METROPOLITAN AREA PLANNING COMMISSION

MINUTES

December 7, 2000

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held Thursday, December 7, 2000 at 1:00 p.m. in the Planning Department Conference Room, 10th Floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Chris Carraher, Chair; James Barfield (late arrival); Frank Garofalo; Bud Hentzen; Bill Johnson; Ron Marnell; Jerry Michaelis; Osborne-Howes (late arrival); George Platt; Harold Warner; Ray Warren. John W. McKay, Jr., and Richard Lopez were not present. Staff members present were Marvin Krout, Secretary; Dale Miller, Assistant Secretary; Donna Goltry, Principal Planner; Scott Knebel, Senior Planner; Barry Carroll, Associate Planner; and Karen Wolf, Recording Secretary.

1. Consideration of Subdivision Committee recommendations

CARRAHER "There are two items that we need to pull for consideration. Those items are 1/1 and 1/3. Is there anyone here to speak on any of those issues?"

Man in the audience "Yes. Item 1/8."

CARRAHER "All right. We will pull that item and enjoin it with issues 1/1 and 1/3. Are there any other items that anyone else wants to speak to? With that in mind, I would open the floor for a motion to approve items 1/2 and 1/4 through 1/7 as distributed."

Subdivision Committee items 1/2, 1/4, 1/5, 1/6, and 1/7 were approved subject to the Subdivision Committee recommendations.

> **MARNELL** moved, **GAROFALO** seconded the motion, and it carried unanimously (9-0).

1/4. **SUB2000-14** - One step final plat of WILBUR ADDITION, generally located south of 37th Street North, on the west side of Hillside.

A. Since neither municipal water nor sanitary sewer is available to serve this property, the applicant shall contact the Environmental Health Division of the Health Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities and water wells. A memorandum shall be obtained specifying approval. A restrictive covenant is required that prohibits non-domestic uses on the site until public sewer is available.

B. A petition is required for future extension of sanitary sewer.

C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.

D. An off-site drainage agreement and a drainage reserve is required.

E. 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.

F. For those reserves being platted for drainage purposes, the required covenant which 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.

G. The plat proposes two access openings along Hillside. The Subdivision regulations encourage shared access for commercial/industrial lots along arterials. Traffic Engineering has approved the access controls with one opening to be located along the south line of the property.

H. If platted, the building setback may be a minimum of 20 feet to conform with the LI District zoning standards.

I. The signature line for the County Clerk needs to be revised to reference "Don Brace".

J. The signature line for the MAPC Chairman needs to be revised to reference "Christopher S. Carraher".

K. The plattor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

L. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.

N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

P. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.

Q. Perimeter closure computations shall be submitted with the final plat tracing.

R. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.

S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. KGE has requested additional easements.

T. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

1/5. **SUB2000-102** - One Step Final Plat of MESSIAH LUTHERAN SECOND ADDITION, located on the southwest corner of 12th Street North and Ridge Road.

A.. Municipal services are available to serve the site. City Engineering needs to comment on the need for any guarantees or easements. No additional easements or guarantees are required.

B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.

C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. No guarantees are required.

D. Traffic Engineering needs to comment on the access controls. The plat proposes one access opening along Ridge. The access controls are approved.

E. The signature line for the County Clerk needs to be revised to reference "Don Brace".

F. The plattor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

G. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

H. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.

I. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) 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 be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.

L. Perimeter closure computations shall be submitted with the final plat tracing.

M. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.

N. 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.

O. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

1/6. **SUB2000-103** - One Step Final Plat of MYSTIC LAKES ADDITION, generally located north of 53rd Street North, on the east side of Tyler Road.

A. Since neither municipal water nor sanitary sewer is available to serve this property, the applicant shall contact the Environmental Health Division of the Health Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities and water wells. A memorandum shall be obtained specifying approval. The size of the platted lots necessitates the use of septic systems. Health Department has required a four corner lot grading plan.

B. County Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved.

C. County Engineering needs to comment on the access controls. The plat denotes one access opening along Tyler in addition to an emergency access opening. County Engineering has required access control except for one opening and an emergency access opening.

D. County Fire Department needs to comment on the plat's street names. The streets names are approved.

E. County Fire Department should comment on the need for any required gating, fencing or special signing necessitated by the platting of the emergency access easement. The emergency access easement shall be established by separate instrument and depicted on the final plat. A guarantee shall be submitted assuring the construction of an all-weather roadway surface. The text of the instrument shall indicate the type of driving surface to be installed and address installation and maintenance. The emergency access shall be a minimum of 20-feet wide, and be signed and gated.

F. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.

G. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.

H. A covenant shall be submitted regarding the reserve platted for private street purposes, which sets forth ownership and maintenance of the private street, and future reversionary rights of the reserve to the lots benefiting from the reserve. The plattor's text shall reference the platting of the reserve for private street purposes along with ownership and maintenance responsibilities, in addition for the purpose of an emergency access.

I. The applicant shall guarantee the installation of the proposed street. In the event the Subdivision Committee approves a private street, the Applicant shall guarantee the installation of the private street to a public street standard. As private improvements, such guarantee cannot be provided through the use of petitions.

J. The signature line for the County Clerk needs to be revised to reference "Don Brace".

K. The plattor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

L. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8

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

M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.

N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

P. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.

Q. Perimeter closure computations shall be submitted with the final plat tracing.

R. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.

S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.

T. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

1/7. **SUB2000-108** - One-Step Final Plat of WHISPERING BROOK COMMERCIAL SECOND ADDITION, generally located on the southwest corner of 37th street North and Woodlawn.

A. Municipal water services are available to serve the site. City Engineering needs to comment on the need for any guarantees or easements. A guarantee for the extension of sanitary sewer is required.

B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.

C. City Engineering needs to comment on the status of the applicant's drainage plan. Off-site drainage improvements are required as part of site development.

D. Traffic Engineering needs to comment on the access controls. In accordance with the C.U.P. Amendment approval, the plat proposes two access openings along 37th St. North and two access openings along Woodlawn. The final plat tracing shall revise the plattor's text to reflect these platted access openings. The access controls are approved.

E. The joint access openings shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.

F. In order to assure internal access among the lots, a cross-lot circulation agreement should be provided.

G. In accordance with the C.U.P. Amendment approval, the following traffic improvements were required: extension of the center left-turn storage lane on Woodlawn to Brookview, extension of the center left-turn storage lane on 37th St. to the west property line, and provision of continuous accel/decel lanes with appropriate engineering standards to serve openings to all lots.

H. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP Amendment (referenced as CUP 2000-30, DP-203 Amendment #1) and its special conditions for development on this property.

I. On the final plat tracing, a note shall be placed on the face of the plat indicating that this Addition is subject to the conditions of CUP 2000-30, DP-203 Amendment #1.

J. The signature line for the County Clerk needs to be revised to reference "Don Brace".

K. The applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.

L. The plattor's text shall include language that a drainage plan has been developed for the plat and that all drainage

easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

M. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.

O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

Q. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.

R. Perimeter closure computations shall be submitted with the final plat tracing.

S. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.

T. 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.

U. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

Osborne-Howes arrived at 1:20 p.m.

1/1. **SUB2000-00063** - Revised One-Step Final Plat of HIDDEN CREEK ADDITION, generally located west of Meridian, north of 55th Street South.

A. The applicant shall guarantee the extension of sanitary sewer.

B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.

C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved**.**

D. Traffic Engineering should comment on the need for turn lane improvements at Meridian. A decel lane is required along Meridian.

E. Since this is a City plat, County Engineering requires that the Applicant file a vacation case regarding the existing drainage easement condemned by the County that has been relocated as Reserve A.

F. Reserve B is indicated as providing for "blanket" utility uses. These utilities should be restricted to easements within this reserve to avoid conflict with the possible locations of structures indicated therein (recreational facilities and storm shelter).

G. Provisions shall be made for ownership and maintenance of the proposed reserves. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.

H. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.

I. The applicant shall guarantee the installation of the private street connecting to Meridian in addition to the internal streets. As private improvements, such guarantees cannot be provided through the use of petitions. Standard pavement, curb and gutter are required.

J. The MAPC Chairman shall be revised to reference Christopher S. Carraher.

K. The signature line for the County Clerk needs to be revised to reference “Don Brace”.

L. The street connection to the Stonebriar Addition to the North should be revised to an emergency access easement. The emergency access easement shall be established by separate instrument and depicted on the final plat tracing. A guarantee shall be submitted assuring the construction of an all-weather roadway surface. The text of the instrument shall indicate the type of driving surface to be installed and address installation and maintenance.

M. 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.

N. The plattor’s text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

O. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

P. The applicant’s engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary’s signature.

Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) 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 be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.

T. Perimeter closure computations shall be submitted with the final plat tracing.

U. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.

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. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

NEIL STRAHL, Planning Staff “This is the revised One-Step Final Plat of the Hidden Creek Addition. This was reviewed last week by the Subdivision Committee and was approved. There was a zone change to ‘MH’ Manufactured Housing on the site that was approved by the City Council in March of this year, subject to platting. As you can see on the site plan, primary access to the site is through an existing 30 foot private road to the east, along the south here. This site may be served by both city and county fire departments and both departments had required a second point of access to the property. An emergency access easement will be platted to connect with the Stonebriar Addition to the north and that emergency access would be located right here (indicating).

We had notified the residents of the Stonebriar Addition, as the plat presented to the Subdivision Committee last week had indicated a full-street right-of-way at this point, connecting Stonebriar. However, the Subdivision Committee last week approved only an emergency access easement, not a full street right-of-way. There were residents last week speaking in opposition to the street right-of-way. There were also residents from Stonebriar speaking against any connection whatsoever to their development whether it be a street right-of-way or an emergency access easement. Both fire departments felt that emergency access would be sufficient for their purposes and as I said before, an emergency access easement was approved by the Subdivision Committee. Are there any questions of staff?”

CARRAHER “Are there any questions of staff by the Commission? Seeing none, thank you, Mr. Strahl. Is the applicant in attendance today? Would you care to speak?”

BOB KAPLAN "I did represent Hidden Creek in regard to the zoning matters, and not regarding platting issues. I am actually up here because I have a couple of other matters on your agenda. It is my understanding, from talking with Kenneth Hill with Poe and Associates that the applicant is in concurrence with all of staff's conditions. As to the access to the addition to the north, I am obviously not wearing my engineering hat, but they are comfortable either with the emergency access or the full street access at the pleasure of this Commission. Beyond that, I don't believe that there are any issues. I will stick around and if I can address any, I will. If there are engineering issues that you need addressed then I will have to go to the phone and find out where Mr. Kenny Hill is because I do not know."

CARRAHER "Are there any questions for the speaker? Thank you, sir. Now we will open it up to the gallery. Is there anybody here who wishes to speak in favor of the plat request? Is there anyone here to speak in opposition?"

BOB SMITHWICK "I live at 4922 South Mt. Carmel. I am not opposing an emergency exit for the fire department or the police department. That is fine. But the thing of it is, I have lived in other places here in the City of Wichita that had the same thing--an emergency exit, a gate and a lock. A year and a half or two years later, that gate and lock were completely removed by the city because the school board couldn't get their school buses through. Also, I have called the State Attorney General's office and asked about the rezoning of this land. What the State Attorney General's office stated to me was that any time land has been rezoned that will affect people's property, may lower the value of our property, they have to be notified by letter, which we were not ever notified by the city or by Poe and Associates.

Also, I would like to ask Poe and Associates if they have all of the proper permits from the state to build a street and a bridge across this creek. The reason why I am wanting to note this is that I don't want another west Wichita in the housing complex I live in. The creek is wide and a little deep, but yet the street is lower. I have also seen this Stonebriar Addition flooded three times altogether since I have lived there--for 2-1/2 years. I have seen all of the houses in the south end under water. The basements were full, water was within a foot or two of each house. So I would like to know if they are going to make sure that our housing complex is not going to flood again and have another west Wichita that the city is trying to take care of now.

I talked to Chris Carrier. He is the one who told me to ask these questions about the proper permits. Chris has also come out to take a look at the creek since. I would like to know if this creek is going to be maintained. Right now it is full of groundwater and trees. I have seen water come up over the top of this creek, I have seen the land to the south of the creek under water in the 2-1/2 years I have lived there. My main concern is not having a west Wichita in south Wichita. I am not opposed to the gate as long as the gate stays there and it is only maintained by the City of Wichita Fire Department or emergency people. Thank you."

CARRAHER "Are there any questions for the speaker? Thank you, sir. Is there anyone else in the gallery who wishes to speak in opposition to this item? Seeing none, Mr. Kaplan, if you wish, we will give you the standard time for rebuttal."

KAPLAN "Let me address, very quickly, the zoning case, I am categorically confident, was appropriately handled and notices were appropriately given. I have no reservations about the validity of that proceeding, despite the gentleman's concerns that he wasn't notified. It got the certified abstractor's list, as all cases do.

As to the platting issues, I am sure that there was a drainage plan. It has obviously been approved. The only concerns seem to be regarding the access and my client is totally flexible on that. You choose an emergency gate, a crash gate, whatever you like. Mr. Lang says that he will meet those desires. It sounds to me that the issue the gentleman has is more with the city's maintenance of the creek than it is with my applicant's property."

CARRAHER "Are there any questions for the speaker? Thank you. Moving it back to the Commission, what is the pleasure of the Commission?"

GAROFALO I would be kind of interested in knowing what some of the Subdivision Committee people--if they dealt with this drainage problem he is talking about. The water problem. Was any of that discussed at the Subdivision meeting?"

WARREN "This case was discussed at length. As a matter of fact, the Subdivision met last week until 6:30, I think. This case took up a considerable amount of that time. Yes, drainage was discussed. We had Vicky Huang here from the city and she told us that the drainage was worked out and that what they were going to do here wouldn't contribute any further to any drainage problems that they had. Other than that, the big item that we had to consider for a long time was this opening going north. We had a little mixed feelings about that, but it was concurred, finally, that it would be an emergency opening."

CARRAHER "Are there any other questions or commentary in regards to this item?"

KROUT "Regarding the drainage issues, Dale has asked Vicky to come up in case you have any specific questions about the drainage plan. I think that as Commissioner Warren stated, there are really two issues here. One is, is the impact of this development going to be negative on any surrounding property and that is what you looked at at subdivision level. Chris Carrier does have the responsibility for the overall maintenance of the total stormwater system, so those issues really are properly addressed to him and probably if there are problems existing out there now, they are existing whether or not this subdivision was to be approved. I do want to point out, on the question about notification that maybe the Attorney General was confusing the zoning and the subdivision process. We did send out written notices as required by state law and your local policy on the zoning case that was heard and approved earlier this year.

There is no requirement for notification on subdivision cases in the state law or by local ordinance. We have talked about that issue and in fact, we are surveying some other communities to see what they all do. We talked about the possibility of maybe posting signs in the future, but we don't have notification generally. We did, in this case, notify the homeowners' to the north because the original site plan that you had showed emergency access and it was being changed as part of the plat. We felt like we needed, as a courtesy, to let them know about that. But there isn't an obligation to notify, normally, for subdivision items."

CARRAHER "Mr. Krout, were you wanting to yield the floor to Vicky?"

KROUT "She is just here if you have any questions on the drainage plan."

Garofalo left the meeting at 1:27 p.m.

CARRAHER "Are there any questions or commentary regarding the item?"

> **MOTION:** That the Planning Commission recommend to the governing body that the request be approved.
>
> **WARREN** moved, **WARNER** seconded the motion, and it carried unanimously (8-0).
>
> ---

CARRAHER "Since Item 1/3 is closely related to Agenda Item No. 14, and I believe it is contingent on Agenda Item No. 14, we need to move this item, 1/3, to be considered at the same time as Agenda Item No. 14. Is there any objection to that being moved? We just need a consensus. Seeing no objections, this item will be dealt with after Item No. 14."

1/8. **DR 00-15** - Request for a street name change from Ridge drive to Garnett, generally located west of 127th Street East and south of 21st Street North.

CARRAHER "Mr. Krout, do we have a member of the staff to address this item?"

KROUT "I think we have a member of the Fire Department here. Do we have a map that shows the street name change?"

MARK JENKINS "I am here for the applicant, the Metropolitan Area Address Committee. We went over this last Thursday at Subdivision. We are changing the name of Ridge Drive to Garnett. The reason we are doing so is two reasons. In the Subdivision regulations of the Metropolitan Area Address Committee, the drive is the suffix of the name of the street. 'A drive is a street naming type designated a marginal access street of frontage road running parallel to a major roadway', which would be, as an example, Kellogg and Kellogg Drive. Drive has access to Kellogg, it is right next to Kellogg and you can access it. That is why they call it Kellogg Drive.

Ridge Drive does not meet those requirements, and in fact, Ridge Drive is about 20 miles away from the original Ridge. The other reason we are doing it is because, and I had a letter for the Subdivision meeting, and should have brought some more letters for this one. We had a letter from the EMS Director, Dianne Gage, who has stated that they have had trouble in the past with this street because on the CAD system, if they put in 21st and Ridge, if someone calls from a cell phone or an alarm company or something like that, they put in 21st and Ridge or 1916 Ridge or whatever. When they put it in, it draws up Ridge Drive, because Dr. comes before Rd., and if the dispatcher is real busy or if they have a thunderstorm and they are having a call every 15 seconds, if she just presses that in, the assignment company that it would send is all east side fire trucks. If the problem is on the west side, that is a delay of response time, which could be a delay in life, safety and property.

