrose Avenue (which would also be closed and vacated by replat). One full-movement opening on both sides of Oliver Avenue at the current location of Eilerts Street would be the principal point on access. A second right-in/right-out only opening is shown on the west side of Oliver Avenue approximately 200 feet north of Orme Street.

Other normal public services are available.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide, Map as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* depicts Parcels F and G and the northern strip of Parcels A, B and E as appropriate for “regional commercial.” “Regional commercial” is a category that encompasses major destination area (center and corridors) containing concentrations of commercial, office and personal service uses that have predominantly regional market areas and high volumes of retail traffic. **Commercial Objective III.B** encourages future commercial areas to “minimize detrimental impacts to other adjacent land uses,” with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the “Wichita Land Use Guide,” and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The **Commercial Locational Guideline #3** of the Comprehensive Plan recommend 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 CUP amendment is in general conformance with these recommendations. **Commercial Locational Guideline #5** “allows local and collector residential streets to be used as access to adjacent commercial and mixed-use developments if such use will not negatively impact residentially developed areas.”

The remaining areas of the CUP are shown as appropriate for “urban residential.” Urban residential is a category that includes a range of residential types and densities, but not commercial use, which puts this

portion of the CUP at odds with its current zoning of LC for most of the Oliver frontage and with the TF-3 zoned area.

The residential neighborhood near the proposed development is identified as “revitalization.” These are neighborhoods experiencing some market decline and needing to be stabilized. **Residential Objective II.B** of the *1999 Update* seeks to “minimize the detrimental impacts of higher intensity land uses and transportation facilities located near residential living environments” through **Strategy II.B.4** that recommends plan review “to ensure that building placement and height, circulation, signage, screening and lighting for non-residential land uses do not adversely impact residential areas.” The CUP does allow potentially tall structures of 45 feet but subject to compatibility height standards and places restrictions on uses with overhead doors, drive-in and drive-through facilities and gas islands in close proximity to residences to minimize this conflict.

SUPPLEMENT TO STAFF REPORT: A revised CUP drawing has been submitted that enhances site development provisions related to internal and pedestrian circulation, architectural compatibility in terms of materials, signage and landscape palette, and signage provisions limiting building wall signage when facing nearby residential areas to NR standards and monument-style signage 20 feet in height along Oliver Avenue. Related to screening, the masonry wall on the south property line on Pershing Avenue would extend northward to the south edge of the existing commercial building. It clarifies that limitations on drive-in or drive-through facilities or gas islands would be restricted within 200 feet of residential zoning on Parcels B and E only.

In terms of traffic improvements, the applicant is participating in a project to improve the intersection of Oliver Avenue and Orme Street. The project, which will begin in November, is adding a right-turn northbound lane from Orme Street to Oliver Avenue and a left-turn northbound center lane on Orme Street to Oliver Avenue. Deceleration lanes are being added on both sides of Oliver Avenue to the major entrances.

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

- A. APPROVE the zone change (ZON2008-00034) to LC for the property zoned TF-3, MF-29 and B subject to replatting of the entire CUP within one year.
- B. APPROVE the Community Unit Plan (DP-261), subject to the following conditions:
 1. 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.
 2. The ordinance/resolution establishing the zone change shall not be published until the platting has been recorded with the Register of Deeds.
 3. Prior to publishing the ordinance/resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-261) includes special conditions for development on this property.
 4. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property is vacant except for Parcel E that has an existing commercial strip center with several tenants and is anchored by a vehicle repair, limited, use. The property to the west along Pershing Avenue is zoned TF-3 and developed with single-family residences. Jefferson Elementary School is located south of Orme

Street and west of Oliver Avenue on property zoned TF-3. The property east of Glendale consists of a vacant commercial building on property zoned LC that was most recently used for vehicle sales, two four-plexes on property zoned LC and GO General Office (“GO”) and single-family residences on property zoned MF-29. The property south of the proposed CUP boundary and east of Oliver Avenue is zoned LC, B, NR Neighborhood Retail (“NR”) and MF-29. It is occupied by a small retail strip center and the associated parking lot on the LC and B-zoned property, a retail use on the NR property and duplexes on the MF-29 property. Kellogg borders the CUP on the north, with the College Hill neighborhood located to the northwest of Kellogg and Oliver Avenue and the Crown Heights South neighborhood located to the northeast. The zoning in these neighborhoods near Kellogg is TF-3 and SF-5.

2. The suitability of the subject property for the uses to which it has been restricted: The street frontage west of Oliver already is zoned LC except for the southernmost lot; it is unlikely one small lot at the corner of Oliver Avenue and Orme Street surrounded by other commercial uses and a school would be viable in residential (MF-29) use. The TF-3 lots along Dellrose Avenue could continue as residential, however, the addition of this property allows the CUP to be amended to increase setbacks from 10 feet to 35 feet abutting residential use as well as removes some of the extreme narrowness of the previous LC zoning pattern that allows somewhat increased separation between the commercial and residential interface. The B-zoned property along Glendale Avenue is already a parking lot for a commercial business.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The amended CUP should not pose any greater impacts than the previous CUP, however, it moves the most-impacted block to the west to Pershing Avenue.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The “2030 Wichita Functional Land Use Guide, Map as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* depicts Parcels F and G and the northern strip of Parcels A, B and E as appropriate for “regional commercial.” “Regional commercial” is a category that encompasses major destination area (center and corridors) containing concentrations of commercial, office and personal service uses that have predominantly regional market areas and high volumes of retail traffic. **Commercial Objective III.B** encourages future commercial areas to “minimize detrimental impacts to other adjacent land uses,” with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the “Wichita Land Use Guide,” and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The **Commercial Locational Guideline #3** of the Comprehensive Plan recommend 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 CUP amendment is in general conformance with these recommendations. **Commercial Locational Guideline #5** “allows local and collector residential streets to be used as access to adjacent commercial and mixed-use developments if such use will not negatively impact residentially developed areas.” The remaining areas of the CUP are shown as appropriate for “urban residential.” Urban residential is a category that includes a range of residential types and densities, but not commercial use, which puts this portion of the CUP at odds with its current zoning of LC for most of the Oliver frontage and with the TF-3 zoned area. The residential neighborhood near the proposed development is identified as “revitalization.” These are neighborhoods experiencing some market decline and needing to be stabilized. **Residential Objective II.B** of the *1999 Update* seeks to “minimize the detrimental impacts of higher intensity land uses and transportation facilities located near residential living environments” through **Strategy II.B.4** that recommends plan review “to ensure that building placement and height, circulation, signage, screening and lighting for non-residential land uses do not adversely impact residential areas.” The CUP does allow potentially tall structures of 45 feet but subject to compatibility height standards and places restrictions on uses with overhead doors, drive-in and drive-through

facilities and gas islands in close proximity to residences to minimize this conflict.

5. Impact of the proposed development on community facilities: The development will primarily add traffic to the arterial and collector streets, impact to the local streets should be mitigated by internal site circulation channeling traffic away from the residential areas. Traffic improvements underway on Oliver Avenue, access limitations, plus guarantees obtained on the original CUP approval should help minimize the incremental traffic increases generated from the 3.4 acre expansion of the CUP and zone change. The vacation of Eilerts Street should minimally impact traffic flow east of Oliver. Other municipal services are available.

DONNA GOLTRY, Planning Staff presented the Staff Report, including the Supplement. She indicated she had received correspondence from USD 259 staff regarding traffic concerns by Jefferson Elementary School, particularly at 9:00 A.M. and 4:00 P.M. She reviewed the intersection improvement project that is due to begin in November, 2008. She commented that the project included a right-turn northbound lane from Orme Street to Oliver Avenue and a left-turn northbound center lane on Orme Street to Oliver Avenue, and deceleration lanes into both sides of Oliver Avenue to the major entrances into the shopping center. She said changes to this project were a result of a Traffic Study update conducted by the applicant and submitted to the Traffic Engineer. She concluded by stating that there have been multiple cases on this area in the past. She said there is a 30,000 square foot increase in maximum for retail or commercial use on the east side, which was significantly less intensive than the previous PUD request that was denied for the area east of Oliver Avenue. She added that one of the major issues on previous case approving DP-261 was direct access from the Kellogg off ramp to the commercial tract. She said this proposal, Amendment #1 to DP-261, was not requesting direct access from the Kellogg off ramp west of Oliver. In addition, she said this proposal has eliminated the nearest access points onto the Kellogg frontage road east of Oliver.

MITCHELL asked to what extent the applicant was participating in the traffic improvements.

GOLTRY responded that the applicant can answer the question.

HILLMAN asked about perimeter setbacks and clarified that no dumpster or loading docks would be permitted in the set back.

GOLTY said the requirement of the original CUP was only a 10 foot setback and now the setback is 35 feet; however, it is still the case that no dumpsters or loading docks will be allowed in the rear setback abutting residential zoning.

SHERMAN asked staff to refresh his memory as to why the City Council turned down the proposal for development of the southeast corner of this area.

GOLTRY referred to the aerial map and commented that the previous proposal was four times the size of this request.

Responding to **FOSTER's** request for a definition of "standard masonry wall" **GOLTRY** said the height is defined in the Unified Zoning Code as "between 6 and 8 feet." She said the applicant intends to install a 6-foot wall.