Therefore that is the reason we are asking for the change. We don't have anything against these people who live out there or anything like that. What we are trying to do is to make a bad situation better. I understand that these are all over the City, and that we are going to get to them as we can. This is not the first and it won't be the last one you will see. Thank you."

CARRAHER "Are there any questions for the applicant? Thank you, sir. Now we will move to the gallery. Is there anyone in the gallery who is wishing to speak in favor of this item?"

LT. WALTER ROONEY "I am with the Sedgwick County Fire Department. Both Fire Departments are in favor of this name change, mainly because the existing Ridge Drive does line up with Garnett. Some of the problems why this is occurring, and why I keep bringing street names up to the Committee is because years ago, when this was still out in the County, it wasn't too much difficulty, but the City of Wichita has since annexed this land and as we come up to Ridge Street in the City.

Mark spoke about the cell phone issue, which quite commonly can occur. In another case, we have spoken with Jim Weber, who is with the Sedgwick County Public Works, and he indicated to me the other day that one of these computerized digital things that we see, these map finders that we see in cars, that somebody was on their way to the 4-H building at 21st and Ridge and the indicator had brought them to 21st and Ridge at 143rd and 21st Street.

Why we picked Garnett was so that this would line up with the Garnett elsewhere within the City. So if they get an address of 1900 North Garnett, all of the fire crews know that this street is just west of 127th Street in the appropriate hundred block and we would ask the Commission to go ahead and approve the street name, mainly to avoid emergency confusion, since the fire department is primarily responsible for the protection of life and property and if we are given wrong addresses by computer glitches or by unforeseen circumstances or by nobody's fault. In that protection of life we lose precious moments, which we don't like to lose."

CARRAHER "Are there any questions of the speaker? Thank you. Is there anyone else in the gallery who wishes to speak in favor of the item? Is there anyone in the gallery who wishes to speak in opposition to the item?"

BENJAMIN LEADER "I live at 1968 Ridge Drive. I faxed in some information for you folks a couple of days ago. I hope you got it. It was relating to a couple of points I wanted to raise. Since the hearing last week, and we had had some discussions in the neighborhood prior to last week about this, I took the time to visit with all of my neighbors that I could get in touch with. One person is out of town. I basically wanted to relate to you that, and most of us have been there a long time--I have lived there for 32 years--many of them have been there longer than I have. To our knowledge of all of the persons there, we have never had any problem with law enforcement, fire units, ambulances and we have personally had some experiences with calling both law enforcement and ambulances. They didn't have any trouble finding where we were.

I would point out, in the similarity of names that was brought up, I was just looking on the Wichita map I happen to have; in addition to Ridge Road and Ridge Drive, there is Ridge Club, Ridge Club Court, Ridgecrest, and etc. There are quite a number of them. If you look down that map, there are cities all over Wichita with similar designations of names.

I understand the problem they might have with the computer not understanding the difference, but it would seem to me that any computer system would also have to take into consideration these other Ridge street names around Wichita. I would suggest that it might be a better approach to this whole procedure of changing street names to look at the City-at-large rather than kind of do it 'piecemeal' as this is. If you took the approach of all of the streets in Wichita named Ridge and deal with all of those at one time, it would seem to be a lot more efficient than taking them one at a time.

I get around quite a bit and I am familiar with a lot of other cities. Maybe we need to go to something like a northwest/southwest/northeast designation with the street names to help people know where they are. Naturally, the telephone prefix on Ridge Drive than it is on Ridge Road, and of course, our zip code is different. Again, we have no trouble getting mail properly--UPS and Fed Ex delivers out there a lot. Just as kind of a closing remark, this particular little area out where Ridge Drive is was platted a long, long time ago. I am not too sure that we didn't have Ridge Drive before there was a Ridge Road. Thank you."

CARRAHER "Are there any question of the speaker? Thank you, sir. Is there anyone else in the gallery who wishes to speak in opposition?"

MAX BRUBAKER "I live at 1916 Ridge Drive. I want to say good afternoon to you all today; it is a lot earlier than it was last week when we were here, I will tell you. Nothing else has changed as far as we are concerned. We haven't had any problems with the things that the Fire Department seems to bring up. Why that is happening with those folks, I don't really know. The EMS people have gotten there without any particular problem. I can tell you that an emotional grandmother called in about 25 years ago about her grandson falling into a swimming pool and they made it in about 5 to 6 minutes, which is pretty good coming down 4 miles of the old county roads that were there at the time. Part of which were sand and gravel then.

If they could find it that quickly 25 years ago, I am a little bit appalled at our computer system not being able to distinguish between Ridge Drive and Ridge Road. I would think if anything could, that machine ought to be able to do it because it does a lot of things for you, as you well know, from your paychecks to your pension and that sort of thing.

I would like to state that when this thing is all said and done and it is real easy for you to say 'we will just change that street name', but then the work is just beginning--not only for us, but for you people as well. You will have to see that all of the maps that are distributed properly say 'Garnett Street'. And while we are talking about Garnett, it is not a major thoroughfare of any magnitude, as I said last week, it is only half a mile long. It runs from Central down to Douglas. One of the things that you might want to ponder about that is, and whether it makes any difference or not I don't know, but right across the street from the north terminus of Garnett, the Catholic Church was going to put in the Church of the Magdalene. As you well, know, that didn't happen, because of something called polluted groundwater. I sort of feel that maybe your Garnett that is currently in existence might fade into oblivion because no one, at this point in time, is very interested in buying ground with polluted groundwater under it. It is just not very smart--not a good thing to do.

The other thing that is going to be a real super inconvenience to us is addressing the change of address cards. I assure you that there is going to be a considerable amount of man hours expended in doing that. If anyone wants to come out and help us, feel obliged to do so. Of course, the other thing is that people always worry about their pocketbook. I kind of have a feeling that something is going to happen to my pocketbook because of any kind of change that is going to take place. I can't tell you what it is right now, but this sort of thing always transmits into some sort of financial obligation one way or the other. I am not talking about the 5,000 return address stickers I have in my desk, but I am talking about other things. What they are and what they will be, I don't have an idea in the world, but I am sure they will arise. Are there any questions?"

CARRAHER "Thank you. Is there anyone in the gallery who wishes to speak in opposition to the item? Seeing none, if the applicant would like, they can have their standard time for rebuttal."

JENKINS "Just real quick. Like I said, this Metropolitan Address Committee was formed as a joint effort between the Sedgwick County and the City of Wichita to deal with existing problems and to stop things that would be a problem in the future. That is all we are trying to do. We are not trying to cause problems for these gentlemen or anyone else in that neighborhood. What we are trying to do is that this has been identified as being a problem, and I can see in the future with future developments and more Ridge Drives that it would be a problem, and also it doesn't match the street naming type, which the suffix does not match.

This is how we are going to fix them and this is how we have to do it. It is going to inconvenience people, but that is just the way it is. We would appreciate it if you would change it. Thank you."

CARRAHER "Are there any questions of the applicant?"

MICHAELIS "I have a question. I didn't think of this last Thursday, but would it be possible to change the suffix and accomplish the same thing? Is that an option at all?"

JENKINS "If it met any of the guidelines for the way a suffix is decided, then that would be a possibility, but it doesn't. Like if you went to Ridge Circle, Ridge Circle is at the end of Ridge Road. Ridge Court runs at approximately a right angle to Ridge Road. Those are really the only two suffixes that we use. We use either Circle or Court. This doesn't meet either of those requirements."

MICHAELIS "Okay. Thank you."

MARNELL "Have you had any discussion with the group that lives in the area? Have you read Mr. Leader's letter?"

JENKINS "I have. What we did, since you weren't here last Thursday, just to give you a quick rundown, how this process works is when this was brought up to our attention to EMS and by GIS, the Geographical Information System that it was flagged as a problem, what we did was to write a letter to all property owners on that street and adjoining that street and indicated that there had been a problem that had been brought up to us.

What we did was to go down with Mike Kollmeyer, who is in GIS, and we lined up Ridge, as we were saying there are really not any streets to the north, but there are streets to the south. Mike Kollmeyer said that there could be two possible streets that would really work out well. One of them would be Davin Lane and one would be Garnett. So we put together a letter and it went before the address committee and said 'this is what we are going to send out. It is a letter saying that we need to change your street name to either Garnett or Davin Lane'. We allowed them to pick one or the other and I will agree there was, and I knew there would be opposition from everyone out there, but of those two choices, what they would say was 'although I am in opposition to this name change, if I had to pick one or the other, I would pick Garnett'. It was 5-4 or 6-3 of the letters that we got back, picking Garnett. If they would have picked Davin Lane, we would have gone with that, but we picked Garnett."

CARRAHER "Are there any other questions of the speaker? Thank you. We will move it back to the Commission. Are there any questions or commentary regarding the item? What is the pleasure of the Commission?"

> **MOTION:** I move that we recommend to the governing body that the name change from Ridge Drive to Garnett be approved.
>
> **MARNELL** moved **WARNER** seconded the motion, and it carried unanimously (9-0).

CARRAHER "Now we will move on to the vacation items. I was addressed by Mr. Carroll before the meeting that he wants to discuss some issues concerning Items 2/3 and 2/6. Those will be pulled for discussion. I have also been notified by Mr. Johnson that he will be stepping down on item 2/9. Is there anyone in the gallery wanting to speak to any of these vacation items? That would be 2/1 through 2/8. Seeing none, I would open the floor for a motion to approve items 2/1, 2/2, 2/4, 2/5, 2/7, 2/8 and 2/10 as distributed.

> **MOTION:** That the Planning Commission recommend to the governing body that the requests be approved.
>
> **OSBORNE-HOWES** moved, **WARNER** seconded the motion, and it carried unanimously (9-0).

2/1. **VAC2000-44** - Request to vacate alley right-of-way, located in the alley between 9th & 10 Streets, west side of Mosley, east side of Mead (1055 N. Mosley), described as:

The alley as dedicated in the Parmenter's 3rd Addition and the Stovers Addition, Wichita, Sedgwick County,

Kansas.

The applicant is requesting to vacate alley right-of-way that is interior to property. The applicant wishes to construct a new warehouse.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

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

1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time June 20, 2000, 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 alley right-of-way, and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

B. Therefore, the vacation of alley right-of-way described in the petition should be approved subject to the following conditions:

1. The applicant shall guarantee the closure of the alley return.

2. The applicant shall dedicate another five feet of easement for a continuous 20-foot easement.

3. The vacated alley right-of-way shall be retained as a utility easement.

4. The applicant shall provide a survey of the sewer and manhole locations.

5. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. The applicant shall guarantee the closure of the alley return.

2. The applicant shall dedicate another five feet of easement for a continuous 20-foot easement.

3. The vacated alley right-of-way shall be retained as a utility easement.

4. The applicant shall provide a survey of the sewer and manhole locations.

5. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant

---

2/4. **VAC2000-51** - Request to vacate utility easement, described as:

Five (5) feet south, from existing man hole between Lot 7 and Lot 26, continuing South to includes Lots 7 through 13 and Lots 20 through 26, in Block 7, all in Franklin Yikes Addition, to Wichita, Sedgwick County, Kansas, located north of Harry, east side of Seneca (1015 Stillwell)

The applicant is requesting to vacate a utility easement that is interior to property own by the applicant. The applicant wishes to construct a new building.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

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

1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time November 17, 2000, 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 utility easement, and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

C. Therefore, the vacation of the utility described in the petition should be approved subject to the following conditions:

1. A guarantee shall be submitted for the abandonment of the sanitary sewer line. The applicant shall grant a temporary easement by separate instrument until abandonment of utility lines is complete; or

2. The applicant shall certify abandonment of the sanitary sewer line to Public Works and Water and Sewer Systems staffs before approval by the Wichita City Council.

3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. A guarantee shall be submitted for the abandonment of the sanitary sewer line. The applicant shall grant a temporary easement by separate instrument until abandonment of utility lines is complete; or

2. The applicant shall certify abandonment of the sanitary sewer line to Public Works and Water and Sewer Systems staffs before approval by the Wichita City Council.

3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

2/5. **VAC2000-53** - Request to vacate a 20-foot utility easement, described as:

A 20 foot utility easement centered on the south and west lot line of Lot 2 adjoining Lot 1 of Auburn Hills Commercial 2nd Addition, Wichita, Sedgwick County, Kansas. Generally located on the southwest corner of 135th Street West and Maple.

The applicant is requesting to vacate a 20-foot utility easement that is interior to property. The applicant wishes to construct a retail building in this area.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

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

1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time November 17, 2000, 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 utility easement, and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

C. Therefore, the vacation of the utility easements described in the petition should be approved subject to the following conditions:

1. The applicant shall retain the east 10-foot of the east/west utility easement.

2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. The applicant shall retain the east 10-foot of the east/west utility easement.

2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

2/7. **VAC2000-55** - Request to vacate utility easement, described as:

The 20' utility easement retained in vacated alley right-of-way adjacent to the west line of odd lots 145 through 189 on Smithson (now St. Paul Street) inclusive, Richmond's 3rd Addition to Wichita, Kansas, except the south 20 feet thereof. Generally located on the northwest corner of Harry and St. Paul (1539 S. St. Paul).

The applicant is requesting to vacate a utility easement that is interior to property that she owns. She wishes to allow for the expansion of facilities.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

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

1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time November 17, 2000, 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 utility easement, and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

C. Therefore, the vacation of the utility easements described in the petition should be approved subject to the following conditions:

1. The applicant shall assume the ownership, maintenance and responsibility of the sanitary sewer line.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. The applicant shall assume the ownership, maintenance and responsibility of the sanitary sewer line.

2/8. **VAC2000-56** - Request to vacate utility easements, described as:

The 10 foot utility easement common to Lots 32 and 33, Block 4, Forest Lakes, EXCEPT the west 25 feet thereof;

and

The 10 foot utility easement common to Lots 14 and 15, Block 5, Forest Lakes, EXCEPT the east 10 feet thereof. Generally located north of 29th Street North, west of Ridge.

The applicant is requesting to vacate utility easements that are interior to property. The applicant wishes to create larger lots.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

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

1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time November 17, 2000, 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 utility easement, and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

C. Therefore, the vacation of the utility described in the petition should be approved subject to the following conditions:

1. The applicant shall grant a 10-foot easement within or near Lot 35, Block 4, Forest Lakes Addition.

2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. The applicant shall grant a 10-foot easement within or near Lot 35, Block 4, Forest Lakes Addition.

2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

2/10. **VAC2000-58** - Request to vacate access control, described as:

The east 53 feet of Lot 10, Zoo Business Park Addition, Lot 10 Zoo Business Park Addition, Wichita, Sedgwick County, Kansas. Located on the Northeast corner of West 21st Street North and Hoover.

The applicant is requesting to vacate access control at the northeast corner of West 21st Street North. The applicant wants a second approach to his business.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

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

1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time November 17, 2000, 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 access control, and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

B. Therefore, the vacation of access control as described in the petition should be approved subject to the following conditions:

1. The vacation order shall retain access control except for two openings along the south line of Lot 10.

2. The applicant will agree, by covenant, to provide cross-lot access to the lot immediately to the east.

3. The applicant will agree to abandon the eastern most drive, if a shared drive to the east, on an adjacent lot, is constructed in the future.

4. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. The vacation order shall retain access control except for two openings along the south line of Lot 10.

2. The applicant will agree, by covenant, to provide cross-lot access to the lot immediately to the east.

3. The applicant will agree to abandon this eastern most drive, if a shared drive to the east, on an adjacent lot, is constructed in the future.

4. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

2/3. **VAC2000-45** - Request to vacate an alley and street right-of-way, described as:

Kansas Avenue as dedicated in the Rosenthall's 2nd Addition to Wichita, Sedgwick County, Kansas lying south of the south right-of-way line of 12th Street; Kansas Avenue as dedicated in the Matlock Manor Addition to Wichita, Sedgwick County, Kansas lying north of the north right-of-way line of Rumsey Avenue; and the alley as dedicated in the Rosenthall's 2nd Addition to Wichita, Sedgwick County, Kansas lying south of the south right-of-way line of 12th Street. Generally located south of 12th Street, east of Hydraulic (1270 N. Kansas).

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. The applicant shall guarantee the closure of the alley and street returns.

2. The applicant will shorten the water line in Kansas Street to the south property line of 12th Street with the costs to be paid by the applicant.

3. The applicant shall grant an easement for the alley east of Kansas Street in order to retain access to the existing manhole.

4. The applicant will supply, by separate instrument, adequate easement to cover the existing utilities.

5. The applicant shall guarantee extension of sewer and/or water for future development.

6. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

The applicants are requesting to vacate an alley and street right-of-way that is interior to property that they own. The applicants wish to develop the site for a church building project.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

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

1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time October 20, 2000, 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 alley right-of-way, and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

B. Therefore, the vacation of alley right-of-way described in the petition should be approved subject to the following conditions:

1. The applicant shall guarantee the closure of the alley and street returns.

2. The applicant will shorten the water line in Kansas Street to the south property line of 12th Street with the costs to be paid by the applicant.

3. The applicant shall grant an easement for the alley east of Kansas Street in order to retain access to the existing manhole.

4. The applicant will supply, by separate instrument, adequate easement to cover the existing utilities.

5. The applicant shall guarantee extension of sewer and/or water for future development.

6. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

BARRY CARROLL, Planning Staff "This is just mostly for information. Back on the recommendations, after meeting with the Public Works staff, Item Nos. 1 and 2, I will read to you. I have spoken with the agent and he is okay with this. 1. A guarantee shall be submitted for the abandonment of the sewer line. 2. The applicant shall grant a temporary easement by separate instrument until abandonment of utility lines is complete, or the applicant shall simply certify abandonment of the sanitary sewer line to Public Works and Water and Sewer System staff before approval by the Wichita City Council. I simply wanted you to know that reordering."

CARRAHER "Are there any questions for Mr. Carroll? Since there was no interest in discussion by the public, I am just going to move it to the Commission. What is the pleasure of the Commission regarding this item?"

> **MOTION:** That the Planning Commission recommend to the governing body that the request be approved.
>
> **JOHNSON** moved, **WARREN** seconded the motion, and it carried unanimously (9-0).

2/6. **VAC2000-54** - Request to vacate a portion of the drainage easement, described as:

Part of Lot 16, Block 1, Horseshoe Bay, an Addition to Wichita, Sedgwick County, Kansas, described as follows: Commencing at the front common corner of Lots 15 and 16; thence S44 (degrees) 09'E along the northeasterly line of said Lot 16, 6.5 feet for a point of beginning; thence continuing S44 (degrees) 09'E, 3.5 feet; thence S45 (degrees) 51'W, parallel to the northwesterly line of said Lot 16, 53 feet; thence N44 (degrees) 09'W, 3.5 feet; thence N45 (degrees) 51"E, 53 feet to the point of beginning. Located on Hazelwood, north of Clear Meadow Circle (2429 Hazelwood).

It is requesting to vacate a portion of the drainage easement that is interior to property that he owns. The applicant wishes to reduce the width of the drainage easement.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

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

1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time November 17, 2000, 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 drainage easement, and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

B. Therefore, the vacation of the drainage easement described in the petition should be approved, subject to the following condition:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval, subject to the following condition:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

BARRY CARROLL, Planning staff "This is a request to vacate a utility easement. On Page 2 under our recommendations, I am asking that Item No. 2 simply be deleted. It is not needed. The only item that is needed is 'the applicant shall assume the ownership, maintenance and responsibility of the sanitary sewer line."

WARREN "You are deleting Item No. 2?"

CARROLL "Yes."

CARRAHER "Are there any questions for staff? Okay. What is the pleasure of the Commission?"

> **MOTION:** That the Planning Commission recommend to the governing body that the request be approved with the deletion of Item No. 2.

WARREN moved, **JOHNSON** seconded the motion, and it carried unanimously (9-0).

2/9. **VAC2000-57** - Vacation of a 10-foot Utility Easement 10-foot utility easements, described as:

A 10' utility easement centered on the common lot line between Lots 5 and 6 Pawnee Industrial park second addition to Wichita, Sedgwick County, Kansas from the south right-of-way line of west street court to a point 10 feet north of the south lot lines of said Lots 5 and 6.

A 10' utility easement centered on the common lot line between Lots 6 and 7 Pawnee and west Industrial Park second addition to Wichita, Sedgwick County, Kansas, from the south right-of-way line of west street court to a point 10 feet north of the south lot lines of said Lots 6 and 7.

A 10' utility easement centered on the common lot line between Lots 9 and 10 Pawnee and west Industrial Park second addition to Wichita, Sedgwick County, Kansas from the north right-of-way line of Pawnee Avenue to a point 10 feet south of the north lot lines of said Lots 9 and 10.

A 10' utility easement centered on the common lot line between Lots 10 and 11 Pawnee and west Industrial Park second addition to Wichita Sedgwick County, Kansas from the north right-of-way line of Pawnee Avenue to a point 10 feet south of the north property lines of said Lots 10 and 11. Located at Pawnee and West Streets.

The applicant is requesting to vacate 10-foot utility easements that are interior to property that he owns. The applicant wishes to construct buildings across lot lines.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

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

1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time November 17, 2000, 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 utility easements, and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

B. Therefore, the vacation of the utility easements described in the petition should be approved subject to the following conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

JOHNSON "I am going to step down on this item."

CARRAHER "Is there anyone from staff who would like to address this item?

WARNER "The only reason we pulled this is because he was going to abstain."

CARRAHER "Okay. What is the pleasure of the Commission."

MOTION: That the Planning Commission recommend to the governing body the request be approved.

WARNER moved, **HENTZEN** seconded the motion, and it carried unanimously (8-0). Johnson abstained.

CHRIS CARRAHER, Chair, read the following zoning procedural statement which is applicable to all City of Wichita zoning cases:

Before we begin the agenda, I would like to take this opportunity to welcome members of the public to this meeting of the Metropolitan Area Planning Commission. Copies of the agenda for today's meeting, the public hearing procedure, and copies of staff reports on zoning items are available at the table nearest to the audience.

The Commission's bylaws limit the applicant on a zoning or subdivision application and his or her representative(s) to a total of ten minutes of speaking time at the start of the hearing on that item, plus up to two minutes at the conclusion of that hearing. All other persons wishing to speak on agenda items are limited to five minutes per person. However, if they feel that it is needed and justified, the Commission may extend these times by a majority vote.

All speakers are requested to state your name and address for the record when beginning to speak. When you are done speaking, please write your name and address, and the case number, on the sheet provided at the table nearest to the audience. This will enable staff to notify you if there are any additional proceedings concerning that item. Please note that all written and visual materials you present to the Commission will be retained by the Secretary as part of the official record. If you are not speaking, but you wish to be notified about future proceedings on a particular case, please sign in on that same sheet.

The Planning Commission is interested in hearing the views of all persons who wish to express themselves on our agenda items. However, we ask all speakers to please be as concise as possible, and to please avoid long repetitions of facts or opinions which have already been stated.

For your information, the Wichita City Council has adopted a policy for all City zoning and vacation items, which is also available at the table with the other materials. They rely on the written record of the Planning Commission hearings and do not conduct their own additional public hearings on these items.

Garofalo returned to the meeting at 1:43 p.m.

ZONING:

3a. **Case No. ZON2000-00060** - KCBB Inc., c/o Mike Boyd (owner); Austin Miller, P.A. c/o Kim Edgington (agent) request a zone change from “MF-29” Multi-Family to “LC” Limited Commercial, “GC” General Commercial and “LI” Limited Industrial; and

3b. **Case No. CUP2000-00050** - KCBB Inc., c/o Mike Boyd (owner); Austin Miller, P.A. c/o Kim Edgington (agent) request to amend DP-93 Spencer Gardens Residential C.U.P. to allow mixed use development on property described as:

GENERAL COMMERCIAL ZONING DISTRICT
PARCELS 4, 5, 6
Beginning at the Northwest corner of Spencer Gardens 2nd Addition, to Wichita, Kansas;
Thence S0?16'20"W, on the West line of said Spencer Gardens 2nd, a distance of 445 feet;
Thence N89?44'23"W, a distance of 49.62 feet;
Thence N89?46'26"W, a distance of 548.34 feet;
Thence N0?16'20"E, a distance of 438.90 feet, to the South right-of-way line of Pawnee;
Thence N89?38'37"E, a distance of 598 feet, to the Point of Beginning.
Said parcels contain 264,265 square feet, more or less.

LIMITED COMMERCIAL ZONING DISTRICT
PARCELS 1, 2, 3, 7
Beginning at a point on the South right-of-way line of Pawnee, said point being 598 feet West of the Northwest corner of Spencer Gardens 2nd Addition, to Wichita, Kansas;
Thence S0?16'20"W, a distance of 438.90 feet;
Thence N89?46'26"W, a distance of 128.58 feet;
Thence N85?37'52"W, a distance of 633.53 feet, to the East right-of-way line of George Washington Boulevard;
Thence N45?34'00"W, a distance of 316.34 feet;
Thence N31?31?50"W, a distance of 103.08 feet;
Thence N45?34'00"W, a distance of 70 feet;
Thence N89?38'37"E, a distance of 70 feet;
Thence N75?36'27"E, a distance of 103.08 feet;
Thence N89?38'37"E, a distance of 922.32 feet, to the Point of Beginning.
Said parcels contain 384,481 square feet, more or less.

LIMITED INDUSTRIAL ZONING DISTRICT
PARCEL 8
Beginning at the Southwest corner of Spencer Gardens 2nd Addition, to Wichita, Sedgwick County, Kansas;

thence N69?17'40"W, a distance of 730.51 feet;
thence on a chord bearing of N84?47'43"W, a distance of 375.74 feet, to the West end of a curve to the left, with a radius of 702.96 feet and a delta of 31?00'05";
thence S79?42'15"W, a distance of 163 feet, to the East right-of-way line of George Washington Boulevard;
thence N45?34'00"W, a distance of 343.38 feet;
thence S85?37'52"E, a distance of 633.53 feet;
thence S89?46'26"E, a distance of 676.92 feet;
thence S89?44'23"E, a distance of 49.62 feet, to the West line of Spencer Gardens 2nd Addition;
thence S0?16'20"W, a distance of 84.99 feet;
thence N89?38'37"E, a distance of 107 feet;
thence S0?16'20"W, a distance of 368.15 feet, to the Point of Beginning.
Said parcel contains 335,294 square feet, more or less. Generally located on the southeast corner of Pawnee and George Washington Boulevard.

DONNA GOLTRY, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

BACKGROUND: The applicant is proposing to amend DP-93 Spencer Gardens Residential Community Unit Plan. This amendment would change the C.U.P. from a residential C.U.P. to a predominantly commercial development. The total size of the Spencer Gardens would remain at 22.58 acres, and be divided into nine, or possibly eight, parcels.

Parcel sizes shown on the C.U.P. drawing submitted for approval were follows: Parcel 1 - 2.04 acres; zoned "LC"; Parcel 2 and Parcel 3 – 0.44 acre, zoned "LC"; Parcel 4 – 2.58 acres, zoned "LC"; Parcel 5 and Parcel 6 – 0.92 acre, zoned "GC"; Parcel 7 - 4.23 acres, zoned "GC"; Parcel 8 – 3.32 acres, zoned "LC"; and Parcel 9 – 7.68 acres, zoned "LI". The applicant is evaluating parcel boundaries and proposed openings to coordinate entrances onto Pawnee better with the local streets to the north (Broadview, Belmont, Crestway, Terrace, and Pershing). The applicant may be providing a revised C.U.P. drawing that keeps the same orientation of users but shifts some of the parcel boundaries and sizes. Also, Parcels 2 and 3, which are very small, would be combined in this revision.

Potential users for the parcels vary significantly. The southernmost parcel abutting Gypsum Creek would be zoned "LI" and is designed to accommodate a bus storage facility or perhaps a "clean" manufacturing user. The eastern parcels located on the south side of Pawnee and east of the main entrance to the C.U.P. (between Crestway and Terrace) would be zoned "GC" and allow a broader range of commercial users. This might include mini-storage warehouses. The western parcels between the main entrance on Pawnee and George Washington Boulevard would be zoned "LC". Some of the potential users for these sites include a day care and typical fast-food types of restaurants. The remaining parcel, approximately 3 acres in size, is located on the interior of the site but has access to both Pawnee and George Washington. It would be zoned "LC" but potentially developed with multi-family use.

The parcels will all exclude pawnshops; secondhand stores; taverns; night clubs; drinking establishments; and adult entertainment. This will encourage a break from the "pawnshop" appearance of nearby Oliver. Parcel 1, the corner parcel, excludes public uses except churches, community assemblies, libraries, parks and recreation, government services and daycare. The other parcels west of the main entrance abutting Pawnee further exclude all residential uses and all public uses except daycare. In contrast, the interior parcel has the same exclusions as these parcels except that residential uses would be allowed. The parcels east of the main entrance would allow "GC" uses, but would have the same exclusions of public uses except daycare and residential. The applicant is willing to further restrict some of the uses. This will be discussed in the Recommendations section.

The C.U.P. proposes a maximum building coverage of 30 percent. Maximum building height is 35 feet except for Parcel 9, which is 80 feet. Building setbacks are shown at 20 and 25 feet, below the minimum requirement for a C.U.P.

Four access openings were shown on Pawnee and one on George Washington Boulevard on the plan submitted. The revised plan may show a fifth entrance on Pawnee, but situated at the extreme eastern edge of the C.U.P. The applicant proposes to prepare a plan for vehicular circulation and a pedestrian walk system to be reviewed prior to the issuing of building permits.

There is no requirement for uniform architectural control and uniform lighting. The applicant has agreed to provide additional landscaping along Pawnee to soften the commercial uses from residences across the street, and to screen any outdoor work or storage areas from view along Pawnee and George Washington Boulevard.

The type of development in the vicinity of Spencer Gardens varies. The area north of Pawnee is a well-maintained, predominately single-family residential neighborhood, Meadowlark. The area to the west, Plainview, is a predominately multi-family area. Most of the residences in Plainview near the application are in good condition. A third residential area is located to the northwest of the Pawnee/George Washington Boulevard intersection. This is the Schweiter area. Gypsum Creek borders the property on the south. The property immediately to the east is vacant except for a KGE substation. It was originally part of DP-93 (this C.U.P), but was separated into DP-169 Spencer Gardens Commercial C.U.P. in 1990. The property along Oliver, which is located a block farther to the east of the site, is a heavier commercial area and is occupied by several pawnshops, a furniture outlet and a Boeing office facility.

CASE HISTORY: The property is platted as Spencer Gardens Addition, recorded July 2, 1979.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-6"; "TF-3"	Single-family residences and duplexes
EAST:	"LC"	KGE substation, vacant, pawnshops, furniture store
SOUTH:	"LC"	Boeing office facility
WEST:	"MF-29"	Medium density residential (mixed housing types of single-family, duplexes, four-plexes, small garden apartments

PUBLIC SERVICES: Transportation access is via Pawnee, a four-lane arterial street, and George Washington Boulevard, also a four-lane arterial street. Average daily trips on George Washington were 8,065 in 1997 and projected to increase to 11,674 in 2030. Daily traffic on Pawnee in 1997 was 14,769. It is projected to increase to 21,787 in 2030, without accounting for the commercial development of this tract. The intersection of Pawnee and George Washington Boulevard is signalized, but lacks left turn lanes. During peak times, particularly shift change at Boeing and Cessna facilities nearby, the intersection suffers from lack of left turn lanes.

The intersection of Pawnee and Oliver is currently being improved to five-lane status. A medial extends from Oliver east on Pawnee as far west as Pershing, with a break for an opening into a commercial lot near the southwest corner of Pawnee and Oliver.

A bike path is being developed on the western side of George Washington Boulevard along Gypsum Creek.

Other municipal services are available. Inadequate water pressure is apparently a problem for residents. While it is beyond the scope of this report to analyze this issue, it should be noted that the development will increase water supply needs, and if there is an existing water supply problem it should be addressed during the platting process.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide in the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan shows the area for "high density residential" use, in conformance with its existing "MF-29" zoning. The area to the east (DP-169) is shown for "commercial" use, the property across Pawnee for "low density residential", the property across George Washington Boulevard for "medium density residential", and the property along Gypsum Creek for "parkland/open space". The area is designated as a "conservation" area on the Wichita Residential Area Enhancement Strategy Map of the Comprehensive Plan.

RECOMMENDATION: Although DP-93 was approved as a residential C.U.P. and "MF-29" zoning has been in place since 1979, the property has remained undeveloped. The surrounding development is commercial in one direction, low density residential in another, and medium density in another, mirrored by the same variations in land uses recommended by the Comprehensive Plan. The area could be considered a converging point of different types of use. Also, since the property has been bypassed for high-density residential development for 20 years and surrounding development is even older, dating from the 1940s through 1960s, this project is considered "infill".

The proposed amendment would alter the C.U.P. from residential to predominately commercial uses. In most circumstances, the approval of higher intensity "GC" zoning on the eastern portion of the site would not be recommended. Some of this conflict is reduced because the applicant is willing to exclude many of the "GC" uses typically objectionable to nearby residences and provide additional landscaping.

One potential user is for a mini-storage warehouse. While it would not be subject to the "Conditional Use" requirements of the Unified Zoning Code, it is recommended that some of these "CU" provisions be incorporated within the C.U.P. to ensure compatibility with the residential neighborhood directly across Pawnee. These would include architectural design, landscape screening, and no visible outside storage.

Another potential use is a car wash, which would not be allowed as a use of right since it is within 200 feet of residential zoning. The applicant would need to process a "Conditional Use" request as an amendment to the C.U.P. in order to locate a car wash on the property since it would be within 200 feet of residential zoning.

Other types of "GC" uses that are generally not encouraged within such close proximity to neighborhoods are car lots, outdoor recreation and entertainment, recreational vehicle campgrounds, manufacturing, vehicle storage yard, warehousing, welding and machine shops, and wholesale or business services, and construction sales and services. It is recommended that these uses be eliminated from the permitted uses on the "GC" parcels. Of these uses, the applicant has agreed eliminate microbrewery, recreational vehicle campgrounds, manufacturing, and vehicle storage yard. They wish to keep construction sales and services and wholesale or business services, but would require that all activities and materials are located inside buildings.