HILLMAN asked if the applicant was planning on any electronic signage. He said the MAPC has had several electric sign issues along Kellogg recently, including businesses who say their signs are no longer visible from Kellogg and would like them raised higher, and made bigger and brighter. He said this could be a distraction to traffic, especially coming from the west.

GOLTRY commented that the Wichita Sign Code defines moving signs as those that change the message more rapidly than once every second and the applicant has not requested moving signs. The applicant could answer that question about electronic signs.

CHRIS BOHM, RUGGLES AND BOHM, P.A., AGENT FOR THE APPLICANT, answered questions that were raised on the proposal. He said they have discussed the street improvements on Oliver Avenue as a result of the Traffic Report with the City Traffic Engineer and other City staff. He said costs for the improvements were covered by petitions and that some of the improvements will be handled as change orders on that job. He said there are limitations on signage square footage within the CUP which they will comply with; however, he said because they don't know the exact vendors who will utilize the space, he could not answer the electronic sign question.

BOHM said they have talked about a larger sign at the corner, but added that the exit onto Oliver Avenue from Kellogg is quite a bit to the west and that they would have to install a tremendously large sign to have visibility. He said they will comply with the limitations set by the Sign Code. He said one of the goals of their proposal was to honor residential areas that are adjacent to the site. He said they believe the proposed CUP with its architectural, traffic, and pedestrian controls is a friendlier commercial center. He said they have met with staff numerous times and reworked many items including architecture, fencing, and landscaping to meet staff concerns. He said they are happy staff comments on the case and requested MAPC approval.

DEBBY CAIN, 4815 EAST ORME said she lived directly across the street from the previously proposed project. She said although she got the letter of notification of the project, she still didn't know how she felt yet. She commented that the attorney's office can't meet with her until next week. She said although it looks like a neighborhood friendly project, she would like to reserve the right to comment until after she has met with the attorney and the developer.

CHRIS BOHM said they had no further comments for rebuttal.

MOTION: To approve subject to staff recommendation.

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

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5. **Case No.: CUP2008-35** – Royal One LLC (owner); Gary Oborny (applicant); Ron Signs Co., Attn: John Saindon (agent) Request Minor Amendment #7 to Parcel A of CUP DP-49 to increase sign square footage beyond 8 square feet per foot of linear frontage on property described as:

Generally located East of Rock Road and south of Central Avenue (314 330 N. Rock Road.)

BACKGROUND: The applicant proposes to increase sign square footage by 19.2 square feet for DP-49 Cobblestone Alley Community Unit Plan. DP-49 is a 7.7-acre CUP with seven parcels located on the southeast corner of Central and Rock Road. The CUP has an irregular boundary with discontinuous frontage along Rock Road. A bank is located on the corner tract that is excluded from the CUP. Two commercial buildings (a restaurant and a furniture store) are located south of the bank and are part of the CUP. Moving southward, a Westar substation and another commercial building with a rug store and a restaurant are excluded from the CUP. Moving farther south to the application area, a retail/office building, a strip center and a restaurant (Freddy's) comprise the remaining 290 feet of frontage on Rock Road within DP-49.

The strip center has undergone a major renovation after the loss of one of its major tenants, Cinemas East. Another anchor tenant, Bicycle Peddler, remains but the rest of the center has been leased to several new retail/personal service types of businesses. Current signage for the existing tenants is affixed to an existing monument style sign (approved by amendment CUP2006-00030). Currently the sign has five panels for the tenants, but the current request is to add one additional panel to the existing sign for the sixth tenant of the strip center. The additional panel will increase the height by two feet, staying under the maximum 20 feet height limit, but adding 19 square feet of signage. Therefore, the applicant has

requested this CUP Amendment to allow an additional 19 square-foot sign; see the attached site plan and elevations.

The sign elevation shows the proposed monument style sign. Total sign height will remain less than 20 feet in height, and sign face area will become approximately 150 square feet. The sign will remain at its current location between two other existing signs, about 500 feet south of Central Avenue.

The property is located on a commercially developed strip of Rock Road. A Dillons and large restaurant are located to the west on property zoned LC. The properties to north, northwest and south are zoned LC, and are developed with a variety of restaurants, retail shops, and other commercial uses. The property to the east is zoned LC, and developed with an apartment building, buffered by a creek. East of the creek is property used for residential purposes that is zoned "SF-5" Single-family Residential.

CASE HISTORY: The property is platted as Dean-Rupert Third Addition, recorded May 1, 1987. DP-49 Cobblestone Alley was originally approved February 20, 1973, and has been amended six times previously.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC"	Office
SOUTH:	"LC"	Strip retail commercial
EAST:	"SF-5"	Residential
WEST:	"LC"	Restaurant

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

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan Land Use-Commercial/Office Objective/Strategy III.B.2 seeks to integrate the development of out parcels to planned retail centers through combined signage. The current signage consists of a shared sign by the tenants of the strip center and a separate sign for the out parcels. However, the current sign for the strip center does not have sufficient room to add one additional tenant panel. Sign control is one of the elements that can be established by CUPs (Unified Zoning Code, Article III, Section III-C.2.a Purpose) with the general guideline that the character of the development be appropriate to the neighborhood and to minimize any diminution to surrounding property. The proposed addition of one tenant panel to the existing sign is typical of the type of signage that already exists along Rock Road, and should not significantly affect the surrounding property.

The Unified Zoning Code (UZC) states that Commercial Community Unit Plans (CUPs) may be used to establish appropriate sign controls. The Sign code permits applicants to request a CUP amendment to alter a CUP's sign controls.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED to allow the addition of one tenant sign panel and to increase the sign's square footage by 19.2 square feet on Parcel B, Tract 1. The sign shall be modified substantially in conformance with the approved sign elevation drawing.

The staff recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The property is located on a commercially developed strip of Rock Road. A Dillons and a large restaurant are located to the east on property zoned LC. The property to north, northwest and south is zoned LC, and is developed with a variety of restaurants, retail shops, and other commercial uses. The property to the east is zoned LC, and developed with an apartment building, buffered by a creek. Property to the east of the creek is zoned "SF-5" Single-family Residential.

2. The suitability of the subject property for the uses to which it has been restricted: The existing sign currently has enough space for five tenants; however, the center now has six tenants. This request asks for an additional panel to be added to the existing sign. The sign will remain under the 20 feet it is restricted to, and according to the elevation provided there will be little to no change in appearance other than an additional panel.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The sign would not be significantly different in spacing than other ground signs along Rock Road, so it should not be out of character with the existing development pattern.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Comprehensive Plan Land Use-Commercial/Office Objective/Strategy III.B.2 seeks to integrate the development of out parcels to planned retail centers through combined signage. The current signage consists of a shared sign by the tenants of the strip center and a separate sign for the out parcels. However, the current sign for the strip center does not have sufficient room to add one additional tenant panel. Sign control is one of the elements that can be established by CUPs (Unified Zoning Code, Article III, Section III-C.2.a Purpose) with the general guideline that the character of the development be appropriate to the neighborhood, and to minimize any diminution to surrounding property. The proposed addition of one tenant panel to the existing sign is typical of the type of signage that already exists along Rock Road, and should not significantly affect the surrounding property.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

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

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6. **Case No.: CUP2008-37** – Fashion Ventures LLC (owner/applicant); Luminous Neon Inc., (agent) Request Minor Amendment #3 to Parcels 5A and 5B of CUP DP-256 to increase the number of permitted signs from 2 to 3 signs on property described as:

Part of Lot 5, Block 1, The Collective, an Addition to Wichita, Sedgwick County, Kansas described as: commencing at the Northeast corner of said Lot 5; thence bearing North 89 degrees 51'48" West along the North line of said Lot 5, a distance of 165.00 feet to the point of beginning; thence bearing South 00 degrees 08'12" West, a distance of 235.50 feet; thence bearing North 89 degrees 51'48" West, a distance of 191.47 feet; thence bearing North 00 degrees 08'12" East, a distance of 85.99 feet; thence bearing North 68 degrees 51'48" West, a distance of 89.80 feet; thence bearing North 01 degrees 18'43" East, a distance of 6.35 feet; thence bearing North 21 degrees 20'07" East, a distance of 119.04 feet; thence bearing South 89 degrees 51'48" East along the North line of said Lot 5, a distance of 232.14 feet to the point of beginning. Generally located southeast of 21st Street North and K-96.

BACKGROUND: The applicant requests an amendment to DP-256 The Collective CUP to change signage provisions. The subject property is zoned "LC" Limited Commercial and is located south of 21st Street North between K-96 and Founders Street. A commercial center with freestanding retail uses, banks and other commercial businesses is being developed.

The applicant proposes to amend General Provision #6 to allow an additional 10-foot tall, double faced multi-tenant sign in Parcel 5B and to amend the separation requirement between signs on Parcels 5A and 5B from 150 feet to 75 feet. The maximum number of sign locations on the 21st Street East frontage would be four per Wichita Sign Code, based on the spacing of 150 feet apart per sign. The Wichita Sign Code does not authorize requesting an increase in sign locations or the reduction of distance between two

signs by more than one-third as an administrative action. Such action requires a variance, or within a CUP, can be allowed by a CUP amendment. The proposed ground signage is otherwise in conformance to the Wichita Sign Code.

Currently, the CUP DP-256 general provision for signage for Parcels 5 A and 5B is as follows:

Parcel 5A: 1 – 10-foot monument sign with a maximum of 60 square feet.