The proposed "LI" parcel is designed to accommodate a potential user that will be storing buses and providing ancillary services, including fuel storage and maintenance. Another potential use would be manufacturing. The applicant is willing to exclude the following "LI" uses: correctional facilities, correctional placement residences, microbrewery, asphalt plant, landfill, mining or quarrying, oil or gas drilling, rock crushing, solid waste incinerator, transfer station, and wrecking/salvage yard. It should be noted that most of these uses would require a Conditional Use anyway.

The parcels proposed for "LC" zoning are situated near residential uses and would generally be viewed as more suitable for "NR" zoning. However, George Washington Boulevard provides some buffering from the neighborhoods to the west,

and the applicant has agreed to additional landscaping to further soften the impact. Potential uses include convenience stores, restaurants including fast-food restaurants

The Meadowlark Neighborhood Association has meet with the agent and has requested several restrictions, most of which have been agreed to by the applicant except for the request to exclude auto sales, dealers, or used auto dealers, and visual screening between the "LI" parcel and the parcels to the north. Regarding screening, both parties agree that the parcel should be screened so that it is not visible from Pawnee, however, the applicant feels screening of the Pawnee parcels should accomplish this purpose. Staff recognizes that the issue is two-fold. If the parcels closer to Pawnee provide screening that blocks the view, it is unnecessary to duplicate it. However, in similar situations when the screening was the responsibility of the property nearer the residences and this property remained undeveloped long after the more intense use was established, the effect was to have no screening. A recommendation is included to avoid this circumstance.

Another request by Meadowlark is to limit sign heights to 20 feet, in addition to the proposed restrictions. Staff feels that perhaps the sign requirements should be designed to reflect the nearness of the residences across Pawnee and George Washington Boulevard and should be limited in size to 100 square feet per business.

Based on these factors and information available prior to the public hearing, Staff recommends the application be <u>APPROVED subject to the following conditions:</u>

1. Drive openings on Pawnee shall be located directly across Pawnee from street entrances or located at the mid-point between the streets, and with a minimum separation of 320 feet from the opposing streets. Parcels shall share openings and cross-lot connections shall be provided.

2. The entrance onto George Washington Boulevard shall be right-in/right-out only.

3. The following transportation improvements shall be provided:

    A. Guarantee one-half the cost of adding a continuous center left-turn lane on Pawnee from George Washington Boulevard to the existing five-lane section near Oliver.
    B. Provide a continuous accel/decel lane along the south side of Pawnee.

4. The following uses shall be excluded in the "LI" district: asphalt plant, freight terminal, landfill, mining or quarrying, oil or gas drilling, rock crushing, solid waste incinerator, transfer station, wrecking/salvage yard, correctional placement residences, correctional placement facilities, and microbrewery. Any fuel storage shall be located in the northeast corner of the parcel and be screened from view of residential properties.

5. The following uses shall be excluded in the "GC" district: microbrewery, recreation and entertainment, outdoor; recreational vehicle campgrounds; manufacturing; vehicle and equipment sales, vehicle storage yard. Construction sales and services, warehousing, welding and machine shops; and wholesale or business services shall be permitted but all activities, equipment and materials shall be stored within a building.

6. Warehouse, self-service storage, use (mini-warehouses) on property zoned "GC" shall be subject to requirements as per the UZC Section III-D.6.y.3-16, 17, 18.

7. Building materials shall be predominately earth tones, with vivid colors limited to accents. No metal facades facing or visible from Pawnee or George Washington Boulevard shall be permitted.

8. Landscaping:

    A. Landscaping along Pawnee and George Washington shall be provided at a rate of 1.5 times the area and tree requirements of the Landscape Ordinance.
    B. The applicant shall be encouraged to maintain the grove of existing trees when possible, however, these trees shall not satisfy more than 50% of the tree requirement for the sites upon which they are located.
    C. A buffer along the southern property line shall be provided at a rate of one tree every 40 feet.
    D. A Landscape Plan, prepared by a Registered Landscape Architect in the State of Kansas, shall be submitted to the Director of Planning for approval prior to the issuance of any building permits.

9. Freestanding signs shall be of the monument type only and be limited to 20 feet in height and 100 square feet per business.

10. Use of backlit canopies and neon or fluorescent tube lighting on buildings is prohibited.

11. Screening shall be provided to screen any vehicle storage or outdoor storage from Pawnee, George Washington Boulevard, and nearby non-residential properties. In the event that the use to be screened is separated by an intervening commercial parcel but that the use would remain visible due to no development or lack of required screening on the intervening parcel, screening shall be provided by the parcel upon which the use is located.

12. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the

Plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.

13. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.

14. 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.

15. All property included within this C.U.P. and shall be replatted within one year after approval of this C.U.P. by the Governing Body, or the case shall be considered denied and closed.

16. Prior to issuing a building permit on any portion of the expanded C.U.P., the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-93) includes special conditions for development on this property.

17. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The zoning, uses and character of the area varies in each direction from the application area. With predominantly single-family use to the north and northwest, a range of housing types developed at medium residential densities to the west (Plainview), parkland/open space along Gypsum Creek to the south, and commercial to the east along Oliver.

2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed as zoned, "MF-29", although it has been by-passed for development for this purpose for 20 years.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The greatest potential impact is to the properties along Pawnee in Meadowlark Neighborhood. The second impact is on the residences along George Washington Boulevard. In terms of existing zoning, only one tract on Oliver is currently zoned "GC", the remaining tracts are zoned "LC". This suggests that limitations on permitted uses, signage, landscaping and screening are needed to ensure that any potential "GC" uses along Pawnee and "LI" use along George Washington Boulevard be developed in a manner to reduce impacts on surrounding districts with less intense zoning.

4. Length of time the property has remained vacant as zoned: The property has been zoned for multi-family use since 1979, but remained vacant. Additionally, it was zoned for lower density use prior to 1979, and was not developed even though the properties to the north and northwest were developed in predominately single-family, with scattered duplexes during the 1940s through 1960s. The property to the west, Plainview, has been developed as a medium-density residential use since the 1940s.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Comprehensive Plan shows the property for high-density residential use, which has not been realized. The proposed "commercial" and "industrial" use would extend the "commercial" area westward from its current location along Oliver. Quality development, if realized, supports the Comprehensive Plan's conservation guidelines of encouraging new investment within the conservation area. It also supports policies of encouraging infill.

6. Impact of the proposed development on community facilities: The site will have an impact on traffic beyond that assumed by high-density residential use. This would be mitigated by the proposed transportation improvements.

GOLTRY "This is a request to revise Spencer Gardens, which is DP-93 from being a strictly residential to being a combination residential, but predominately commercial Community Unit Plan (CUP). The location of this proposed amendment to the CUP is at the corner of George Washington Boulevard and Pawnee. It travels eastward along Pawnee almost to Oliver. This is a little area that used to be part of the Spencer Gardens CUP, but now it is a commercial CUP. Then the remaining part of the tract travels southeasterly along George Washington Boulevard and follows the northern boundary of Gypsum Creek. The total parcel size is 22-1/2 acres. The requested CUP amendment would go from having two parcels that are zoned 'MF-29' for multi-family use to having, as you saw in your packet, a parcel arrangement of nine lots.

The applicant's agent has a revised CUP to hand out. Now is a good time for you to distribute that. It shows, instead of having nine lots, it has eight lots. Because we didn't receive this until Tuesday, I haven't had a chance to make an overhead of this drawing, so I will be working from the one with nine lots. We have a group of lots that are concentrated in the northwest portion of the CUP that would be zoned 'LC' Limited Commercial. Of those tracts, Tracts 2 and 3 on the one you had were very, very small parcels and the proposed revision that is being passed around collapses 2 and 3 into

one parcel that is slightly larger and it helps repositioning on some of the access openings. I will talk a little later about the reason for repositioning access openings.

This larger parcel is requested for 'LC' zoning as well. And then this is at the middle of the tract. It is located at the crest of the hill between Crestway and Terrace Drives to the north. From this point over, that would be lots 5, 6 and 7 on the revision you are looking at the tracts, are proposed for 'GC' General Commercial zoning. Finally, we have a third area with a slightly different kind of zoning request. It is proposed for zoning for 'LI' Limited Industrial. The proposed user for that is possibly a bus facility, possibly a light manufacturing type facility.

Barfield arrived at 1:45 p.m.

This has been a difficult situation because what we have is some property that has been available for a residential development for over 20 years, but has set vacant. It is at the juxtapose position of several different types of land uses in the vicinity. (Pointing to the north and northwest) We can see that we have a solidly single-family with a few duplexes scattered in. There area couple of places where duplex zoning is scattered along Pawnee, but pretty much a solidly single-family neighborhood developed in the 50s and 60s. There is the Meadowlark area and we have Schweiter area. These are both low density types of residential areas. That is what they are shown as on the Comprehensive Plan, low density, but across George Washington Boulevard and we have Plainview. Actually, most of the dwelling units along George Washington Boulevard are fairly low density, too, but over all the density in Plainview might be seen as medium density.

To the south, we have this one big black blob that is showing up on the aerial. It is a Boeing office drafting facility. Kind of a semi-industrial type use. To the east of our parcel, the Spencer Gardens Commercial CUP that is in existence. It has a pawn shop, a furniture outlet, another pawn shop. This pawn shop is pretty unsightly. (Pointing to the southernmost parcel north of Gypsum Creek). That is an easy way to put it. It has a lot of outdoor storage of vehicles. So what you have is an area shown here both zoned commercially and shown on the Comprehensive Plan commercially. So we go from low density, medium density to Commercial. The actual designation on the Comprehensive Plan on this tract was high density, but we felt, because of the fact that it is in between, that it is legitimate to look at expanding some of the other types of designations on the Comprehensive Plan into the tract.

It is our understanding that there is one residual tract, the interior parcel you show as Parcel No. 7, which is perhaps going to be developed in the final analysis by residential use; otherwise this will probably be all commercial businesses.

Some of the issues we have faced is the fact that there are very many streets opening on the north. You go from Broadview to Belmont to Terrace to Crestway, to Pershing to Dellrose and over to Oliver. They are spaced 330 feet apart. That makes it very difficult to try to come up with the spacing for the drive openings on the south side of the tract that doesn't cause a lot of access management issues. That has been one of the things that has both driven staff's comments back to the applicant for trying to redesign the parcels as well as is imbedded in our recommendation No. 1 where we are trying to make sure we have a minimum separation inbetween the various drive openings to the north and to the south of Pawnee.

The applicant has made a number of recommended concessions, such as that they won't have secondhand stores and pawn shops and adult entertainment and night clubs and drinking establishments on the tract to begin with. Our recommendations, which are fairly lengthy, and included in the staff report include more restrictions--restrictions designed to ensure that because we do have low density residential immediately to the north that we have signage restriction and sufficient landscaping to buffer the effects between the commercial development, Pawnee, and the residential neighborhood.

We have also requested exclusion of a large number of additional uses. I think, with a few exceptions, the agent is in conformance with those requests. They are also willing to exclude most of those uses. I will let the agent speak directly to that during their time period. I won't go through all of the recommendations one by one because as I said, there are quite a few of them--eleven of them.

The Meadowlark Neighborhood Association has met and the representatives from that Association are here with us today and I presume they will be making a presentation. They have requested seven items. I think most of the items that they have requested are also items we requested as part of the staff report, but they may see some things slightly differently than that. There are some differences and they will highlight that as they speak.

The DAB No. 3 met on this case on Tuesday night. They had a lot of extensive discussion. There were a lot of the neighbors present at the meeting. The ultimate DAB recommendation was to approve subject to staff comments plus subject to the recommendations of the Meadowlark Neighborhood Association, plus to exclude car washes and vehicle sales from all parcels. Unfortunately, we have a new person who is staff to DAB No. 3, and she did not get me any minutes to present to you today. So you will just have to accept my verbal recommendation. If you would like for me to restate it, I will. Fortunately we do have a large number of folks here who were there the other night. I think they will correct me if I misstated the recommendation from the DAB. There is a quite a bit of visibility for that "LI" tract as you travel up George Washington Boulevard because it is a pretty open expanse with the Gypsum Creek in the area.

In terms of recommendations, I do want to highlight the fact that we have asked for the drive openings to be repositioned. Ms. Edgington has passed out a CUP that does do some repositioning. From our standpoint, the first and second drives are still probably closer than we would like to see them, and Parcels No. 1 and No. 2 already each have access from drive

opening No. 1. We had considered the possibility that the second driveway, the one that is across from Belmont, could be switched to a mid-block location between Belmont and Crestway and still provide two points of access to Parcel 3. They had requested two points of access in Parcel 3, primarily because of it being a daycare-type site wanting to have some sort of cross circulation within the parcel.

The last two driveways over on Parcel 5 and 6 are closer than we would like to see. They are only 160 feet apart. I know that the applicant would like to have the one in Parcel 6 in the mid-block location on Pershing because if it is moved any further to the east, say for instance to the edge of the tract, they get into the raised median part, so you couldn't do left turns out of that parcel.

I know that they have requested a single-drive access on Parcel 5 because Parcel 5 is most likely to be a mini-warehouse site. They were requesting that opening primarily to have some separate entrance into that mini-warehouse type site. One of the issues here is, perhaps, that the mini-warehouse will generate a fairly small volume of traffic and so in that particular case, where we do have a shorter than what we would normally see necessary spacing between the driveways, that might be a situation where it might work. We have asked for the following transportation improvements that they would be guaranteeing one half of the costs of adding a continuous center left-turn lane on Pawnee from George Washington Boulevard to the existing five lane section near Oliver that is already under construction by the City. This is not shown on the 10-year CIP; it is shown on the long-range Transportation Plan as being a project that would be just outside the CIP.

The second recommendation is that, you will notice that there is a number of drive openings--five--so we are asking for a continuous accel/decel lane along the south side of Pawnee so that the entrances and exits onto this drive would not be impeding the flow of traffic on Pawnee. If you will look back at the public facilities section of the staff report, you can see that Pawnee already carries a very high volume of traffic and it is projected to increase. It is especially high during certain times of the day with shift change. I will stand for questions."

WARREN "I would like to go through, just go through 1 through 8 and give me again the zoning designation."

GOLTRY "Okay. On your copy, 1,2,3 and 7 would be 'LC'; 4,5 and 6 would be 'GC', and 8 would be 'LI'."

WARREN "Okay. So 1,2 and 3 were 'LC'."

GOLTRY "Yes, and 7. The interior parcel that might be more likely to be used for residential purposes."

GAROFALO "Among my concerns here are the 5 accesses, if I am reading this correctly, on Pawnee. Is the staff not concerned about that? That seems like an awful lot of accesses."

GOLTRY "It does and the original one had only four accesses. That is better, it is one less. Unfortunately, the original one missed every single drive or mid-block location across the street, except for in the position in between. (Pointing to bwetween Crestway and Terrace. The main Parcels 3 and 4 was in the same position as the first one. There are only two drives that are in the same place as they were before--it and the very first opening. The rest of them switched to try to make their positioning better with the streets across the street. But your point is very well taken. There are still a lot of openings. There are a lot of openings to the north and alot to the south. I am sure you could look at the idea of some cross-lot circulation along the fronts of some of them. Jamsheed Mehta is here to help with any transportation questions."

GAROFALO "And the Traffic Engineer has not been involved with this?"

GOLTRY "He has been involved. He has been to look at the site. I didn't highlight the fact, I did show you that there is a crest between Crestway and Terrace. It is difficult to have good site clearances from Crestway looking to the east, and it is also difficult to have good site distances from Terrace looking to the west. We did talk with the Traffic Engineer. I won't say that we are all satisfied with this; I will say we are working in an infill situation where it is difficult to come up with solutions. Perhaps Marvin or Jamsheed would be better to elaborate on that point."

KROUT "Given that this is a site that has set here for 20 years and it is going to be difficult to develop and given all of the openings on the other side of the street, and we are talking about over 1,700 feet of frontage, almost a third of a mile. We are satisfied that this is reasonable in this location."

BARFIELD "On one of slides, you showed construction that was taking place on Pawnee. You said that was for a fifth lane, I believe. How far back does that go to the west?"

GOLTRY "It finishes its taper at Pershing. That would be in the mid-point of Parcel No. 6."

BARFIELD "Okay. Now, one other question. In No. 5, under 'recreation and entertainment'. What does that include? Are you speaking specifically of a nightclub?"

GOLTRY "Outdoor? No, recreation and entertainment outdoor is more like your All-Star Sports, or batting cages, or miniature golf."

BARFIELD "I don't see a comma after entertainment. Is that all one?"

GOLTRY "Yes, that is all one. 'Recreation entertainment outdoor' is separated by a semi-colon. What is throwing you off is that I missed my semi-colon after micro-brewery. There should have been a semi-colon after micro-brewery to show you that that is all one category. I'm sorry about that."

JOHNSON "The property due east of this application area. What was the zoning on it?"

GOLTRY "It is zoned 'LC' except for one small area that is zoned 'GC'."

JOHNSON "Now, is there any limitations of access control on those three lots that are east of this?"

GOLTRY "Yes, there are, but of the lots that are east, (indicating) this parcel is under development right now."

JOHNSON "How many drives can they have into that?"

GOLTRY "They have one drive. It doesn't tie in with Dellrose. It is slightly offset from Dellrose. It will have a cut on the raised median. It appeared to me when I was out there looking at it on the site that there will be a cut there for the one drive into this corner parcel. It is kind of a fast-food. I guess it is common knowledge that it is Braum's. At least Braum's has already had approved plans through the Office of Central Inspection up to a certain level."

CARRAHER "Are there any further questions of staff?"

GAROFALO "I want to go back to these openings for a second. It would appear to me, and I don't know, but couldn't one opening service these three lots here on the east side? Lots 4,5, and 6….someway."

JAMSHEED MEHTA, Planning staff "Suddenly, if you were to apply standards like we would on green fields, newly improving areas, we would have a different set of standards, this being already a situation created by local streets on the north side of Pawnee. That is one constraint. Then you have the situation of having that Parcel No. 5, which they have identified as a mini-warehouse and storage, and if one would want to identify a separate entrance for that, because they generally do have security gates and it is kind of hard to do all of that when you are sharing that same driveway with some adjacent parcel, be it a fast-food or a bank, or whatever it might be on those smaller parcels on either side. That is why we are thinking that we could live with the situation of having a driveway between Parcel 4 and 6 and have an exclusive one at Parcel 5, in this configuration."

GOLTRY "I might add one item to Mr. Mehta's comments. When the neighborhood met with the applicant and with ourselves, did express concerns also with this whole issue that you have raised about multiple openings and about the safety of them are. That is the last item on your sheet of paper. Perhaps they would want to speak to that issue also."

GAROFALO "I did have one other question also. How does the conditions that are listed in the staff report jibe up with what the Neighborhood Association is seeking?"

GOLTRY "They include most of them. Item No. 1 about the landscape architect, the applicant has already agreed to and included on the revised CUP drawing that you have in front of you. They did not revise the landscaping to make it more extensive than city minimum, but the neighborhood association brought up the idea that there is this extensive clump of trees and they don't want that clump of trees to be the whole landscape requirements that are met on site. I know that the applicant is sensitive to that issue. We had just called out for a blanket 1-1/2 times the landscape code requirements. So we had approached it from somewhat of a different angle. We also included language that the trees not satisfy more than 50% of the tree requirement on the sites for which they were located.

In terms of the visual screening separating Parcels 7 and 8 from Parcel 9, we have visual screening required, but it is in a slightly different format. I will let the neighbors talk to that if they want to elaborate on that. In terms of limiting the sign heights to less than 20 feet, we called out for a 20 feet height maximum. Outdoor storage be on the south side behind the building or screened from view from Pawnee. We did not call out for it to be behind the south side, but we did call out for it to be screened from view. Then they requested no auto sales dealers or used car dealers, and then the last issue, No. 7 on the safety, we have already talked about. I will refresh your memory, they did recommend at the DAB to incorporate these recommendations from the Meadowlark Neighborhood Association, plus the additional requirement of no vehicle and equipment sales and no car washes on the entire parcel. There were neighbors who expressed opposition to the car wash as well."

MICHAELIS "Ms. Goltry. I have a question and a comment I guess I would like to get on the record. It has to do with the Landscaping Ordinance. We have continually, since I have been here, recommended 1-1/2 or 2 times what the ordinance is. I think we ought to either follow the ordinance or I think we ought to look at changing the ordinance. If we are going to have an ordinance, then that should be acceptable because somebody put a lot of work and time into developing that. If it is not, then I think we probably need to look at redoing that.

I guess the question part of that is why are we asking for more than the minimum?"

GOLTRY "Because in this position, the minimum required landscaping, if you have a fairly short parcel, which some of these are, translates to a pretty small amount of, for instance the ones that are 175 in depth, they only have a requirement of an average of 10 square feet along the front and an average of one tree every 50 feet.

When you consider the fact that they are located immediately south of a very residential character neighborhood, this is an arterial that in the past has had the character of a residential area. It was an effort to recognize that this is a situation where we need good buffer between the residences and the commercial activities if we are to see it transitioned effectively to commercial use on the south without impacting the neighborhood to the north negatively."

MICHAELIS "I guess my point is that our ordinance ought to state that it be totally arbitrary instead of requiring anything."

GOLTRY "Or perhaps a statement to the fact that in those situations where we have this juxta position, maybe we need to look at the amount of landscaping required when you are across the street from residential. Maybe it does merit a higher level than when you are across the street from other commercial activities. That might be another approach to look at it."

CARRAHER "Are there any further questions of staff? Thank you, Ms. Goltry. Now we will hear from the applicant."

KIM EDGINGTON "I am with Austin Miller. I represent the applicant on this case. We have worked with a lot of neighbors, the Traffic Engineers, and we have been through a lot of meetings on this case. I apologize on the length of it, but I hope at the end of this we can get everything hammered out.

For the most part, we are in agreement with staff's recommendations, and in particular their recommendation to approve this particular case. We have met with the Meadowlark Neighborhood Association last week. Apparently, Traffic Engineering and Transportation Planning were not able to review this particular request until late last week. That is why the changes were not made before than that you see before you, and I apologize. We have been able to come to somewhat of a consensus with the exception of two or three relatively minor issues. I am just going to address the staff comments in the order in which they were presented in the staff report. I think that will keep it the simplest.

Of course, the drive openings along Pawnee were one of the most difficult issues we addressed due to the spacing of those six streets north of this development. I did meet with Paul Gunzelman again this past Tuesday and he reviewed the revised CUP drawing with the five accesses shown that you have before you. His opinion is that given the situation with these 330 foot centered streets that this is an acceptable layout. In particular, he feels that the location of the drive that is between Crestway and Terrace is the best possible way to address the issue of the rise along Pawnee, that by straddling these two streets, we maintain the best line of site that is possible in that location. That would be my comments regarding the driveway issues.

The entrances to George Washington Boulevard, I think when we first started looking at this CUP, both we and staff were under the impression that there was a raised median the entire length of George Washington Boulevard; however that raised median only extends about 350 south of the center line of Pawnee. That does not interfere with either of the openings that we have proposed along George Washington Boulevard, so we would like to revisit that requirement that those drives be right in/right out only.

We would be happy to agree to traffic improvements along Pawnee, but currently there are no plans in the City CIP to make any of these improvements. We propose that if and when the City determines, through a traffic study, based on the land uses that are proposed here, that if improvements are needed and that project is included in the City CIP, then we will guarantee to participate in those improvements. But at this point, without there being a feasibility study and with that not being included in the City CIP, we would view that as a development cost that is going to be rather costly up front. And as is standard throughout many parts of the city, we will guarantee decel lanes at all major entrances, but would like to revisit the issue of having a continuous decel lane. We fail to see a major benefit in that.

These two traffic improvements that staff has requested are estimated to add approximately $350,000 to the total development costs for this property. Those being the continuous left turn center lane, guaranteeing half of that and also the continuous decel lane. Based on pending sales that we have for this project and projected sales, we estimate that this land is likely to sell for $1.50 a square foot, so this additional $350,000 adds 30¢ per foot to ground that is only estimated to sell at $1.50 a foot, which is a significant development cost, upwards of 20%.

We agree with all of the exclusions in the Limited Industrial district with the exception of freight terminals. We would like to have that remain as an allowed use in the Limited Industrial tract, based on many of the surrounding manufacturing areas, but the nature of this region is such that this would be a viable and appropriate use on this site.

We do agree with all of the exclusions in the General Commercial district, with the exception of vehicle and equipment sales. In keeping with the location guidelines in the Comprehensive Plan, this is an area that is established with similar development and traffic patterns and utilities are sufficient to support this type of use. The surrounding commercial uses are such that vehicle and equipment sales are in keeping with the area. Again, we do have a contract on Parcel 5 for self-storage mini-warehousing. I know that staff included, as a requirement, that they meet all of the locational guidelines of self-storage in an 'LC' district; however this is on General Commercial zoning. We do agree to meet those requirements in the 'LC' district, with the exception of Provision No. 5, which requires architectural review and approval. One of staff's subsequent recommendations states that metal facades be eliminated, so I think this adequately addresses any architectural issues that would come up on that self-storage parcel.

I appreciate Mr. Michaelis' comments. Our opinion is that the Landscape Ordinance does provide sufficient requirements for this development. Of course there are instances which that may differ throughout the City, which might justify additional required screening or landscaping; however, the Landscape Ordinance in this case, since the fact that those residences to the north of this development are not facing directly onto Pawnee. I don't know if you could tell very well

from the slides, but there are approximately only 5 units that face onto Pawnee. For the most part, those are duplex units and the rest of those units face one of those interior streets. Also, for the most part, are screened currently with wood fences along Pawnee. So we feel that increasing this Landscape Ordinance places an undue burden on the developer of this property. We do agree with staff's recommendations that the existing grove of trees that we attempt to maintain that if possible and that we cannot use that grove of trees to satisfy any more than 50% of the tree requirements for the parcels upon which they are located.

Regarding the buffer that staff has recommended along the southern property line, the slides that were shown were facing the east. However, if you will look at this aerial, as you are travelling up George Washington Boulevard, you are travelling in a northwest direction, which is directing your vision away from this property, so I don't know that we have quite the same opinion on how much visibility there is for that parcel.

The residents in Plainview that are near to this are all orientated towards the interior of Plainview and not to George Washington Boulevard. We would agree to limit sign heights to 20 feet, but that they be allowed to be either pole or monument type. On the 'LC' parcels, we agree with staff's recommendations to limit to 100 square feet per business, but would request that the signs on the 'GC' parcels would be required signage requirements for the 'LC' zoning district. Again, we would agree to limit the heights to 20 feet.

The use of back lit canopies, I think we see these done in a very tasteful manner throughout the city and would not be a negative lighting choice for this development. Several of the users that are interested in locating at this site have standardized signage designs that would require the use of back lit canopies and fluorescent or neon tube lighting, so we would ask that we revisit this.

Providing screening along Parcel 8, the north boundary of Parcel 8, in the event that the parcels north of it do not develop first is, I think, a matter of opinion. There is almost 500 feet that separates Pawnee from the rest of Parcel 8. Again, some of our more definite parcels are already along Pawnee, so we would ask that we not have to screen along that Parcel 8 at this point."

WARREN "What item is that?"

EDGINGTON "That would be staff recommendation No. 11."

CARRAHER "Miss Edgington, your time has expired. Are you needing any additional minutes to close up?"

EDGINGTON "At your pleasure, may I have one more minute?"

MOTION: That the speaker's time be extended for 2 minutes.

WARREN moved, **HENTZEN** seconded the motion, and it carried unanimously.

EDGINGTON "In closing, I would ask that in reviewing this case that we look at approval with the removal of recommendations No. 2; No. 8a; No. 8c; No. 9; No. 10; No. 11; and to amend No. 3 as we discussed earlier that these guarantees would be provided if and when the City determines, through a traffic study that they are necessary and when the City includes this project in the CIP.

Then also to amend No. 4 to not exclude freight terminals. That is an allowed use in 'LI'; and to amend No. 5 not to exclude vehicle and equipment sales from the parcels in 'GC'. I would be glad to address any questions that you may have."

CARRAHER "Are there any questions of the applicant?"

WARREN "No. 7 with a metal façade, are you going to agree to that? I guess I am wondering because we have some new decorative metals now that certainly what I think staff has in mind. I think staff is thinking about the old tin building and I am looking at new decorative metals today. The certainly don't even simulate what I think staff is thinking about."

EDGINGTON "I would say certainly if given the option, yes, but again, as I said, we have met with the neighbors now and we are trying to be good neighbors and we understand that they don't want an unsightly development here. We are doing our best to make that happen."

WARREN "I didn't quite understand that Item No. 11. I can't see in here where it talks about Lot 8. Maybe she knows something I don't."

EDGINGTON "It doesn't specifically speak to Parcel No. 8, but the intent is that if Parcel No. 8 develops before any of the parcels north of it, that it will be required to provide screening."

WARREN "Okay. Screening along the south side."

EDGINGTON "Well, the north property line of No. 8 approximately. If I might address…"

WARREN "And you are objective to that requirement?"

EDGINGTON "Right. Given the fact that Parcels No. 3 and 5--on Parcel No. 5 there is already a contract on, and Parcel No. 3, we are at the point where we have negotiated that and it will be a day care center. So those two parcels, by being developed have provided sufficient screening for Parcel 8."

CARRAHER "Are there any further questions of the applicant?"

BARFIELD "You mentioned, I believe, that you were having a discussion with someone regarding storage units?"

EDGINGTON "Right. That is Parcel No. 5."

OSBORNE-HOWES "Did you go over your response to the staff recommendations with the staff prior to this?"

EDGINGTON "We are fairly clear, I think, both sides, about where everybody stands on these issues. Yeah, they have all been discussed."

OSBORNE-HOWES "I just noticed that…if I remember correctly, the DAB and the Meadowlark Homeowners' Association, and maybe I am reading into this, but it sounded like that they went along with the staff recommendations and then wanted to 'bump up' the requirements a bit."

EDGINGTON "The DAB did. Not necessarily the neighborhood association. The DAB requested that car washes be excluded from all parcels; however, because of the proximity to residential zoning, car washes would have to go through a Conditional Use. The only parcels that they are allowed on are Parcels 4, 5 and 6 in 'GC', and they would still have to go through a Conditional Use because of the proximity to residential."

WARREN "I would like to get a clarification on Item No. 9 again. You said you could live with the sign requirements except. What was that exception?"

EDGINGTON "We will limit them to 20 feet but ask that they be monument or pole signs allowed. And on all of the 'LC' parcels, we agree with staff's recommendation to limit them to 100 square feet per business. But on the General Commercial parcels, No. 4, 5 and 6, we would ask that we be held to signage requirements in the 'LC' district with agreeing to maintain that 20 foot height limitation."

GAROFALO "You mentioned that you and the staff have gotten together and discussed all of these changes that you are requesting?"

EDGINGTON "When we submitted the initial CUP layout, four and a half weeks ago, we did not receive any comments back from city staff until last Wednesday afternoon. That was the first time they were able to meet with us, but we had met with the neighborhood association before that point."

GAROFALO "But you are not suggesting that the staff was in agreement with all of your requests, are you?"

EDGINGTON "No. I am just saying that we have been working together through this process. There are some things that we agreed to disagree on."

GAROFALO "It appears to me that there is quite a bit for you and the staff to iron out yet. Is that correct?"

EDGINGTON "Well, the points that I went through are the ones that we need to iron out."

GAROFALO "There are quite a few of them."

EDGINGTON "Well, given the relative nature of this project and where we started out, we have come a long way."

GAROFALO "Yeah. Okay. I guess we need to find out what the staff has to say about all of your suggestions. There are a lot of conditions you want to amend and you want to drop, etc. So you are not suggesting that the staff is in agreement with that?"

EDGINGTON "No."

CARRAHER "Are there any further questions of the applicant?"

WARREN "Just a quick question. Do you have any idea how long this has been platted for whatever it was, and how long it has been vacant?"

EDGINGTON "It has been platted and zoned 'MF-29' for 21 years. There has never been anything on this site. Well, as you can see where there is a clumping of trees, it was probably, at one time, a farmstead of some sort."

CARRAHER "Are there any further questions? Thank you, Ms. Edgington. Now we will move it out to the gallery. Is there anybody in the gallery who is wishing to speak in favor of these items? Is there anyone wishing to speak in opposition to items 3a and 3b. Yes, ma'am?"

KAREN SMITH "I live at 2240 South Crestway, in the Meadowlark neighborhood. I am the President of the Meadowlark Neighborhood Association. The Meadowlark neighborhood is bordered on the south by Pawnee, on the east by Oliver and on the west by George Washington Boulevard. That puts us exactly adjacent to the property in question across Pawnee Street. Our neighborhood association has existed since 1995 and we meet bi-monthly year around. We have been active in the improvement of our neighborhood and the prevention of crime with quite a lot of success. Our Neighbor to Neighbor Committee and our Neighborhood Patrol have been very active, working with our community police officer, the City's Central Inspection and the Wichita/Sedgwick County Health Department to resolve neighborhood problems.

Many of our residents have owned their homes in Meadowlark for many years and we live there because we want to, because we like being in the City and near to the services we need. I would like to recognize at this time, the members of our neighborhood who wish to show their concern by being here today. Would you raise your hands, please? Thank you.

Our executive committee has met to address the issue of the zoning change and we subsequently submitted a written proposal, a response to Donna Goltry, of which I believe you all have a copy. Basically, we believe that the proposed changes probably is an improvement over the current 'MF-29' zoning; however we do have some concerns that we have requested be addressed in writing in the proposal. These are as follows:

1. We request that the landscaping along Pawnee Street be planned by a landscape architect.

That is one to which they have all consented.

2. We request more extensive landscaping than is required by the City ordinance minimums.

This is because we are right across from this area. (Pointing to residences north of Pawnee). Some of the residences do face this new area and because, as we discussed before, the areas on which this grove of trees exist, if that grove of trees was left, it could easily satisfy most the landscape requirements for the better part of the whole plat. That is not what we request. We want landscaping along the whole area of Pawnee.