Parcel 5B: 1 – 10-foot monument sign with a maximum of 60 square feet.

The sign for Parcel 5B may be shifted to Parcel 5A, and it may include advertising for uses located within the CUP but not within Parcel 5A, however, the total number of signs shall be limited to two for Parcels 5A and 5B together. (Administrative Adjustment 6-16-06, CUP2006-28)

Reserve A: 1 – 25-foot entry marker sign with a maximum of 150 square feet. Minimum spacing between this sign and the signs on Parcel 1 and 5B shall be reduced to 75 feet.

The frontage of DP-256 along 21st Street allows up to 537 square feet of signage (672 ft. x 0.80= 537 sq. ft.) according to the Wichita Sign Code (Sec. 24.04.221). The CUP currently allows for up to 330 square feet of signage along the 21st Street frontage. The addition of one sign at 60 square feet would still be well below the allowed square footage allowed by code (390 square feet-proposed 537 square feet-allowed). Currently, Reserve A (the private drive through the CUP) allows the signage on Parcel 5B to be 75 feet from the median sign located at the entrance on to 21st Street. Since the sign that was to be allowed on Parcel 5B is currently on Parcel 5A (allowed by Administrative Adjustment CUP2006-28), the request for the additional sign would be placed on Parcel 5B, meeting the 75-foot requirement allowed by Reserve A, but it would also be a little more than 75 feet from the nearest sign located on Parcel 5A. The additional sign and spacing should not adversely affect any sight lines or the appearance of the CUP frontage.

K-96 forms the western boundary of the tract, and commercial use with “LC” zoning is approved for the property on the other side of K-96 although the property is currently vacant. A large church on property zoned SF-5 Single-family Residential (“SF-5”) is located directly to the north. A high school on property zoned “SF-5” is located to the east. A large medical facility for Wichita Clinic is being constructed on the property to the south, which is zoned “GO” General Office (“GO”). Several residences, on property zoned “SF-5” remain to the southeast.

CASE HISTORY: The property is platted as The Collective Addition, recorded January 9, 2002. DP-256 The Collective Commercial Community Unit Plan was approved July 10, 2001. There have been eight administrative adjustments since 2004, ranging from creating new parcels, adjusting signage, shifting parcel boundaries and increasing gross floor area. There have also been three amendments to the CUP since 2005, ranging from adding additional uses, reducing setbacks and allowing signs with movement.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Church
SOUTH:	LC	Vacant
EAST:	LC	Bank
WEST:	K-96	K-96 Bypass

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

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan Land Use-Commercial/Office Objective/Strategy III.B.2 seeks to integrate the development of out parcels to planned retail centers through combined signage. Sign control is one of the elements that can be established by CUPs (Unified

Zoning Code, Article III, Section III-C.2.a Purpose) with the general guidelines of character of the development appropriate to the neighborhood and to minimize any diminution to surrounding property. The proposed additional sign and proposed reduction in sign spacing is typical of the signage already in place along this part of 21st Street East and along major arterials throughout the city and should not significantly affect the surrounding property.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED to allow one additional ground sign on Parcel 5B substantially in conformance with Exhibit "A" and to reduce the spacing between signs on Parcel 5A and Parcel 5B to no less than 75 feet.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: K-96 forms the western boundary of the tract, and commercial use with "LC" zoning is approved for the property on the other side of K-96 although the property is currently vacant. A large church on property zoned "SF-5" Single-family Residential is located directly to the north. A high school on property zoned "SF-5" is located to the east. A large medical facility for Wichita Clinic is being constructed on the property to the south, which is zoned "GO" General Office. Several residences, on property zoned "SF-5," remain to the southeast.
2. The suitability of the subject property for the uses to which it has been restricted: The existing signs nearest the strip center are not designed to allow a sufficient number of additional tenant panels. The applicant will be placing the new sign on Parcel 5B, the only sign on the parcel (refer to CUP2006-00028) for the additional tenants within the parcel. The placement will also reduce the space between the existing sign on Parcel 5A and the proposed sign to 75 feet.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The additional sign would not be significantly different in spacing than other ground signs already in place along this part of 21st Street East, and along major arterials throughout the city, so the proposal should not be out of character with the existing development pattern.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Comprehensive Plan Land Use-Commercial/Office Objective/Strategy III.B.2 seeks to integrate the development of out parcels to planned retail centers through combined signage. Sign control is one of the elements that can be established by CUPs (Unified Zoning Code, Article III, Section III-C.2.a Purpose) with the general guidelines that the character of the development be appropriate to the neighborhood and to minimize any diminution to surrounding property. The proposed additional sign and proposed reduction in sign spacing is typical of the signage already in place along this part of 21st Street East and along major arterials throughout the city and should not significantly affect the surrounding property.
5. Impact on Community Facilities: All public facilities are available. Existing road facilities are adequate.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

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

7. **Case No.: CON2008-46** - James Gehrer (owner) Request City Conditional Use for an accessory apartment in TF-3 Two-family Residential Zoning on property described as;

Lots 9 and 11, on Poplar Street, Buckner's Subdivision of Block No. 3 in Richland Addition to the City of Wichita, Sedgwick County, Kansas Generally located west of Poplar and south of English (213 S. Poplar).

BACKGROUND: The applicant requests a Conditional Use to allow an accessory apartment on a 0.15-acre platted lot zoned TF-3 Two-family Residential (“TF-3”), located west of Poplar and south of English (213 S Poplar). The application area was developed with a fourplex and an existing non-conforming accessory apartment. The applicant purchased the property in this configuration and attempted to register the property as legal-nonconforming; however, he was unable to demonstrate that the site had ever existed in this configuration legally under the zoning code. The applicant has now agreed to convert the primary structure to a duplex, and he requests a Conditional Use for the existing accessory apartment. The site has access and gravel parking from both Poplar and the rear alley. The primary structure and accessory apartment have painted horizontal siding exteriors.

The character of the surrounding area is residential. All properties surrounding the site are zoned TF-3 and are developed with a mixture of single-family residences, duplexes and triplexes.

An accessory apartment is defined as a dwelling unit that may be wholly within or detached from a principal dwelling unit. A dwelling unit includes provisions for sleeping, cooking, eating and sanitation. A Conditional Use is required to permit an accessory apartment in the TF-3 zoning district. Section III-D.6.a of the Unified Zoning Code (UZC) has the following requirements for an accessory apartment:

- (1) A maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling;
- (2) The appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood;
- (3) The accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling, including that it shall not be subdivided or sold as a condominium; and
- (4) Water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling.

CASE HISTORY: The property was platted as Lots 70 and 72, within the Dixon’s Addition recorded on February 19, 1918.

ADJACENT ZONING AND LAND USE:

NORTH:	TF-3	Single-family, triplex
SOUTH:	TF-3	Duplex, single-family
EAST:	TF-3	Single-family residences
WEST:	TF-3	Alley, Grove Street, high school

PUBLIC SERVICES: The subject property has access to S Poplar, a paved residential street with a 50-foot right-of-way, and an unpaved rear alley. The subject property has all other municipal services.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan designates this area as appropriate for “Urban Residential” development. The Urban Residential category includes all housing types found in the municipality. The policies of the Unified Zoning Code (UZC) allow one accessory apartment to be associated with a principle dwelling as a “Conditional Use” if the proposed use is compatible with the principle dwelling, is in character with the surrounding residential development, is accessory to the main structure, remains in a single ownership, and obtains water and sewer service from the main dwelling hook-up. As recommended for approval, the subject property conforms to adopted policies.

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

1. The accessory apartment shall be subject to all requirements of Section III-D.6.a of the Unified Zoning Code.
2. The applicant shall obtain all applicable permits, including but not limited to building, health, and zoning.
3. The site shall be developed in general conformance with the approved site plan.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is residential. All properties surrounding the site are zoned TF-3 and are developed with a mixture of single-family residences, duplexes and triplexes.
2. The suitability of the subject property for the uses to which it has been restricted: The site could be used for a duplex residence only, which would require conversion of the accessory building into a non-residential structure.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The accessory apartment has existed for some time, so there is no physical change within the neighborhood. The existing access and parking should provide adequate off street parking for the primary duplex dwelling and the accessory apartment.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan designates this area as appropriate for "Urban Residential" development. The Urban Residential category includes all housing types found in the municipality.
5. Impact of the proposed development on community facilities: This request should have no impact on community facilities.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

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

8. **Case No.: CON2008-47** - Allen Thome (owner); Mies Construction, Attn: Earl Mies (applicant); Baughman Company, Attn: Russ Ewy (agent) Request County Conditional Use to permit the mining of fill material (soil extraction) on property described as:

The North 1/2 of the Northeast 1/4 of Section 29, Township 28 South, Range 1 West of the 6th Prime Meridian, Sedgwick County, Kansas, except the North 300 feet thereof, and except the East 545 feet thereof, and except the West 650 feet thereof, and except the South 50 feet thereof, and except road right-of-way. Generally located on the southwest corner of the intersection of S. Tyler Road and 55th Street South.