3. We request that visual screening be provided, separating Parcels 7 and 8 from Parcel 9.

As Ms. Goltry mentioned, I believe that if there is screening that goes up north of Parcel 9 prior to the time that Parcel 9 is developed, we would accept that. But we do want this Parcel 9 screened. The reason is that they are looking at a bus garage and a facility in there in which there would be storage and working on school buses. We don't want to have that visible from Pawnee.

4. We ask that signs be limited to less than 20 feet in height and be free of flashing lights.

We also like the idea that Donna wrote in there of the monument signs rather than pole signs.

5. We request that any outside storage be limited to the south side behind a building or be screened from view from Pawnee.

When we wrote this, we did not recognize that storage and display are not the same thing, and we wish also to speak here to display for inclusion.

6. That there be no auto sales, dealers and used auto dealers on the entire plat.

This is not something that the developers have been inclined to agree with. We also have some concerns about traffic safety, and the next speaker will speak to those. If the concerns expressed are met, we feel that we could support the proposed zoning changes. When the requests were presented to the District Advisory Board, the board saw the request as reasonable and recommended that they be included. They agreed with the exclusion of vehicle dealerships from the whole area and encouraged the additional ban on car washes, which we would certainly appreciate.

We ask that all our requests be included in writing because we recognize that once the zoning changes are made, we can no longer have any impact in the future of what goes in there in terms of businesses.

If you will go to the corner of Pawnee and Oliver and drive south on Oliver, this is a commercial area. Then go to the same corner and drive west on Pawnee. This is an entirely different atmosphere. We want to prevent our neighborhood from taking on the commercial atmosphere of South Oliver. Our neighborhood is hopefully going to be here for many years to come and we would appreciate your support in maintaining our property values and keeping it a pleasant and attractive place for people to live. May I answer any questions?"

CARRAHER "Are there any questions of the speaker?"

MICHAELIS "I would just like to make sure that you understand, because car washes seem to be coming up a lot, that if this was approved as it is now, a car wash could not go in there without coming in and requesting a Conditional Use."

SMITH "I understand that."

CARRAHER "Are there any further questions of the speaker? Anyone else to speak in opposition?"

JEFF SPAHN "I live at 360l East Mt. Vernon and I am the Vice-President of the Meadowlark Association of Neighbors. I am also, by way of employment, a professional safety engineer and have devoted most of my life, by way of background, into the area of safety and safety management. It is that that I want to take my time to address. I am talking now about Pawnee as it exists now.

This main arterial is projected to grow by 7,000 vehicles within the next 30 years. We already experienced a significant traffic flow due to the fact that we are the outlet for three of the largest employers in the City of Wichita; Boeing, Cessna and McConnell Air Force Base. We currently have a five-lane intersection being proposed and developed at the corner of Oliver and Pawnee. But when we talk about this issue, in that little grove of trees there on the eastern part of this proposed area, essentially bordered on the east by Terrace and the west on Crestway, that 330 feet block does have a knoll in between that when you are exiting to the south or entering either Terrace or Crestway, essentially there is a blind spot there directly in between those two. What we are seeing now is an addition to this commercial zoning. We can only anticipate more traffic. I think it is absolutely essential that there be a deceleration and acceleration lane the entire length of this proposed project. I also think, professionally, that as a safety issue that a middle left-turn lane also be included in this development, simply because of the anticipated traffic flow as it goes now.

If we look at Plat No. 4, we are talking about a corporate day care center and we can anticipate people from Boeing, Cessna and perhaps McConnell having their children stay there, so at shift-end time, we are going to see even more of a problem being compounded by the fact that we will have people trying to make left or right hand turns into that day care center to pick up their children. I think it is imperative that proposal No. 3a and 3b be adopted as proposed by the staff and that these safety issues be addressed. I think we can all relate to Rock Road as an example of almost unfettered development with a hind-sight view of trying to deal with traffic, now that all of the development has occurred.

I think this is the ideal time to put this into its proper prospective and to deal with these safety issues that are real and viable in dealing with Pawnee. With that, I would support the staff recommendation on all items as echoed by the neighborhood that essentially we are a neighborhood that has been around a long time and we intend to be a neighborhood for a long time. We want some protection on that south side and want a buffer and a safe exit and entrance procedure into our neighborhood. Thank you."

CARRAHER "Are there any questions of the speaker? Thank you, Mr. Spahn. Is there anyone else who wishes to speak in opposition to the item? Seeing none, we will move it to the applicant for rebuttal."

EDGINGTON "I will be brief. I think we all agree that this proposed development is an improvement at this location. It is not going to be an easy site to develop. I think that just based on some of the area concerns. We have made numerous voluntary restrictions. We tried to not come in and ask for the moon on this. Again, we have worked throughout this entire process with staff, and I think in your experience there is no way that we will ever come to a 100 per cent agreement; however I feel that the exclusions that we have requested are not extraordinary.

Again, regarding the traffic issues, Traffic Engineering has reviewed this plan and determined that this location between Crestway and Terrace is the best possible location for this and maintains a line of site that is acceptable. We do agree to participate in the improvement only if and when the City determines they are necessary and also intends to put up the other half or the other half of the center left-turn lane. In conclusion, I would just again go over the recommendations that we would like to see stricken from this, which are Nos. 2, 8a, 8c, 9, 10, and 11; and then the amendments to Nos. 3, 4 and 5, as we discussed earlier.

Again, as I said, this isn't going to be the easiest site to develop, we realize that, but we have taken on that responsibility and ask that in doing so that we not have too onerous of restrictions placed upon us as the developer in order that we can make this development and it doesn't continue to sit vacant as it has for so many years."

CARRAHER "Are there any questions of the applicant?"

BARFIELD "You mentioned an amendment on No. 3. Evidently I missed that. Could you restate that one?"

EDGINGTON "That we will agree to participate in traffic improvements along Pawnee when the City places those improvements in its CIP. And when a traffic study or analysis is done that determines the absolute necessity of those improvements, those being the decel lanes and the center left-turn lane. We will agree to provide the guarantees for decel lanes at the entrances to our development."

MARNELL "Kim, have you looked at internal circulation for these lots as opposed to so many openings, and is there some restriction of not seeing in terms of the usability of these lots that would prevent that? I am thinking of, in fact, North Rock Road where we do have commercial development; we have very limited access to Rock Road and yet have businesses that seem to be thriving very well up there."

EDGINGTON "Well, I just spoke with Jamsheed Mehta and there is one drive lined up directly with Belmont and we would offer to move that to the east if necessary and center it between Belmont and Crestway. All of these parcels will be required to guarantee cross lot circulation, with the exception of Parcel 5 that has a separate entrance. Nos. 4 and 3 are sharing entrances; at this point 2 and 3 are sharing entrances, and so are parcels 1 and 2.

Again, we have over 1,700 foot of frontage with 5 entrances. That is not an unreasonable number of entrances, given that on average there would be at least a 350 foot separation if they were all spaced evenly, which is greater than the street that are to the north across from this."

MICHAELIS "Miss Edgington, will you clarify for me, on Item No. 9, are you saying that you want that out completely or are you saying that you want either monument or pole signs?"

EDGINGTON "We would like for that to stay either monument or pole type on the 'LC' parcels. On the 'GC' parcels, we would offer that the sign height also be limited to 20 feet, monument or pole sign and be limited to the size requirements of the 'LC' district."

MICHAELIS "Okay, thank you."

KROUT "On staff recommendation No. 2, it was 'the entrance onto George Washington Boulevard shall be right-in, right-out only. Now, in your new plan, you are asking for two openings to Parcel 1, one joint opening plus one additional opening to Parcel 1. Are you agreeing that the new opening, which is closest to the intersection could be right turn in and out only?"

EDGINGTON "Yes. But we would ask that the southern entrance be allowed a full access."

CARRAHER "Are there any further questions of the applicant? Thank you, Ms. Edgington. Before I move this back to the Commission, I was reminded by one of my colleagues that I needed to ask if there has been any ex parte contacts regarding this item?"

MICHAELIS "I was contacted by the applicant as far as going over her new CUP plan."

CARRAHER "Are there other ex parte contacts that need to be brought up on the record? Seeing none, we will bring it back to the Commission. Are there any questions or commentary by the Commission?"

BARFIELD "The Traffic Department certainly does recognize the amount of traffic on Pawnee and also recognizes the possibility for potential growth in the next few years; however, they are putting in a left-turn bay there at Oliver, and I would think that this would be the ideal time to do a five-lane on that entire stretch between Oliver and George Washington Boulevard. It seems to me to be an oversight on somebody's part. It is certainly going to be much more costly to go back in there to do this.

Have we taken into consideration, now that we are talking about some commercial traffic in that area, it seems to me that it is doubly feasible to do that while the streets are torn up. Furthermore, if you don't do that, if you don't recognize that, then I don't think it is particularly adequate to put that in there as a stipulation for the applicant."

WARREN "In response to Mr. Barfield's comments, I don't think the street is being torn up now is it, other than that intersection down at Oliver and Pawnee. It has some modifications being done to it. I can understand what she is saying, in that if there is going to be capital improvements approved by the City, then the cost of these owners would be more minimal than if we add that as a burden on them and say 'you fix the whole street--you do it'. That is what you are saying to them."

BARFIELD "I am not saying that. I am saying that the way it is right now, the City recognizes the traffic flow. They recognize what we are going to have in 30 years. There is no participation on the City's part. The City has not even indicated a need nor a desire to widen that street, put in a 5th lane, but yet we are putting in the stipulation for the applicant and we are talking about half of the cost, and it is something that the Traffic Department has not even considered."

WARREN "Am I hearing that you are opposed to Item A?"

BARFIELD "I'm sorry. I thought you were advocating Item A. It was a misunderstanding."

GAROFALO "A couple of things. One is I am still concerned about all of these openings on Pawnee. I know it is a long stretch, but I still have reservations about having that many openings considering the amount of traffic there now and the amount of traffic that is presumed will increase there as the one gentleman said. All of that Cessna traffic and there is the Boeing traffic and the air base traffic. There is all kinds of traffic in there coming and going. So I still have reservations. But I still can't see why something couldn't be worked out where he could eliminate some of those openings and have the joint accesses or whatever.

The other thing is with the number of changes that the applicant is requesting, I don't feel that I can digest all of this in one shot and vote logically. Personally, I am not opposed to this kind of a development. I think that would be okay. I have reservations about the accel lane and all of these changes. I think maybe the staff and the applicant needs to sit down and work these things out see where there is agreement and disagreement and come up with something and then come back to us. It just seems like an awful lot of changes.

When Ms. Edgington got up at first, she said they were in agreement with most of the staff comments, and then she wants to change half a dozen or more of the conditions. That is my comment at this point."

MICHAELIS "I would like to address Mr. Garofalo on this. It has to do with the openings. I am sitting here looking at five openings right across the street that come out onto Pawnee of residential traffic that is going to produce a lot more traffic than what this is. Are you thinking we ought to go over there and close some of those?"

GAROFALO "No, I am not thinking that. I am thinking that you are going to add to it. You are going to add more problem to it."

MICHAELIS "But it is too late."

GAROFALO "There are all of those residential openings; those are residential streets, but you are going to add to it. There is going to be an additional amount of traffic."

MICHAELIS "I understand that, but I think if the Traffic Department has looked at this and they are okay with it, then their opinion is far better than ours."

GAROFALO "Well, I am not a traffic engineer and I don't want to be a traffic engineer, but I have seen them make mistakes before and they can make mistakes again. That is just my feeling. My belief."

PLATT "I think that we concern about the number of openings is a legitimate one. I think I can go along with supporting them, as did our Traffic people, if we are admitting, as staff suggested, Item No. 3, that we are going to have a problem and that we have to then put in ultimately the left turn lane. It seems to me that by allowing all of these openings, the applicant then assumes some responsibility for additional traffic and I think the cost for the continuous left-turn lane is very legitimate and one which should very definitely be in there to take care of the problems. If that is there, then I can go along with the openings as they are.

It seems to me that we also have to look at 3b as a very important item, if we are going to have all of these openings. I think Item No. 3 is essential in terms of what is being requested by the applicant. It seems to me that we have some possibility, perhaps, of working on some of these landscaping items between the applicant and staff. I am inclined to think that the staff requests are pretty legitimate, but perhaps they could come to some better agreements. That is one where I think there might be some changing. I certainly could not support any requests for the sale of outdoor vehicles or equipment or anything of that kind along Pawnee. I certainly would oppose turning Pawnee into a used car street. I will certainly not vote in favor of that.

I don't really see any reason for having a freight terminal in this area. It seems to me that that, again, is seriously changing the nature of the street. So I will strongly oppose that. Given that, my inclination is to therefore support the denial of the application."

MARNELL "I have a question of Mr. Krout. You have heard the modification that the applicant wants. Would it be fair to say that the Commission is going to have to resolve the difference between staff and the applicant at this point?"

KROUT "Yes, I think you are going to have to use your 'Solomon-like' decision powers and decide on some of these issues, how to reconcile the conflicts between the developer's desire for flexibility and the neighbors and planners concerns for a project that will be complimentary.

I agree that it wouldn't be worth our time to sit down and go through this list again with the applicants. They have made some compromises in what they originally submitted and we would like for them to go further.

The only issue dealing with street improvements I would say that we may be just talking about semantics when we are talking about this left turn lane. Because when we say 'guarantee half of the cost', it really means that the City is going to have to put the other half of the cost in as Capital Improvement Program; do the project and have it justified in order for this to go. So I feel like between now and the City Council meeting, we could resolve that issue, and I think that we could also sit down with the Traffic Engineer and talk about decel lanes for each of the five openings versus a continuous accel lane.

I think when you put decel lanes in back of five openings, you are almost covering the full length of it, and I think that is why they said 'why not just make it a full lane'? But I think we can be flexible on that and talk to them. If the Traffic Engineer is satisfied with having decel lanes at each of the openings. I think we could agree with that.

On the other issues regarding uses and aesthetic issues, I think you are going to have to go down the list and decide what you think is appropriate to recommend to the City Council."

MARNELL "I would make a suggestion to the chair that before we take this item up to a formal motion that we take it in terms of some way to resolve a consensus down the item, and then go to either approve or disapprove. If we don't go down this list, we will never get through."

CARRAHER "Okay, I will take that into consideration. At this time there are several speakers on the list. I may call to revisit you regarding that item. Would that be okay?"

OSBORNE-HOWES "Mr. Marnell had a good suggestion. Either this or we sent it back and have them talk about it. But Mr. Krout is saying that that wouldn't do much good. I tend to agree with Dr. Platt on most of those things. It looks to me, though, like on No. 10. That might be one that we could….you're right, we are just probably going to have to just go through these and talk about each of the ones. It seems to me that there is some room for some give and take on the landscaping. I guess what I am thinking of on the landscaping is that at the time we approved the Landscape Ordinance, we talked about that that would be a minimum, and if we looked at special cases like being located next to residential, that we would consider upping that. We have done that quite often, have we not, Mr. Krout? On several occasions?"

KROUT "I wouldn't say quite often, but I would say when the occasion required it."

OSBORNE-HOWES "One of the concerns that I have is that it is so close to residential and while all of the residential housing may not face Pawnee, they are so close to Pawnee. They are located so close within feet of the intersection that I think it is important to look at some type of screening that would be landscaping."

WARREN "I would like to ask Mr. Krout again, I think what I heard you say is that on Item No. 3a, which is that center of the street turn lane, the actual facilitating of that would be triggered, then, by some kind of a Capital Improvement by the City and it wouldn't be triggered by this CUP, then."

KROUT "Right. Because this would only hold half of the cost, which would mean that you could create a benefit district for half of the cost, but we are not going to asses the homeowners' to the north, so the City is the only other party, then."

WARREN "And as I understood her, I think she agreed to that cost."

KROUT "Yeah, I think we can work that out."

> **MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The zoning, uses and character of the area varies in each direction from the application area. With predominantly single-family use to the north and northwest, a range of housing types developed at medium residential densities to the west (Plainview), parkland/open space along Gypsum Creek to the south, and commercial to the east along Oliver. The suitability of the subject property for the uses to which it has been restricted: The property could be developed as zoned, "MF-29", although it has been by-passed for development for this purpose for 20 years. Extent to which removal of the restrictions will detrimentally affect nearby property: The greatest potential impact is to the properties along Pawnee in Meadowlark Neighborhood. The second impact is on the residences along George Washington Boulevard. In terms of existing zoning, only one tract on Oliver is currently zoned "GC", the remaining tracts are zoned "LC". This suggests that limitations on permitted uses, signage, landscaping and screening are needed to ensure that any potential "GC" uses along Pawnee and "LI" use along George Washington Boulevard be developed in a manner to reduce impacts on surrounding districts with less intense zoning. Length of time the property has remained vacant as zoned: The property has been zoned for multi-family use since 1979, but remained vacant. Additionally, it was zoned for lower density use prior to 1979, and was not developed even though the properties to the north and northwest were developed in predominately single-family, with scattered duplexes during the 1940s through 1960s. The property to the west, Plainview, has been developed as a medium-density residential use since the 1940s. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Comprehensive Plan shows the property for high-density residential use, which has not been realized. The proposed "commercial" and "industrial" use would extend the "commercial" area westward from its current location along Oliver. Quality development, if realized, supports the Comprehensive Plan's conservation guidelines of encouraging new investment within the conservation area. It also supports policies of encouraging infill. Impact of the proposed development on community facilities: The site will have an impact on traffic beyond that assumed by high-density residential use. This would be mitigated by the proposed transportation improvements.) I move that we recommend to the governing body that the zoning be approved as presented on the revised plat that was given to us today and that that site plan be approved with existing openings as indicated, and subject to staff comments except Item No. 2 that the south opening on George Washington Boulevard be granted both right and left turns. And Item No. 3 would remain as staff has recommended; that Item No. 9 be modified to satisfy the request of the applicant.

KROUT "Moving the one on Parcel 3 as agreed by the applicant?"

WARREN "Yes. Is that good enough?"

KROUT "I think we understand what they want. They want larger signs on the General Commercial parcels per the 'LC' standards, and poles on all parcels."

WARREN "I would make that in my motion that that be granted, and that Item No. 10 would be deleted."

WARREN moved.

PLATT "I didn't hear him say anything about the rest of the staff comments in the motion."

WARREN "Yeah, I did. Subject to staff comments, with the exception…."

OSBORNE-HOWES "Except those that you mentioned?"

WARREN "Yes."

OSBORNE-HOWES seconded the motion.

CARRAHER "Before I move to questions or commentary regarding the motion, we did have Mr. Barfield on the speaker's list and I would like to give him the opportunity to speak."

BARFIELD "I have two questions for the agent. Once again, can you state what the estimated cost would be for the continuous decel lane?"

EDGINGTON "We provided that cost estimate as the decel lane and the left-turn lane--one figure."

BARFIELD "The one you said."

EDGINGTON "Right."

BARFIELD "In other words it would be $350,000."

EDGINGTON "To do both of those."

BARFIELD "Okay. That is my question."

CARRAHER "Any other questions or commentary regarding the motion? Okay, what is the pleasure of the commission?"

MICHAELIS "The only two things I would like to talk about--and I really don't know where I am at on them, I just want to throw them out for discussion--Item Nos. 4 and 5 in reference to the freight terminal and the vehicle and equipment sales.

On Item 4, in particular with the freight terminal, as I am looking at that plat up there and if you drive north on George Washington, you are passing something that is very similar to a freight terminal. Then if you look over to the east and you see the pawn shops and you see all of that other stuff. I guess I am wondering where that is a real big problem. It is screened from Pawnee. It is not like it can be seen from Pawnee because you are going to have all of that other development in the front of it.

And then in reference to Item No. 5 with the vehicle and equipment sales, and I know this is a tough item, we get into this every time. I can certainly understand where Dr. Platt is coming from, but by the same token, if we look at the Comprehensive Plan and the guidelines that are put forth in there as to where we would locate these. We have to locate them somewhere. Nobody wants them, but they need to go somewhere. They are a viable business and a part of our society and it does fit with the Comprehensive Plan. There are some just across the street on Oliver and it is a main arterial. So those are just my comments."

WARREN "If you were to make an amended motion and put those in, I would probably vote for it."

MARNELL "I think Mr. Michaelis has covered the points I was interested in. I can't see much difference between a freight terminal and a bus repair facility, which seems like real similar uses for an 'LI' tract and some of that back parcel. That would seem to be a reasonable use and I don't know why it was excluded the first time. I think I echo you on the vehicle and equipment sales. I would support it if you made a motion to add that."

AMENDED MOTION: That the freight terminal in Item No. 4 and the vehicle sales in Item No. 5 be added to the C.U.P.

WARREN moved.

CARRAHER "Ms. Osborne-Howes, as the second, do you concur?"

OSBORNE-HOWES "No."

CARRAHER "Then I can't add it in at this time since the second doesn't concur."

SUBSTITUTE MOTION: That the request be approved, subject to the following:

1. Drive openings on Pawnee shall be located directly across Pawnee from street entrances or located at the mid-point between the streets, as shown on the revised C.U.P. except that the driveway between Parcel 2 and 3 be relocated onto Parcel 3 midway between the openings from Belmont and Crestway. Parcels shall share openings and cross-lot connections shall be provided.

2. The northern entrance onto George Washington Boulevard shall be right-in/right-out only.

3. The following transportation improvements shall be provided:

   A. Guarantee one-half the cost of adding a continuous center left-turn lane on Pawnee from George Washington Boulevard to the existing five-lane section near Oliver.
   B. Provide a continuous accel/decel lane along the south side of Pawnee.

4. The following uses shall be excluded in the "LI" district: asphalt plant, landfill, mining or quarrying, oil or gas drilling, rock crushing, solid waste incinerator, transfer station, wrecking/salvage yard, correctional placement residences, correctional placement facilities, and microbrewery. Any fuel storage shall be located in the northeast corner of the parcel and be screened from view of residential properties.

5. The following uses shall be excluded in the "GC" district: microbrewery; recreation and entertainment, outdoor; recreational vehicle campgrounds; manufacturing; and vehicle storage yard. Construction sales and services, warehousing, welding and machine shops; and wholesale or business services shall be permitted but all activities, equipment and materials shall be stored within a building.

6. Warehouse, self-service storage, use (mini-warehouses) on property zoned "GC" shall be subject to requirements as per the UZC Section III-D.6.y.3-16, 17, 18.

7. Building materials shall be predominately earth tones, with vivid colors limited to accents. No metal facades facing or visible from Pawnee or George Washington Boulevard shall be permitted.

8. Landscaping:

   A. Landscaping along Pawnee and George Washington shall be provided at a rate of 1.5 times the area and tree requirements of the Landscape Ordinance.
   B. The applicant shall be encouraged to maintain the grove of existing trees when possible, however, these trees shall not satisfy more than 50% of the tree requirement for the sites upon which they are located.
   C. A buffer along the southern property line shall be provided at a rate of one tree every 40 feet.
   D. A Landscape Plan, prepared by a Registered Landscape Architect in the State of Kansas, shall be submitted to the Director of Planning for approval prior to the issuance of any building permits.

9. Freestanding signs shall be limited to 20 feet in height. Signage shall be limited to 100 square feet per business on properties zoned "LC" and that allowed in "LC" by the Sign Code on property zoned "GC".

10. Screening shall be provided to screen any vehicle storage or outdoor storage from Pawnee, George Washington Boulevard, and nearby non-residential properties. In the event that the use to be screened is separated by an intervening commercial parcel but that the use would remain visible due to no development or lack of required screening on the intervening parcel, screening shall be provided by the parcel upon which the use is located.

11. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the Plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.

12. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.

13. 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.

14. All property included within this C.U.P. and shall be replatted within <u>one year</u> after approval of this C.U.P. by the Governing Body, or the case shall be considered denied and closed.

15. Prior to issuing a building permit on any portion of the expanded C.U.P., the applicant(s) shall record a

document with the Register of Deeds indicating that this tract (referenced as DP-93) includes special conditions for development on this property.

16. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

MICHAELIS moved, **HENTZEN** seconded the motion.

CARRAHER "I will open it up for questions and commentary by the Commission."

OSBORNE-HOWES "I am just curious as to how--in terms of the freight terminal--how would they enter and exit? How would that work?"

KROUT "Well, they are identifying an opening for a parcel that would provide access to a parcel off of George Washington. If they could get permission from the C.U.P. to the east, they might be able to get to it from Oliver and then they are showing a joint opening to Parcels 3 and 4 that would come off of the south side of Pawnee."

OSBORNE-HOWES "So the buses or freight would be moving up through General Commercial and Limited Commercial?"

KROUT "Potentially, yes."

OSBORNE-HOWES "I can't support it."

GAROFALO "I was racing through our zoning book here. Car sales would be by right in what zoning?"

KROUT "General Commercial."

GAROFALO "That is what I thought. You all had my support there for a while. I think I am going to have to depart from my approval of it. Not that I am opposed to the development, but to the additions that have been made."

JOHNSON "Marvin, do you have an idea how far that piece of property is from the K-15 interchange to get on the Turnpike?"

KROUT "No." (Laughter here). I guess a couple of miles, maybe."

WARNER "It looks to me like--I am not too excited about either one of these two changes in the substitute motion--and this thing has obviously come down to where we have to compromise, if they want to get it approved, and I feel that the compromise that the Commission has made at this point in time, without the freight terminal and without the car sales are proper and should satisfy both parties. Therefore, I won't support the substitute motion, but would vote to approve the original motion."

CARRAHER "Are there further questions or commentary regarding the substitute motion? Seeing none, we will move into a roll call vote."

VOTE ON THE MOTION: The motion carried with 7 votes in favor (Johnson, Michaelis, Warren, Marnell, Barfield, Hentzen and Carraher) and 4 in opposition (Platt, Osborne-Howes, Warner and Garofalo).

KROUT "For those of you who do not know, this case will go on to the City Council. The City Council does not hold its own public hearing. You will be notified if you spoke of when that public hearing occurs. The City Council will rely on the Planning Commission minutes and the recommendations from the various boards and the staff reports. You may ask questions, but they are not going to open it up for a full public hearing."

---

4. **Case No. ZON2000-00036** - Ernest A. and Doris Irene Jordan (Owner/Applicant); Stephen M Jordan (Agent) request zone change from "SF-6" Single-Family Residential to "LC" Limited Commercial district on property described as:

Lots 1-10, inclusive, Block D, West Maple Gardens Addition, Wichita, Sedgwick County, Kansas. Generally located on the northwest corner of Taft and Julia.

SCOTT KNEBEL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant requests a zone change from "SF-6" Single-Family Residential to "NR" Neighborhood Retail and "TF-3" Two-Family Residential on a 3.7 acre platted tract located at the northwest corner of Taft and Julia. The

applicant proposes to develop the site's Julia frontage (2.4 acres) with a commercial center of approximately 20-25,000 square feet and the site's Brummet frontage (1.3 acres) with approximately five duplexes (10 dwelling units).

The surrounding area is characterized by large-scale commercial development south of Taft and single-family residential development north of Taft. The property west of the site across Brummet is zoned "SF-6" Single-Family Residential and is developed with single-family residences. The property north of the site across University right-of-way (street not constructed) is zoned "SF-6" Single-Family Residential and is undeveloped. The property east of the site across Julia is zoned "SF-6" Single Family Residential and is developed with two single-family residences and three vacant residential lots. The property south of the site across Taft is zoned "GC" General Commercial and is developed with a Wal-Mart.

The surrounding area also is characterized by its proximity to the Mid-Continent Airport. The subject property is located under the approach to Mid-Continent Airport approximately one mile north of the end of the runway. Due to its location, the site is subjected to significant noise from aircraft.

CASE HISTORY: The site is in the West Maple Gardens Addition, which was recorded February 1, 1956. An application for "LC" Limited Commercial zoning (Z-3317) on the entire subject property was submitted by the applicant on February 22, 1999 and was subsequently withdrawn prior to hearing by the MAPC.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-6"	Undeveloped
SOUTH:	"GC"	Retail, General
EAST:	"SF-6"	Single-Family
WEST:	"SF-6"	Single-Family

PUBLIC SERVICES: The site has access to Taft, Julia, Brummet, and University. University is right-of-way only, and the street has not been constructed. The applicant has indicated that University may become a cul-de-sac off Brummet through the replatting process. Brummet is an unpaved local street. Planning staff recommends requiring Brummet to paved as a condition of replatting. Taft is a four-lane collector street with traffic volumes of approximately 10,500 vehicles per day. Julia is a two-lane collector street with traffic volumes of approximately 8,500 vehicles per day. The 2030 Transportation Plan does not estimate future traffic volumes for Taft or Julia. As proposed, the commercial center would generate approximately 850-1,075 additional vehicles per day. Planning staff recommends requiring additional right-of-way, access controls, and turn lanes on Taft and/or Julia, as appropriate, as a condition of replatting. Public water and sewer service are available to serve the site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. The Low Density Residential category provides for the lowest density (1 to 6 units per acre) of urban residential land use and consists of single-family detached homes, zero lot line units, cluster subdivisions, and planned developments with a mix of housing types that may include townhouse and multi-family units.

The Commercial Locational Guidelines indicate that commercial convenience centers ranging in size from 2-4 acres are typically expected to develop at one or more corners of arterial intersections and may be appropriately located at the intersection of an arterial and a collector street, where proper turn lanes are in place or planned. The subject property is located at the intersection of two collector streets with traffic volumes approaching those of an arterial street.

The Residential Locational Guidelines indicate that medium-density residential uses may serve to buffer low-density residential uses from commercial uses. The proposed duplexes would serve to buffer the low-density residential uses to the west from the proposed commercial center.

The Comprehensive Plan contains the following objective: encourage residential redevelopment, infill, and higher density residential development, that maximizes the public investment in existing and planned facilities and services. The objective is intended to be achieved through the following strategy: use Community Unit Plans, Planned Development Districts, and zoning as tools to promote mixed use development, higher density residential environments, and appropriate buffering.

RECOMMENDATION: Based upon numerous factors, planning staff finds the subject property appropriate for neighborhood retail and medium-density residential uses. First, the high traffic on Taft and Julia and the site's proximity to a regional commercial center make it unlikely that single-family residences will develop on the subject property. Second, the site is significantly impacted by noise from Mid-Continent Airport, which further reduces the likelihood that the site will develop with single-family residences. Third, the owners of the nearby properties along Julia are actively marketing their properties as commercial properties even though they are zoned residential, thus indicating a market realization that the Julia corridor between Taft and Maple is appropriate for commercial development. Fourth, the proposed rezoning provides a step-down in zoning to buffer the existing single-family residences to the west from the commercial development proposed along Julia. Fifth, the proposed residential use is of a density (7.5 units per acre) that is slightly greater than the density (7.25 units per acre) that would be permitted by leaving the property in the "SF-6" district and replatting the property into smaller lots. Sixth, the Comprehensive Plan indicates that commercial convenience centers are appropriate for high traffic intersections if proper turn lanes are provided. Based upon these factors and information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to replatting within one year, with consideration given to sufficient right-of-way dedication, access controls, and traffic improvements.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by large-scale commercial development south of Taft and single-family residential development north of Taft. The property west of the site across Brummet is zoned "SF-6" Single-Family Residential and is developed with single-family residences. The property north of the site across University right-of-way (street not constructed) is zoned "SF-6" Single-Family Residential and is undeveloped. The property east of the site across Julia is zoned "SF-6" Single Family Residential and is developed with two single-family residences and three vacant residential lots. The property south of the site across Taft is zoned "GC" General Commercial and is developed with a Wal-Mart.

   The surrounding area also is characterized by its proximity to the Mid-Continent Airport. The subject property is located under the approach to Mid-Continent Airport approximately one mile north of the end of the runway. Due to its location, the site is subjected to significant noise from aircraft.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-6" Single-Family Residential, which accommodates moderate-density single-family residential development and complementary land uses. Given the site's location along high-traffic streets, near a regional commercial center, and under the approach to an airport, it is unlikely that the site will develop with single-family residential uses.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the step-down in zoning, which provides a buffer from the commercial development along in the form of duplexes with a similar density to single-family lots.

4. Length of time the subject property has remained vacant as zoned: The subject property was platted into single-family residential lots in 1956 and has yet to develop with single-family residential units.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: Although the Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development, the Commercial Locational Guidelines indicated that commercial convenience centers ranging in size from 2-4 acres may be appropriately located at the intersection of an arterial and a collector street, where proper turn lanes are in place or planned. The subject property meets these criteria since it is located at the intersection of two collector streets with traffic volumes approaching those of an arterial street.

   The Residential Locational Guidelines indicate that medium-density residential uses may serve to buffer low-density residential uses from commercial uses. The proposed duplexes would serve to buffer the low-density residential uses to the west from the proposed commercial center.

   The Comprehensive Plan contains the following objective: encourage residential redevelopment, infill, and higher density residential development, that maximizes the public investment in existing and planned facilities and services. The objective is intended to be achieved through the following strategy: use Community Unit Plans, Planned Development Districts, and zoning as tools to promote mixed use development, higher density residential environments, and appropriate buffering. The proposed use of the of the subject property is a mixed-use, higher-density infill development with appropriate buffers from existing single-family residences.

6. Impact of the proposed development on community facilities: Community facilities should not be adversely impacted as long as sufficient right-of-way, access controls, and traffic improvements are provided for through the replatting process.

KNEBEL "This item has been presented to the Planning Commission before. I am not intending to go through the entire staff report as a public hearing on this item has been held in the past. At the last meeting, the direction of the Planning Commission was to meet with the applicant to see if there was some agreement between staff and the applicant on some uses in the Limited Commercial zoning district that could be either excluded or design a Protective Overlay that included only certain uses on this property.

You have a list from the applicant that shows the uses that the applicant would like to have on this property. I have summarized those uses that are not permitted in the Neighborhood Retail District that is recommended by staff on the first page of your report. There are 15 or so items there. I won't read them all to you. Two of those items would not be permitted in the Limited Commercial district without additional public hearings for Conditional Uses. Those items are taverns and drinking establishments and vehicle and equipment sales.

The Planning staff has reviewed this list of 15 or so items and feels that they would create excessive detrimental affects on the residential properties, would generate excessive traffic or would have both of those impacts. Therefore, we are continuing to recommend this property for Neighborhood Retail. With that I will conclude my remarks and answer any questions."

CARRAHER "Are there any questions of staff regarding this item?"