BACKGROUND: The applicant requests a Conditional Use to allow “Mining and Quarrying” for the excavation of fill material to be used on proposed construction projects within the city. The undeveloped property, located southwest of the 55th Street South and Tyler Road intersection, is currently zoned SF-20 Single-family Residential (“SF-20”); the excavation site is approximately 31 acres in size, and is designed to retain water and ultimately be developed with homes surrounding the pond. The applicant intends to excavate to a maximum depth of approximately 20 feet, excavating in two phases, from the east to the west; see the attached site plan. According to GIS, the average depth of the groundwater in this section varies between 25 feet to 40 feet from the surface. Proposed access to the site is off of 55th Street, approximately 1,000 feet west of Tyler Road. The proposed access is via a field entrance located at the north end of the tract. The site is not currently fenced, but fencing of the excavation area will be a condition of approval.

Of some concern in this request is the potential for erosion and sediment runoff from the excavation site due to storm water runoff. To minimize erosion the area should be re-vegetated with native grass throughout the excavation process, which will help remove potential sediments from storm water runoff. Also, the applicant will have to work with the responsible entities (USDA, KDHE, KDWP, etc.) to mitigate any negative impacts and to acquire the proper permits for the excavation operation.

North of the application area is property zoned SF-20 that is developed as agricultural land. The property south of the application area is under the same ownership as the application area; it is zoned RR and is currently undeveloped agricultural land. East of the application area is property zoned SF-20 and is developed as a farmstead. West of the application area is property zoned RR and is developed with a farmstead.

The site is located approximately three miles south of Mid-Continent Airport. If the application is recommended for approval by the MAPC, conditions of approval will require compliance with applicable local, state and federal regulations. The applicant was supplied information from the Federal Aviation Administration Office (FAA) Advisory Circulars AC150/5200-33B titled *Hazardous Wildlife Attractants on or near Airports*. Staff has been in contact with Mid-Continent Airport staff regarding the application. In conversations with the Brad Christopher, Assistant Director of Airport Operations, the airport has concerns with the request, particularly with water attracting birds which can, and do strike airplanes in and around Mid-Continent. Airport staff provided MAPD staff with a log of bird strikes specific to Mid-Continent- 97 bird strikes between March 24, 2003 and June 16, 2008. Because the airport receives money from the federal government, it is required to comply with FAA regulations. Airport staff is open to working with the applicant in dealing with this issue but known mitigation efforts (e.g. steep slopes, use of rock and other design features to make the site uncomfortable for birds) would likely severely impact the design of the proposed excavation and its ultimate use. Staff will attempt to get the parties together for a meeting to resolve any issues before the October 23 MAPC meeting.

CASE HISTORY: The property is currently unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-20	Agricultural Land
SOUTH:	RR	Agricultural Land
EAST:	SF-20	Farmstead
WEST:	RR	Agricultural Land

PUBLIC SERVICES: The access drive to the subject site is located along 55th Street South, an unimproved, gravel, rural local section line road. The existing half-width right of way on this section of 55th Street is 30 feet. There are no traffic counts for this stretch of 55th Street South. The applicant is proposing one drive entrance off of 55th Street.

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan identifies this property as Urban Development Mix within the Wichita 2030 Urban Growth Area. The urban development mix category

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

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

RECOMMENDATION: With the proper conditions in place, this proposal should not have a detrimental effect on the surrounding properties, as they are developed with agriculture, or well screened by existing natural vegetation. However, with the possible public safety issues involved with the possible attraction of migrating birds and its vicinity near the airport and the consequences the airport and the City of Wichita may face if federal funding is affected by the proposal, staff recommends that the Conditional Use request be **DENIED**.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North of the application area is property zoned SF-20 and is developed as agricultural land. The property south of the application area is under the same ownership as the application area; it is zoned RR and is currently undeveloped agricultural land. East of the application area is property zoned SF-20 and is developed as a farmstead. West of the application area is property zoned RR and is developed with a farmstead.
2. The suitability of the subject property for the uses to which it has been restricted: The site could be used for the uses permitted by its current zoning.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval presents the possibility that public safety could be compromised due to the likelihood that the proposed excavation will attract birds. The site is located within three miles of the airport, and is located between Mid-Continents two main north-south runways. There is the potential that federal funding for the airport could be affected by this request as the city is responsible for operating the runway in compliance with FAA regulations. The airport has stated that there are ways to design the excavation area that would help into mitigate the potential hazard, but at this time, the application is not conforming to those possible design features.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Comprehensive Plan identifies this property as Urban Development Mix within the Wichita 2030 Urban Growth Area. The urban development mix category encompasses areas of land that will likely be developed or redeveloped within the next 30 years with uses predominately found in the Urban Residential Use category. However, there is a strong likelihood that concentrations and pockets of Major Institutional Uses, Local Commercial Uses and Park and Open Space Uses will ultimately be

developed within this area as well, based upon market driven location factors. In certain areas there is the possibility that future uses may include Regional Commercial and Employment/Industry Center. The Wichita 2030 Urban Growth Area is a category that identifies Wichita's urban fringe areas that are presently undeveloped but have the potential to be developed by 2030, based upon Wichita population growth projections and current market trends. This is the area in which City limits expansion and extension of municipal services and infrastructure should be focused during the period from 2005 to 2030. Determination of growth direction and amount is based upon municipal political considerations, anticipated municipal population growth, efficient patterns of municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors.

5. Impact of the proposed development on community facilities: Traffic to and from the requested Conditional Use at this location will increase the daily trips on this section of 55th Street South and Tyler Road, however, this increase should not exceed the safe capacity of this road.

However, if the MAPC finds the proposed soil excavation an appropriate use for this site, Staff recommends approval with the following conditions:

1. The extraction operation on the site shall proceed in accordance with an operational plan to be approved by the Planning Commission. The perimeter of the excavation shall conform to the approximate size and shape indicated on the approved operational plan. To assist in the enforcement of the operational plan, a copy of the approved operational plan shall be posted on the site.
2. The excavation operation will have to abide by the rules and design set forth in the Federal Aviation Administration Advisory Circular 150/5300-33B "Hazardous Wildlife Attractants On or Near Airports" to prevent attracting any hazardous wildlife.
3. The operational plan shall illustrate which area is to be excavated and in what phase.
4. Uses after the conclusion of the extraction operation, shall be submitted to the Planning Director for review and a recommendation to the Planning Commission as to whether or not the development plan is compatible with surrounding land uses, the Comprehensive Plan or other plans or policies being utilized by the City or County.
5. Adjacent to the perimeter of the excavation area, a minimum 48-inch high, five strand barbwire fences shall be constructed prior to the beginning of any extraction operation and shall be maintained at the locations depicted on the approved operational plan. The posts shall not be set more than 50 feet apart.
6. Sufficient overburden material shall be retained in the area of extraction to grade and construct the banks so they are formed with overburden material rather than sand.
7. The owner of the property shall be responsible for minimizing blowing dust from the site. To minimize blowing soil, overburden shall not be removed more than six months in advance of the excavation area being expanded, per the operational plan, unless the ground is covered within the next planting season with a perennial drought-resistant grass or combination of which will permit the establishment of sod cover to help prevent erosion. As part of the required operational plan, the site shall be divided into at least two distinct areas for the purpose of showing phased excavation over time.
8. All slopes shall have vegetative covering consisting of a perennial drought-resistant grass or combination of grasses that will permit the establishment of sod cover to help prevent erosion.
9. To provide for bank stabilization and safety of future uses, the side slopes of the extraction shall be no steeper than four horizontal to one vertical.

10. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the city or county legal counsel (as applicable), prior to the commencement of any extraction providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the extraction area.
11. The storage of equipment or stockpiling of sand or overburden is not permitted closer than 100 feet to any public right of way, or closer than 50 feet to any property line.
12. Nothing in the approval of a Conditional Use shall be construed to permit a contractor's material and equipment storage yard. Within 60 days after completion of the extraction operation, the land surrounding the excavation pit shall be properly graded and planted with a vegetative cover. Also, all stockpiled material and related excavation equipment shall be removed from the subject site.
13. The Conditional Use for the extraction operation shall be valid for a period of 10 years.
14. Hours of operation for extraction shall be limited to 6:00 a.m. to 6:00pm.
15. The applicant shall make the site available to the Sedgwick County Department of Environmental Resources for the installation and management of groundwater monitoring wells.
16. Any on-site storage of fuels or chemicals must be approved by the Sedgwick County Fire District #1.
17. A drainage plan shall be submitted to and approved by County Public Works prior to starting the extraction operation. All of the area included in the extraction operation shall be graded in accordance with the approved drainage plan. The extraction area shall be developed so as to not become a wetland area.
18. All operational roads shall be maintained in a sand or graveled condition and shall be treated with water or other acceptable dust retardant to minimize blowing dust.
19. All applicable local, state, and federal permits necessary for the extraction operation and for flood plain development shall be obtained and maintained.

DALE MILLER, Planning Staff presented the Staff Report.

MITCHELL asked if there was an exhibit that showed the width and length of the requested prohibition.

MILLER commented that Planning and Airport Staff have discussed the need to come up with a draft policy for the MAPC to consider so that there is a published "public position statement" rather than dealing with this issue as it comes up on a case-by-case basis.

MILLER STEVENS referred to previous discussions on this issue. She asked if this development plan was worse than what the area is being used for now.

MILLER commented the area is currently being used agriculturally as pastureland. He said the Federal Airport Administration (FAA) discourages any kind of grain or feed crops. He said water is a hazard because it attracts geese and creates a threat to aircraft.

MARNELL commented on the development of land to the south and southwest of this area. He said run-off control for many subdivisions is provided by retention ponds and that is going to hamper development of this area if ponds are outlawed. He asked if the Airport had the authority to impose those types of restrictions to development.

MILLER commented that staff was not suggesting that the Airport had the authority to impose anything. He said staff's recommendation was based on the safety of the flying public. He said this is a consideration to the land use. He said staff is trying to raise that concern and the possible need to adopt a policy that speaks to retention ponds in proximity to the Airport, and other issues. He said it was his understanding that in 1987, the City of Wichita made some specific decisions regarding the sewer system south of the Airport to forestall development in the area; and that is why there is a lift station located there as opposed to a gravity flow system.

MARNELL also asked which would be worse; the large grain field that is currently there versus the conditions that will exist when the conditional use is completed and the pond is finished.

RUSS EWY, BAUGHMAN COMPANY, AGENT FOR THE APPLICANT, commented that **EARL MIES, MIES CONSTRUCTION** was also present to answer any questions. He commented that they had met with City and Airport staff and the Airport Wildlife biologist. He commented that this was a difficult case because the FAA Advisory Circular left little room for compromise and that it was very broad and straight forward document seeking to prohibit wildlife attractants. He said while the Circular recommended against any subdivision storm water retention ponds or any type of water features, it does not provide any quantifying impacts, it just states none within 5 miles of the Airport. He commented that the site was located 3 miles south of the Airport, while the Sedgwick County Zoo lies approximately 5 miles north of the site. He said they understand that a policy had to begin somewhere, but that this was a very small excavation pit. He said they believe this issue needs a broader policy review by the City of Wichita. He said their request is minimal compared to all the other agricultural and water related issues in this area. He said there is a construction and demolition landfill just ½ mile west of the Airport. He referenced the site pictures of the area that showed the water inundated farm fields, which he said also act as an attractant for geese and other water fowl. He said if they were taking the dirt off site, this discussion would not be happening. He said the Airport also can't describe the exact impact of the proposal for these 38 acres. He said several ideas were discussed such as reducing the size of the extraction area and reducing the size of the pond; however, they feel they are at a loss to try to compromise since they are within 5 miles of the Airport. He said they do not think the Airport will change their recommendation that the application be denied.

MITCHELL asked about the grain crops in the area.

EWY said currently there is corn, wheat and milo, and he was not sure about soy beans.

BRAD CHRISTOPHER, ASSIST DIRECTOR OF AIRPORT OPERATIONS, introduced **DEVON MCBRIDE, WILDLIFE BIOLOGIST WITH THE U.S. DEPARTMENT OF AGRICULTURE (USDA) - WILDLIFE SERVICES**. He thanked the MAPC and Planning Staff for the opportunity to provide testimony on this case. He said Airport staff has reviewed this application and has met with Planning Staff and the applicant. He said the Airport Department does not oppose soil extraction, or future residential development on this tract. However, the applicant has stated that there would be approximately 31 acres of water retention that would create above ground standing water associated with the project. He said it is their determination that this project, if approved, would create a man-made wildlife habitat and attractant that may create an undue hazard to aircraft approaching and departing Mid-Continent Airport. He said for this reason, the Airport Department is opposed to the application as currently presented.

CHRISTOPHER said the Wichita Airport Authority is bound and compelled to comply with Title 14, CFR Part 139, *Certification of Airports*, and Federal Grant Assurances under the Airport and Airway Improvement Act of 1982. He said the Federal Aviation Administration has promulgated Advisory Circular 150/5200-33B *Hazardous Wildlife Attractants on or near Airports*. He said paragraph 2 of this documents states "Airports that have received federal grant-in-aid assistance must use these standards." He said therefore, the Airport Department has no discretion in the compliance of these standards; they are mandatory.

CHRISTOPHER said if this application is approved and authorized to move forward as currently presented, the possible consequences to the city are individually or collectively as follows:

1. The potential for increased hazard to aircraft crews and passengers, and persons on the ground associated with an increase in wildlife activity around the airport;
2. Revocation or suspension by the Federal Government of the operating certificate for Mid-Continent Airport, which would result in the loss of commercial airline service;
3. Loss of some or all future Federal Grant-In-Aid to the Airport;
4. Repayment to the federal government of approximately \$139,000 in Grant-In-Aid that has been received over the past 20 years;
5. Inability to undertake future Airport development and expansion.

He said some may believe that this is an over embellishment of the potential consequences of our acts, or failure to act; however, he asked the MAPC to consider the following documented facts:

- Since 1988 over 195 fatalities as a result of bird strikes on aircraft;
- Since 1990 16 fatalities involving general aviation aircraft, and 29 fatalities involving military aircraft bird strikes;
- Since 1990 commercial aircraft have recorded over 1,300 incidents in which engine damage occurred as a result of bird strike; 60 of which involved damage to two engines;
- Bird and other wildlife strikes cost U.S. civil and military aviation over \$700 million per year;
- From 1990 to 2007 there were 82,057 reported bird strikes;
- In 2007 there were over 7,666 bird and other wildlife strikes reported in the U.S.;
- It is estimated that 80% of bird strikes in the U.S. go unreported;
- 92% of bird strikes occur at or below 3,000 feet AGL (above ground level);
- The North American non-migratory Canada Goose population increased from approximately 1 million in 1990 to 3.4 million in 2006 (350% increase);
- The non-migratory (urban resident) Canada Goose population in the Wichita area is estimated to be 4,000; growing at a rate of 7.3% per year;
- Mid-Continent Airport recorded 56 bird strikes in the 5 year period between 1999 and 2003; and 96 bird strikes between 2003 and June of 2008;

He said he would like to share two recent and relevant incidents in the region that resulted in tragedy. He said on April 10, 2008, two persons died in the crash of a Piper Seminole in central Minnesota and on March 4, 2008, five persons died in the crash of a Cessna Citation approximately 2 miles west of the Wiley Post Airport, Oklahoma City, OK. He said the final report for these accidents is still pending; however, both accidents are believed to have been caused by bird strikes.

He concluded by stating that the Airport Department supports Planning Staff's recommendation to deny the application as presented.

TAPE 1, SIDE 2

HENTZEN clarified that the 96 bird strikes were at Mid-Continent airport?

CHRISTOPHER said yes, and the area immediately surrounding Mid-Continent Airport.

HENTZEN said he lived north of the airport and commented on the large number of ducks and geese that fly through the area every evening. He asked if the Airport or Federal Government has offered land owners something for their land, as opposed to just stopping them from developing it.

CHRISTOPHER said no.

MITCHELL asked if there was any plan to reduce the number of water fowl in this area, rather than trying to prohibit land use that may or may not increase water fowl.

CHRISTOPHER commented that they are approaching the issue on a number of fronts. He said the Airport has a contract with the USDA to manage wildlife habitat at the Airport such as food sources and attractants. He said they have also employed other management techniques such as harassment and hazing to try to keep birds away from Airport. He mentioned that CFR, part 139 was a compulsory document used to eliminate and mitigate wildlife hazards at airports. He said there is a growing concern about the migratory as well as resident population of Canada geese in the area, which continues to grow every year. He commented that they don't have the ability for direct removal or lethal means off Airport property.

HILLMAN asked if this was a new regulation.

CHRISTOPHER said no, the document was updated in 2004; however, it has been around since the early 1990's.

HILLMAN asked what they have been doing the last 4 years to attempt to control the situation.

CHRISTOPHER reiterated what he had said previously about controlling habitat, food sources and other attractants.

HILLMAN asked if the 5-mile control was radius or circumference, and where the measurement began.

CHRISTOPHER said the area begins at the end of the runway pavement at the Airport.

HILLMAN clarified then the area was actually 11 miles square. He asked **CHRISTOPHER** to clarify "bird strikes" and also asked what other wildlife this includes besides geese.

CHRISTOPHER responded that the bird strikes are not limited to Canada geese and that there is a list in the wildlife circular, which includes egrets, hawks, and a number of other bird species that are attracted to airports. He said a "bird strike" could be any bird no matter what size that comes in contact with an aircraft.

HILLMAN asked if there was a regulation to allow grandfathering in all sand pits and other areas immediately north of this area or to control those areas.

CHRISTOPHER said there was no provision for a "grandfather clause." He said they have not seen any pressure from the FAA to revisit anything that has occurred in the past. He said from his standpoint, there were less water sources and habitat to deal with 20-30 years ago then there are today. He said they would like to go forward from this point.

HILLMAN commented that there are planes taking off to the north where there are sand pits and birds closer than 3 miles to the airport, but they are not addressing that issue or making any attempt to control those areas; except this one pond.

CHRISTOPHER commented that they need to start at some point. He said he could not say that this particular application for a body of water may necessarily create a significant hazard in and of itself. He said they are most concerned with precedent.

HILLMAN suggested the Airport create a zone and work with land owners in the area to help control this problem.

CHRISTOPHER commented that staff would like to develop a comprehensive response from a policy and land use standpoint. He said the Airport is not looking for an opportunity to recommend denial of the request and that they would like to work with landowners and staff on the issue.

FOSTER asked if there were any alternatives uses of the area to get away from the issue of the body of water.

EWY said there was no alternative solution to this particular extraction operation. He said pond design is intended to be an amenity for future land development or the current land owner. He said historically conditional uses like to insure that what is left is reusable for other land uses which are typically residential but sometimes office space.

MILLER STEVENS clarified that it was the Airport's position that development of residential areas with retention ponds was more of a threat than this property with grain crops on it.

CHRISTOPHER said he was not able to answer that question from a definitive standpoint, only subjectively. He said a water source is probably a more significant attractant to Canada geese than a grain crop.

HENTZEN thanked **CHRISTOPHER** for presenting the information. He said he can't see a hell of a lot of difference with bird problems between what is being proposed and what is there now.

MARNELL asked **DEVON MCBRIDE, USDA WILDLIFE SERVICES PROGRAM, STATE WILDLIFE BIOLOGIST** if they have made a determination as to whether the proposal is better or worse than what is there now. He said it looks like there is some type of grain crop and water there currently.

MCBRIDE said he did not know when the picture used in the presentation was taken, but that this morning there was very little water on the field. He said he understands that it has been used as a pasture for 15 years. He said they are attempting to limit larger bodies of water. He briefly mentioned that the local Canada geese population is 4,000; however, he said over 41,000 birds migrate to the area to "over winter" from fall through early spring.

MARNELL asked if the geese could be hunted and if there was a government agency responsible for reducing the goose population, if the Federal government chooses to do that.

MCBRIDE commented that geese can be hunted in the City fringe areas; however, they are protected within the City limits and urban geese don't migrate. He said eliminating crop production in surrounding areas and working with property owners and transplanting birds to western Kansas are some of the methods they have used.

MARNELL said it seems like they are way behind in planning on this issue. He said it looks like the Federal Government is clamping the hands of surrounding property owners and yet wants the issue solved at the local level; and that is a problem.

EWY said they are sympathetic to the issue of bird strikes and the problem around airport facilities; however, he said this site is far removed from the runway. He commented about the flight patterns of Canada geese and how much interference that may be around the south runway. He asked what difference it made whether a pond is built or not if there is a population of 41,000 geese in the area. He also mentioned the 11 mile grid air space, the drainage issues in southwest Sedgwick County, the wildlife parks, including one just west of the airport on Tyler, and the zoo to the north within the 5 mile boundary. He requested that condition #2 be stricken in the Staff Report under Planning Staff's recommendations if the MAPC decides to approve the application.

HILLMAN said he was curious as to how high geese fly and how low plans come in before landing and asked if that information was available. He also asked for reassurances from the landowner that they weren't planning on growing cat tails or any other vegetation that would be habitat for geese.

EWY said the landowner and applicant would be more than willing to work with **MR. MCBRIDE** and his group on the vegetation issue.

MITCHELL asked about the elimination of condition #18 also.

EWY said that was a standard condition on most condition uses of this nature.

FOSTER asked about the end use on the project.

EARL MIES, MIES CONSTRUCTION, said the landowner would hope to return the area to agricultural use with a pasture and pond for his cattle.

MILLER commented that the whole point of yesterday's meeting was to come up with possible solutions and/or compromises. He said it became clear in the end that the request was not something that could comply with the circular. He said items such as rip-rap, netting, wire mesh, and bird balls which would discourage wildlife were all discussed, in addition to the fact that most of these items would not be amenable to creating an attractive pond that someone would like to use.

MARNELL commented that if the proposal is approved today, that will be the final approval unless protests are received; then the item will go before the County Commission. He said due to the Airport's lack of a plan to control the bird population, he did not think it was appropriate to deny the application.

MOTION: To approve subject to staff recommendation, with the elimination of item #2 under conditions.

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

MARNELL commented that this was a real bothersome case, and he was concerned that the Airport might be in jeopardy of losing federal funds over the MAPC's recommended approval of this case. He said that is a legitimate concern, but he felt the far bigger question was what was the Federal Government doing pro-actively to solve the problem and not deny land owner's use of their land. He said this water location is within a huge boundary. He said this will kill development on a massive amount of land without giving anything in return to the property owners.

MCKAY said the application was for mining and quarrying because the product is there. He said the area proposed by the Airport is an 11 mile circle all the way down to Haysville. He commented that if a farmer in the area decided to build a pond that would not come before the MAPC. He said **MR. MIES** has indicated that it is the farmer's intent to use this as a farm pond once the extraction operation is completed. He said he has to agree with the motion maker.

VAN FLEET commented this is weighing the overall public interest against a 31-acre parcel of land to be excavated and a new pond created. He said in the testimony, the Airport indicated that they are not adverse to development south of the facility, with consideration of attractants to migratory fowl and other birds. He said he believes this creates a safety issue for the entire public.

SUBSTITUTE MOTION: To deny subject to staff recommendation.

VAN FLEET moved, **FOSTER** seconded the motion, and it failed (2-9).
ANDERSON, DOWNING, HENTZEN, HILLMAN, MARNELL, MCKAY
MILLER STEVENS, MITCHELL, and SHERMAN – No.

CHAIRMAN DOWNING said that something is going to have to be done about the bird population in Wichita whether that solution involves capture and/or removal or elimination. He said it appears that the flying public is at some risk.

FOSTER asked if it would be appropriate to make a motion to direct staff to develop an analysis of the issue.

DIRECTOR SCHELGEL commented that wasn't necessary as Airport Staff has agreed that something needs to be done and Planning Staff have expressed their willingness to work with them.

NON-PUBLIC HEARING ITEMS

9. **Conformity of the Ken Mar Redevelopment Project Plan** Request Finding of conformity of Redevelopment Plan with the Wichita-Sedgwick County Comprehensive Plan.
Generally located 13th Street and Oliver

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

The City of Wichita via Ordinance No. 47-954 has established the Ken Mar Redevelopment District (tax increment financing). This tax increment financing district is bounded by 13th on the south, 14th on the north, Oliver on the east and Pershing on the west (see Attachment "A"). The District is currently zoned LC-Limited Commercial and B-Multi-Family. Existing land uses consist of a large commercial retail strip center and two freestanding commercial buildings - Dollar General Store and Pay Day Loans.

Redevelopment of the project area will include extensive renovation to the existing buildings, including a new façade, remodeling the interior and adding demising walls for a more efficient use of tenant space and new sidewalks in front of the buildings. There will also be extensive site work including resurfacing the parking lot, adding landscape islands, replacing and adding parking lot lighting and adding four new outparcels.

The City's contribution to the project will include reimbursement for a portion of the purchase price and assistance with site preparation – both financed through tax increment financing.

It is anticipated that the project will begin in early 2009 and be completed by 2012 with full occupancy by 2013. The assessed valuation for the Ken Mar Redevelopment District as of January 2008 was \$503,925. The projected assessed valuation as of January 1, 2014 is estimated to be \$2,841,124 with a captured assessed valuation of \$2,337,199. The tax increment income derived thereof over the seventeen year life of the TIF District will be sufficient to pay for the land acquisition reimbursement and site improvements, currently estimated at \$2,500,000.

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

The MAPC is advised that the Ken Mar Redevelopment Project Plan area falls within the residential revitalization area as designated on the *Wichita Residential Enhancement Strategy Map*. Public investment in capital improvements and infrastructure for these areas are recommended strategies of the Comprehensive Plan. The Plan (pg 45, Table 1) also advocates tax increment financing as a recommended implementation action in Wichita's Neighborhood Revitalization Area, of which the Ken

Mar District is located. Furthermore, the Ken Mar Redevelopment Project Plan area falls within the *Central Northeast Area Plan* adopted by the MAPC and the Wichita City Council in September 2005, and is consistent with the overall direction and intent of redevelopment policies contained in this plan (specifically Initiative 9.5 Improve Business Building Facades and Sites).

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

Attachments: Attachment "A". Ken Mar Redevelopment District Map.

Attachment "B". Ken Mar Redevelopment District Project Plan, October 23, 2008.

DAVE BARBER, Planning Staff presented the Staff Report.

MARNELL requested a definition of a "demising wall". He added that he did not believe the MAPC needed to hear a full-fledged presentation of the entire Ken Mar Redevelopment Project Plan to determine whether it is compatible with the Comprehensive Plan.

CHAIRMAN DOWNING requested a shortened version of Mr. Bell's presentation, focused on whether the redevelopment project is in compliance with the Comprehensive Plan.

ALLEN BELL, URBAN DEVELOPMENT DIRECTOR, referred board members to the presentation packet provided with the agenda. He said "demising wall" is a real estate and development term for interior walls that divide different spaces for different uses. He said in this case a large building is being subdivided into separate commercial spaces. He added that demising walls are not load bearing like structural walls, but are simply used to create new spaces within the building.

MITCHELL commented that neither the drawing nor the map marked exhibit A gives any kind of legal description of the area that he can live with.

TAPE 2, SIDE 1

MOTION: To pass a resolution finding the proposed Ken Mar Redevelopment Project Plan to be consistent with the adopted Wichita-Sedgwick County Comprehensive Plan, and recommending that a more comprehensive legal description be provided.

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

LANG commented that in Tax Increment Financing (TIF) statutes, this is the type of description that best notifies the public of the location.

MITCHELL requested a copy of the statute.

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- 10. Wichita Parks, Recreation and Open Space (PROS) Plan (Draft)** Request Presentation and request for public hearing date.
Generally located City-wide

Background: In 2006 the Wichita Board of Park Commissioners initiated the development of the Wichita Parks, Recreation, and Open Space Plan (PROS Plan) to replace the currently adopted 1996 Parks and Pathways Plan, an element of the Wichita-Sedgwick County Comprehensive Plan. The Wichita PROS Plan will serve as an updated and improved guide for the development, provision, maintenance, and funding of parks and recreation resources for the City of Wichita. The plan will better enable the Park

Board and City Council to ensure that the provision of PROS resources reflects the priorities and needs of Wichita citizens.

The plan area consists of the City of Wichita and the Wichita 2030 Urban Growth Area, identified in the Wichita-Sedgwick County Comprehensive Plan.

On December 19, 2006 the City Council approved the selection of Moore, Iacofano, Goltsman to undertake the preparation of this Plan. An eight-member Citizen Advisory Committee was appointed by the City Manager to oversee the development of the Plan. A 43-member Technical Advisory Group comprised of community organization, school districts, neighborhood organizations, trade organizations, and City staff representatives was also created to provide support to the development of the PROS Plan.

Over the last two years, the planning team has worked closely with the Citizen Advisory Committee, Technical Advisory Committee, and the community at-large to build consensus in the development of the PROS Plan. To-date, there have been a total of 5 Citizen Advisory Committee and Technical Advisory Group meetings; 13 public information meetings (including a public charrette), 6 presentations to the Wichita Board of Park Commissioners, 2 briefings to the Advance Plans Committee of MAPC; 456 responses from a community-wide survey done by the consultant; 6 days of intercept events; 855 questionnaire responses; and an online-questionnaire.

Elements of the DRAFT Wichita Parks, Recreation, and Open Space Plan

Where Are We Now? - The draft plan contains a description of Wichita and its recreation resources. This section also includes a review of national trends that influence how communities provide park and recreation resources.

Where Do We Want to Be? - The plan includes the community's vision for the future, "... an interconnected and accessible system of vibrant public spaces, friendly neighborhood parks, thriving natural areas, and diverse recreation opportunities that make our city a healthy and active place in which to live, work, and play". The Goals of the PROS Plan are as follows:

1. Provide safe and accessible parks, open spaces, recreation facilities and programs that help create healthy residents and a healthy community.
2. Preserve and enhance our unique natural and cultural resources.
3. Provide facilities and services that embrace the needs of residents of diverse cultures, ages, and income levels.
4. Preserve resources through sound management and best practices to create a legacy for future generations.
5. Provide trails that connect community destinations, support alternatives to automobile transportation, and encourage active transportation.
6. Support life-long human development by providing recreation and learning opportunities.
7. Foster community ownership, encourage community participation, and promote volunteerism.
8. Building partnerships to leverage resources and work cooperatively toward our vision.

The strategic directions to achieve Wichita's vision for parks, recreation, and open space include:

- Neighborhood-oriented services;
- Vibrant public spaces;
- A balanced and equitable system of services;
- An interconnected system that supports walking, bicycling, and other healthy activities;
- Renovation, restoration, and reinvestment;
- A well-maintained and sustainable system; and
- An adequately funded system.

How Do We Get There? Recreation Services- The PROS Plan recommends a Neighborhood Center-based recreation services model that focuses on health and wellness; and community building. Recreation programming will also support tourism and economic development through partnerships, programs, and services.

How Do We Get There? *Park Land, Recreation Resources, and Trails* – The PROS Plan identifies the following improvements listed below.

- Overall policies, actions, and recommendations that apply to the entire park system or entire categories of parks;
- Design guidelines that identify the size, access, and resource guidelines for each park classification;
- Improvements to existing parks, new parks, and pathways within the Wichita City limits;
- Recommendations for new parks and pathways needed to serve future needs in the 2030 growth area;
- Program improvements, minor investments, and if successful – then major investments in neighborhood community centers to provide recreation programming; and
- Investments in public swimming pool improvements.

How Do We Get There? *Park and Facility Maintenance and Operations Costs*- In order to address maintenance concerns identified by the public, the PROS Plan includes recommendations for improvements to the City's maintenance of existing and proposed resources. This section identifies the estimated funding amounts necessary for the proposed higher levels of maintenance for existing resources, which are estimated to cost approximately \$2.3 million.

How Do We Get There? *Management of Services* – The PROS Plan includes actions and recommendations for improving the delivery of park, recreation, and open space services through initiatives in the following categories:

- organizational structure;
- communications and outreach;
- volunteerism;
- partnerships; and
- funding and finance.

Capital Projects – This chapter includes potential funding sources for the more than \$450 million of capital improvements identified in the PROS Plan, and provides prioritization criteria to evaluate the projects. The funding sources include the following:

- General obligation bonds (capital improvements program);
- Special assessments;
- Sales tax;
- Development excise tax (impact fees); and
- State, federal, and private grant opportunities.

Prior to adopting the Wichita Parks, Recreation, and Open Space Plan as an element of the Wichita-Sedgwick County Comprehensive Plan, Kansas statutes require the MAPC to hold a public hearing.

Recommended Action: Schedule a public hearing for November 20, 2008; pursuant to State statute receive formal public comment and consider the adoption of the *Wichita Parks, Recreation, and Open Space Plan, November 2008* as an amendment to the Wichita-Sedgwick County Comprehensive Plan.

DAVE BARBER, Planning Staff presented the Staff Report.

JANET MILLER, PRESIDENT, WICHITA BOARD OF PARK COMMISSIONERS, 1102 JEFFERSON, briefly reviewed the input process commenting that nearly 3,000 people participated in development of the Plan through focus groups; 9 outreach meetings; 6 days of intercept events (including the Wichita River Festival); scientific survey; WEB and paper questionnaires; visioning workshops; Park and Recreation staff workshops; technical, recreation and citizen advisory committee meetings; and

Greenway Alliance events including the “Dream in Green” speaker series. She also mentioned that a facility condition assessment as well as a needs assessment was completed as part of the planning process.

JANET MILLER said during the process numerous benefits of park and recreation emerged including, but not limited to: human health and wellness, ecological and environmental issues, how open space, green spaces and greenways can help with storm water runoff, in addition to the economic benefits of park and recreation spaces such as attracting and retaining a work force and businesses. She said in her generation, people relocated to where the jobs were; however, today’s young professionals make decisions on where to live by looking for communities that provide the amenities they want, such as parks, recreation, greenways, community “walkability”, and other qualities of life. She said residential development trends show that more consumers are looking for “walkable” areas that are close to trail heads or have access to trails and other services and recreation opportunities; and these developments are being advertised using those amenities, which boost property values. She said economic impact was another reason for development of a good, solid Park Plan over the next 20 years.

JANET MILLER said a cost estimate was included in the plan and referred Commissioners to the appendix. She said initial estimates ranged from \$600-\$450 million; however, they are still in the process of refining those estimates, as well as various elements of the Plan itself. She said she also wanted to make sure that people understand that those numbers represent if every item in the plan is implemented over the next 20 years. She said they realize that not every wish and dream is realizable over the next 20 years. She said they would like to request 5-year incremental funding to fund various plan components. For example, she said they would like identify \$100 million worth of projects over the next 5 years and then determine how citizens wish to pay for those. She said several funding options are outlined in the plan, but that no particular option is recommended but rather a global vision of the needs outlined in the plan. Finally, she said several public funding scenarios will be presented for discussion purposes; however, they will not be the only funding sources because the Park Department has received in the past and expects to receive in the future donations of land and other items. In addition, she said corporate interest is increasing, as well as partnerships with the YMCA and other non-profits and corporate sponsorships.

MARLA FLENTJE, 543 N. BROOKDALE COURT., AUSTIN PETERS GROUP, said never in the public policy planning process has she seen the number of participants and a procedure with the breadth and depth of what has been accomplished with this Park and Recreation Open Space Plan. She made several comments concerning the historic ups and downs of the Park Department, including establishment of such jewels as Riverside Park in the 1920’s and the building of the ten recreation centers located throughout the community in the 1960’s. She said the Wichita Park system has an average of 13 acres per 1,000 residents; however, the system contains a lot of aging infrastructure. She said it will be a challenge in the future to take care of current facilities and amenities. She said the average program has a cost recovery of 20-30% and added that in the future, they would like to improve upon that. She said during the public feedback process, several themes emerged including the fact that citizens did not want to “reinvent what is already there” and requests for dog parks, which she said was mentioned at just about every public event staffers attended.

FLENTJE briefly reviewed a PowerPoint presentation as follows:

What Citizens Said:

- High value parks and recreation
- City is one of multiple providers
- More resources in parks and more specialty parks
- Better maintenance
- Better trail connections
- Close to home services
- More funding for parks

Plan Vision and Mission

Vision

We envision an interconnected and accessible system of vibrant public spaces, friendly neighborhood parks, thriving natural areas and diverse recreation opportunities that make our city a healthy, active, and beautiful place to live, work and play.

Mission

Wichita Park and Recreation Department creates a healthy, vibrant community by preserving and enhancing our parks and open space system and providing diverse recreation opportunities.

FLENTJE commented that this was not a “boiler plate” plan, but that it was built from the bottom up with extensive public participation.

Major Recommendations

- Reinvestment in existing parks
- A park within 1 mile of every resident
- A Neighborhood Center within 2 miles of every resident
- Create high demand recreation programs at Neighborhood Centers
- Expanded and connected trails
- Renovated swimming pools accessible to all
- Options for funding operations and capital improvements

FLENTJE referred to a map of the Park System of the future. She said this was an “approximation” of where facilities need to be renovated and recreation centers located within the next 20-30 year growth area.

PROGRAMS AND SERVICES

Recreation Services Built on Partnerships

Multi-tiered, multi-sector service delivery that builds on existing resources:

- Mega-Centers
 - Provided by the YMCA
- Neighborhood Centers
 - Provided by City
- Specialized Centers
 - Provided by City and others
- Community Buildings
 - Avoid building more

Wichita’s Role in Recreation Partnership

- Provide neighborhood center-based services
 - Decisions informed by Neighborhood Councils
- Provide citywide specialized services
- Contribute to tourism & economic development goals

Neighborhood Centers of the Future

1. Focus on program improvements
 - Customized, niche services
 - Increased cost recovery thru fees
2. Make minor upgrades
3. In long term: major renovations of existing Centers and building of new Centers
 - Locate around existing public, private & nonprofit resources
 - Include other public services

Improvements for Existing Parks

- Major renovations at 14 sites

- Minor renovations at 36 sites
- Site furnishing and signage upgrades at 28 sites
- Ongoing reinvestment at 39 sites

FLENTJE briefly mentioned again the importance of stewardship.

PLANS FOR NEW PARK DEVELOPMENT

Land Acquisition

- 8 sites in city limits
- 15 sites in 2030 growth area

Development

- 18 sites in city limits
 - 8 new sites
 - 10 existing sites

More and connected trails

- Regional Trail Improvements
- City Pathway Connections
- Park Pathway Connections
- Watercraft Launches

OPERATIONS AND MAINTENANCE

Improving Park Maintenance

- Rethink park maintenance priorities
 - Two tiers
- Allocate more resources to building and park maintenance
 - History of underfunding, adding responsibilities
- Invest in sites, fleet, staff

FLENTJE commented that the Park Department has been challenged with more responsibility such as maintenance of the wonderful boulevards throughout the City which increased the mowing responsibilities by one third; however, the department did not receive additional staff to accomplish that task. She said most areas within the City are on a 21-day mowing cycle, but that some areas are on a 30-day mowing cycle. She added that park acreage has grown 15% in the last 3 years; however, maintenance staff has not been added. She said park maintenance spending does not compare favorably with other communities and noted that the City of Newton spends \$57.00 per capita, while Wichita spends \$25.00 per capita. She said Wichita spends \$1.00 per square foot for facility maintenance, while the national average is \$1.43 per square foot.

MANAGEMENT SERVICES

- Improve data collection
- Realign organizational structure
- Expand communications and outreach
- Enhance volunteer program
- Maintain and expand partnerships

CLOSING THE FUNDING GAP

FLENTJE commented that this was not an invoice, just an estimate.

The Bottom Line

- \$200 million existing parks projects
- \$241 million new parks projects
- And on operations side....
 - Stepped up parks maintenance
 - Expanded, demand-driven programming

- Dollar estimates are guide, not mandate
- Public assets require investment to sustain community value

Options for Paying for Park Operations

Expanded cost recovery

- Increasing fees for existing services
- Expanding participation in recreation program

Cost sharing

- Leveraging tax spending with investments by other community entities

Increased General Fund support

- Property taxes (general or dedicated)
- Sales taxes (general or dedicated)

Options for Paying for Park Development

- Maintain current sources
- Possible new sources:
 - Increase parks portion of City debt financing from 10% to 15%
 - General or targeted special assessments
 - Dedicated general tax
 - Development impact fees

FLENTJE commented that park spending has decreased citing that in 2000, expenditures were \$51.50 per capita, while in 2006 that figure decreased to \$48.00 per capita. She said Park and Recreation is also getting a smaller share of the City general operating budget citing 10% of the total City budget in 2000, and 9.5% in 2006. She said this is partly due to competing with other needed City services.

She said other options being explored were grants and donations of park land, partnering with schools, non profits, and other government agencies, and instituting a dedicated mile levy for parks like some other communities, perhaps by referendum.

FUNDING SCENARIOS:

Dedicated Property Tax

- Estimated annual \$ generated by 1 Mill = \$2,812,767
- Annual cost to average Wichita household = \$13

Dedicated Sales Tax

- Estimated annual \$ generated by \$.0025 sales tax = \$16,628,971
- Annual cost to average Wichita household = \$44

FLENTJE commented that to put the funding scenarios into perspective, a membership to the YMCA is approximately \$50 per month or \$600 per year.

General Obligation Bonds

- Currently allocating 10% of City bonding capacity to Parks and Recreation = \$9,845,000
- Allocating 15% of City bonding capacity to Parks and Recreation = \$14,767,500
- Allocating 10% of City bonding capacity to Parks and Recreation; and increasing debt to City's legal capacity = \$32,817,000
- Allocating 15% of City bonding capacity to Parks and Recreation; and increasing debt to City's legal capacity = \$49,225,500

WHERE DO WE GO FROM HERE?

- Make plan revisions based on community feedback
- Seek City Council adoption of plan
- Park board will recommend funding options to Council
- Implement plan based on fund availability and continuing community feedback

MITCHELL referred to page 130 of the Plan, specifically, Development Excise Tax (DET) or impact fees, which he said were also proposed in the 1994 plan. He said at that time, they were removed from the plan because it was felt that if a fee is imposed on development in the City of Wichita, development will move to areas that do not require impact fees. He said the ad valorem tax base is growing dramatically and they do not want to encourage development to move out of the jurisdiction of the City of Wichita. He said a diminishing ad valorem tax base will lead to growth in other places. He also referred to page 22 of the Plan, specifically, that over 110,000 acres of homeowner association reserves exist inside the City limits. He commented that since current park acreage is approximately 4,800, the homeowner association acreage is a tremendous body of land available to people living in homeowner association areas. He said he has not heard of any refusal of these associations to let other people use these areas as passive or other recreational use. He said he feels any use of DET will diminish new development and he will not support impact fees as any part of plan financing.

FOSTER commented that in his work with smaller communities that have imposed impact fees, data supports that the fees have not slowed their growth whatsoever, and the communities have benefited greatly by the fees. As a general comment, he expressed appreciation for the work that has been done on the Plan document and congratulated staff for getting to this point. He referred to page 136 page, specifically on how the Plan elements will be prioritized and asked about the statement "...the *department* can make decisions on which projects move forward first.." He asked if this would be a "top down" process, although he acknowledged that some priorities will be City Council driven.

JANET MILLER commented that was a mistake and that the process will be driven by community-wide discussion rather than limited to the Park Department. She thanked **FOSTER** for pointing out that error.

ANDERSON said he wanted to commend the people involved with the process and said they have done an excellent study. He said these are quality of life issues on how and where we want our community to be in the next 10-15 years when it comes to parks and recreation. He said this is not exclusively a government problem; that businesses and other people are very interested in quality of life of their employees. He said the private sector should be willing to participate in these costs. He said the community supports those businesses. He suggested that members of the Park Board make an effort to take this message beyond government agencies to the private sector itself.

JANET MILLER said that have solicited corporate partners for development of new assets; however, some businesses complain that they already pay taxes. She added that he was absolutely correct, that there is room for more public/private partnerships and sponsorships. She said the proposed \$4 million in annual capital improvements would be \$80 million over 20 years and that this plan could act as a guide. She acknowledged that it is difficult to request increased funding in such a down economy, but said this Plan could be used as a guide on spending of existing funds and additional resources as they become available.

HILLMAN referred to the map on 55 and asked about taking the design to other planning groups and actually starting the process. He said there have been cases where connecting pathways could be included on existing residential streets as they are widened and/or upgraded. He asked if there was a plan and to incorporate these kinds of things in other City development plans, because he did not see these as a Park expenses since these amenities serve the entire community. He also asked about working with the district court system to get individuals who assigned community service to volunteer to work for the Park Department. He said there are lots of different low or no-cost solutions that can be incorporated into these processes.

JANET MILLER said his point was well noted and said the Park Board has been attempting to raise awareness among Public Works staff as to those possibilities. She commented that there has been some resistance due to budget issues. She mentioned the need for inter-departmental cooperation. She also agreed that there is a need to expand the volunteer component, but added that staff is needed to coordinate those volunteers and their efforts. She briefly referred to Botanica's volunteer staff.

TAPE 2, SIDE 2

MOTION: To schedule a public hearing on November 20, 2008; pursuant to State statute to receive formal public comment and consider the adoption of the *Wichita Parks, Recreation, and Open Space Plan, November 2008* as an amendment to the Wichita-Sedgwick County Comprehensive Plan.

FOSTER moved, **HILLMAN** seconded the motion, and it carried (9-2-0).
MCKAY and **MITCHELL** – No.

CHAIRMAN DOWNING thanked **JANET MILLER** and **MARLA FLENTJE** for the informative presentation.

Proposed 2009 MAPC Meeting Calendar

MOTION: To approve the 2009 MAPC Meeting Calendar as submitted.

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

Unified Zoning Code Revisions

MOTION: To schedule a public hearing on November 20, 2008 to review and discuss changes to the Unified Zoning Code.

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

The Metropolitan Area Planning Department informally adjourned at 4:05 p.m.

State of Kansas)
Sedgwick County) ^{SS}

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

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

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

(SEAL)