BARFIELD "I am just a bit curious. How did this come back to us? This is the third time, right?"

KNEBEL "You asked for it to. The Planning Commission voted to have it be returned to the Planning Commission."

KROUT "The applicant wasn't here, so you couldn't tell what he wanted."

KNEBEL "Right. At the last meeting, the District Advisory Board had recommended that the Limited Commercial be approved, subject to a Protective Overlay that either excluded uses or defined only the permitted uses, and we didn't work that out at the last Planning Commission meeting. It was directed to do that in the meantime."

CARRAHER "Thank you for that clarification. Are there any further questions of staff?"

GAROFALO "The applicant didn't agree to the Overlay, is that what the deal was?"

KNEBEL "Well, staff has not agreed to the request of the applicant, essentially. The items that are listed on the memo from me to the Planning Commission, the 15 or so items, would not be permitted in the Neighborhood Retail district. Those items staff has not agreed to recommend for this particular site for the reasons indicated."

GAROFALO "So we are back to where we were, right?"

KNEBEL "With the exception that we have a proposal from the applicant that we did not have previously."

GAROFALO "As far as staff is concerned, we are back to where we were. You are recommending Neighborhood Retail?"

KNEBEL "That is correct."

KROUT "Are there any uses that the applicant is willing to eliminate that are permitted in the 'LC' district?"

KNEBEL "There are some, yes. I didn't go through those specifically. Each of the items that are marked on the attached list with an 'N' and is crossed out, the applicant is willing to eliminate. Some of those uses are permitted in Limited Commercial district. Some are not."

PLATT "Quite a few."

MARNELL "Scott, (indicating on memo) is this right here in the front the exceptions?"

KNEBEL "Those are the additional uses that would be permitted in Limited Commercial that the applicant has requested."

JOHNSON "Did this list come about between the applicant and the neighborhood?"

KNEBEL "No, sir. The District Advisory Board did not attempt to define the permitted uses. They left that to the Planning Commission essentially."

HENTZEN "Did the DAB board make a recommendation on this?"

KNEBEL "They recommended that a Protective Overlay be designed but were mute to the types of uses that were to be excluded or permitted."

HENTZEN "Did they recommend approval?"

KNEBEL "Yes, they recommended approval of Limited Commercial with a Protective Overlay to either exclude or define the permitted uses, but did not have any specific recommendations on uses to exclude or uses to permit."

HENTZEN "But what I understand you to be saying is that you don't agree with the DAB."

KNEBEL "That is accurate, yes."

CARRAHER "Are there any further questions of staff regarding the item?"

BARFIELD "I tried to get a good understanding of this the last time it was here. Originally, the applicant applied for Neighborhood Retail?"

KNEBEL "That is correct. Neighborhood Retail and duplex zoning."

BARFIELD "And staff is recommending that we deny that?"

KNEBEL "No, sir. We recommended approval of that."

BARFIELD "Well, why did he come back for Limited Commercial?"

KNEBEL "At the hearing where the applicant had applied for Neighborhood Retail and duplex zoning, the applicant requested the Planning Commission to re-advertise the request to change his application for an application entirely for Limited Commercial, and the Planning Commission agreed with that."

BARFIELD (unable to hear) staff's recommendation, based on any response?"

KNEBEL "No, sir. Staff recommended approval of Neighborhood Retail and 'TF-3', subject to platting with no conditions."

CARRAHER "Are there further questions of staff? Thank you, Mr. Knebel. Now we will hear form the applicant."

STEVE JORDAN "I am acting as agent for my parents on the property in question. All along in this process, we have desired 'LC'. There have been negotiations and discussions about other types of zoning, 'NR' and multiple family, and if some of you weren't here during the previous meetings, the neighborhood on Brummet Street came out pretty much in agreement that they did not want duplexes on that street. They also stated that they would be for commercial zoning if they got what they wanted. So I adopted an attitude of compromise. If I could have seen what was blowing in the wind and the easiest path, originally we wanted Light Commercial.

At the last DAB meeting, the City had outlined a couple of specific items that they thought were high traffic creating uses that they didn't want to see and that was convenience stores, and drive-through restaurants. So at that DAB meeting, I got up and talked to the group and told them in lieu of what I had heard about the neighbors and multi-family and being for commercial with restrictions, I, too, would like to see 'LC' with a Protective Overlay. I was willing to immediately let go of the two mentioned that were high traffic and it seemed that the issues at stake now were that any 'LC' would create high traffic. I am not in agreement with that. I believe that most of what we have selected here that you see before you are not necessarily high traffic. I contend that high traffic is already there with the large shopping areas that are out there, and why this street was put in there in the first place.

Planning estimates that some 3,600 to 4,500 cars a day will be created by what we do here if it is in the heavier zoning. But again, I would like to point out that I have restricted not just the two items aforementioned, but the list that excludes at least 20 or 22 further items. Instead of high traffic counts, I suggest that businesses that will go in this area will actually feed off and/or buffer the existing high traffic. There was also some discussion about setting a precedent. On that topic, I believe it is in the documentation that there are a couple of people who have already expressed desires to change zoning on Julia Street, the thoroughfare, to commercial zoning. With that thing, that means there is something pending coming down the pike for you to decide on.

I would say that instead of this being a negative connotation, trying to go 'LC' with this Overlay, it is exactly what the citizens wanted and what we want. It accomplishes goals and it sets a positive precedent. I just ask that you consider this and vote in favor of it. Do you have any questions?"

WARREN "In this Protective Overlay, I take it then, that those items that have been presented to us out of the zoning manual that you crossed through are those items that you would gladly restrict that property from. That would be in your Protective Overlay."

JORDAN "Right. I didn't mention this, but it is important. I sent out letters to everybody that was an adjacent property owner that I could find the addresses for and I think that was all but one. All of them were in favor and they got to do the same thing you see, although this is my work, but I did allow them to see these zoning classifications and allow them to line out what they didn't want to see.

While I wasn't in perfect agreement, I took out 20 some items plus what the City was requesting, the convenience store, the car wash and drive-through restaurants."

WARREN "And you weren't in agreement with that, but that was a compromise with staff? Is that what I am hearing?"

JORDAN "It was a compromise, yes. Our goal has always been to get the best and highest usage classification that we can."

WARREN "Well, I would say a convenience store definitely."

CARRAHER "Are there any further questions of the applicant? Thank you, Mr. Jordan.

Before I move towards the gallery, I need to ask if there have been any ex parte contacts in regards to this item? Seeing none, we will move it out to the gallery. Is there anyone in the gallery who wishes to speak in favor of this item? Is there anyone who wishes to speak in opposition to this item? Seeing none, we will move it back to the Commission. Are there any questions or commentary regarding the item? What is the pleasure of the Commission?"

> **MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The surrounding area is characterized by large-scale commercial development south of Taft and single-family residential development north of Taft. The property west of the site across Brummet is zoned "SF-6" Single-Family Residential and is developed with single-family

residences. The property north of the site across University right-of-way (street not constructed) is zoned "SF-6" Single-Family Residential and is undeveloped. The property east of the site across Julia is zoned "SF-6" Single Family Residential and is developed with two single-family residences and three vacant residential lots. The property south of the site across Taft is zoned "GC" General Commercial and is developed with a Wal-Mart. The surrounding area also is characterized by its proximity to the Mid-Continent Airport. The subject property is located under the approach to Mid-Continent Airport approximately one mile north of the end of the runway. Due to its location, the site is subjected to significant noise from aircraft. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-6" Single-Family Residential, which accommodates moderate-density single-family residential development and complementary land uses. Given the site's location along high-traffic streets, near a regional commercial center, and under the approach to an airport, it is unlikely that the site will develop with single-family residential uses. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the step-down in zoning, which provides a buffer from the commercial development along in the form of duplexes with a similar density to single-family lots. Length of time the subject property has remained vacant as zoned: The subject property was platted into single-family residential lots in 1956 and has yet to develop with single-family residential units. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: Although the Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development, the Commercial Locational Guidelines indicated that commercial convenience centers ranging in size from 2-4 acres may be appropriately located at the intersection of an arterial and a collector street, where proper turn lanes are in place or planned. The subject property meets these criteria since it is located at the intersection of two collector streets with traffic volumes approaching those of an arterial street. The Residential Locational Guidelines indicate that medium-density residential uses may serve to buffer low-density residential uses from commercial uses. The proposed duplexes would serve to buffer the low-density residential uses to the west from the proposed commercial center. The Comprehensive Plan contains the following objective: encourage residential redevelopment, infill, and higher density residential development, that maximizes the public investment in existing and planned facilities and services. The objective is intended to be achieved through the following strategy: use Community Unit Plans, Planned Development Districts, and zoning as tools to promote mixed use development, higher density residential environments, and appropriate buffering. The proposed use of the of the subject property is a mixed-use, higher-density infill development with appropriate buffers from existing single-family residences. Impact of the proposed development on community facilities: Community facilities should not be adversely impacted as long as sufficient right-of-way, access controls, and traffic improvements are provided for through the re-platting process.) I move that we recommend to the governing body that the request be approved, subject to staff comments.

MICHAELIS moved, **WARREN** seconded the motion.

WARREN "You are just wanting to approve it for Neighborhood Retail?"

MICHAELIS "No, for 'LC'."

WARREN "Well, see, staff comments are Limited Retail."

CARRAHER "Would you like to clarify your motion?"

AMENDED MOTION: That the request be approved for "LC" zoning.

MICHAELIS moved.

WARREN "That's 'LC' zoning without exception?"

MICHAELIS "Yes."

KROUT "With no exceptions? Not even the ones that have been volunteered?"

MICHAELIS "Well, the ones that he has volunteered."

WARREN "Okay, then. Those were the ones I wanted to discuss. I will second that. But I don't think we ought to deny him the right of a convenience store or a drive-through restaurant. Particularly along Maple Street or in that vicinity."

KNEBEL "This property doesn't have any frontage to Maple."

WARREN "I would be, as the second, ready to accept his self-assigned restrictions with those two exceptions. I think a convenience store and a drive-through restaurant may be in order there. I have been over and looked at that thing two or three times. It is as commercial as it can be. It is backed into Wal-Mart facing right out into it."

MICHAELIS "Well, I guess I am relying on him. If he says this is what he is willing to do."

WARREN "Well, I think there was some pressure on him from staff to get rid of that convenience store, and I don't agree with that or the drive-through. So I would like to have you amend your motion to include those two items."

MICHAELIS "Before I do that, I would like to have him come back up. Let's see if that is important to him or not. Mr. Jordan, would you clarify that, please?"

JORDAN "In my previous statement, I said that we were looking for the highest classifications we could get in zoning that was appropriate for that property. I don't want to be a hog, but I would like for you to consider car washes, too. I understand that those are conditional and have to be worked with through the Planning Department, at least a car wash does. But I look out there and I see nothing like that and I see thousands of cars out there in that landing area. They put one across the street from Towne West right fully in view on Maple Street and I actually think that this has the same kind of potential."

MICHAELIS "I don't think you answered my question."

JORDAN "Yes, I would like to see those two classifications put in there and a car wash, if you want to debate that one."

MICHAELIS "Mr. Warren, would you repeat how you would like to have it amended, please?"

WARREN "Well, the motion as presented with 'LC', except that we take out of his Protective Overlay those items of a convenience store and a drive-through restaurant, and that they would not be included in the Protective Overlay and all other items as he has indicated would be in the Protective Overlay."

> **AMENDED MOTION:** That the Planning Commission recommend to the governing body that the request be approved with 'LC', except that we take out of his Protective Overlay those items of a convenience store and a drive-through restaurant, and that they would not be included in the Protective Overlay and all other items as he has indicated would be in the Protective Overlay."
>
> **MICHAELIS** moved, **WARREN** seconded the motion.

KROUT "I think I should explain to the Commission that many of the items that he offered to take out and are crossed out in this use list are uses, most all of them are uses that are not permitted in the 'LC' district anyway."

WARREN "I understand that."

KROUT "A couple of others, like car washes and night clubs are permitted by Conditional Use, so it is not a big deal whether it is eliminated or not because it still has to go through another public hearing. There is only one use that he is agreeing to eliminate that is allowed by right in the 'LC' district, and that is a pawn shop. Otherwise, he is asking for all of the uses that are permitted in the 'LC' district. So if you think that it is very important to have a Protective Overlay just to protect against pawn shops, you can have that. The other thing about Neighborhood Retail is that there is a difference in the signage requirements in Neighborhood Retail and Limited Commercial and we thought that that was important in an area that is surrounded by residential to try and keep the signage down. So if you feel that 'LC' is okay, the only thing that you are eliminating by eliminating what he is volunteering is really pawn shops."

WARREN "Then are you suggesting that maybe we just take away the need for the Protective Overlay?"

KROUT "I am not sure whether you are going to allow everything else that is allowed in 'LC'. The pawn shops is a big item. Except that is the one that he promised the neighborhood that he wasn't going to do."

WARREN "I have forgotten, is the screening on the west side? Is that covered in staff comments? I believe it was, wasn't it?"

KNEBEL "Yeah, there are several other site design features in the Protective Overlay."

KROUT "That is right. Did we recommend Neighborhood Retail signs?"

KNEBEL "We recommended Neighborhood Retail zoning."

KROUT "Okay. What else is in the Protective Overlay?"

KNEBEL "Screening. A masonry wall, lighting and color restrictions on the building."

WARREN "Well, let's just take out the Protective Overlay then."

GAROFALO "I think my original question that I had in mind was answered. It appears to me that whatever the neighborhood wanted, none of that would be included in the motion. Is that correct?"

KNEBEL "Unfortunately, I wasn't at the District Advisory Board meeting. Mr. Miller was and he just stepped out, so I am not sure on that."

GAROFALO "So whatever agreements were made apparently would go down the tubes."

KNEBEL "Right."

PLATT "It seems to me that there is much broader issue at stake here than we are talking about now, that the original zoning application was directed at and we got away from that entirely. Once we approve those huge, bigger than big box places to the south, we created a situation which we knew we would have to face up to and that is how do we then buffer them from everything to the north, which includes an awful lot of residential zoning?

So consequently, the current case is a logical one that we had to expect. It seems to me that what we have to try to do now is to say 'all right, we are going to recognize that there has been a change here that is forever going to take place'. Do we want to simply throw away the whole residential area and say it should become a commercial 'no-mans' land, or do we try to work out some way that we are going to produce a logical stepping down buffering zone from what exists along Kellogg and just north of Kellogg.

As I said, I think the neighborhood retail on the east side of that project with the multiple family housing on the west side, seems to make a great deal of sense. But to just simply turn the whole thing over as commercial, we are going to be having the block to the east and the block to the west coming right back saying that they want the same thing. We already have people saying they support this because they are going to sell their property now for commercial. It seems to me that this starts a process that has no end and that this is a process that zoning was designed to try to avoid and we are paying no attention to it. I certainly cannot support the motion."

HENTZEN "We talked briefly about the overlay situation. Could we not say that we could grant the 'LC' and incorporate these four items that the staff said about 'NR'? In other words, it is a protective fence along the entire west side, and if the north side ever develops in residential, a masonry fence there. But I can tell you that the north side will never develop with houses. I don't see any way that a builder is going to put a house in there, or a property. So what I am asking is to just accept what the staff says on Page 4 and include that in the recommendation of granting 'LC'.

The other thought that I had about this thing is that the owner of this property has been up here before and he has talked to the neighbors and asked them what they wanted or what they would accept. He has tried very hard to compromise and to deal with that, and I appreciate it. But what we are up against is that he wants to do one thing, the neighbors are not objecting, but the staff wants to do another thing. All I am saying is that I would like to see us support these four items on Page 4 and give him the 'LC' zoning that he needs."

MICHAELIS "This may be a little unusual, but I am going to withdraw my motion. The reason I am going to withdraw the motion is because whether I like to admit it or not, I am confused. Maybe it has been because this thing has been back and forth so many times. But I really thought that this was the result that had been worked out through the compromise. So therefore, I am going to withdraw my motion."

CARRAHER "That means the floor is open."

JOHNSON "I am going to make a motion because I feel that basically the reason this thing is back up here had to do with a multi-family zoning that the applicant originally submitted with his original application. The neighborhoods didn't want that. The way they saw it was to go to 'LC' with an overlay, which was going to eliminate convenience stores, fast foods and to get the masonry wall and all of that. So I think that is what is presented to DAB and that is why they supported it, and I think that is why the neighborhood supported it. So if it varies from that, I can't support it. I would probably go back to the original way, especially since it is on a speculative basis. If there was this person that was ready to buy it and they had a contract on something and we could see a bigger picture of what is going to happen, I might look at it differently, but I think that is where I am headed. I wasn't going to support your motion, and now there isn't one."

CARRAHER "With that in mind, Mr. Johnson, would you care to make a motion?"

JOHNSON "I will try to."

> **MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The surrounding area is characterized by large-scale commercial development south of Taft and single-family residential

development north of Taft. The property west of the site across Brummet is zoned "SF-6" Single-Family Residential and is developed with single-family residences. The property north of the site across University right-of-way (street not constructed) is zoned "SF-6" Single-Family Residential and is undeveloped. The property east of the site across Julia is zoned "SF-6" Single Family Residential and is developed with two single-family residences and three vacant residential lots. The property south of the site across Taft is zoned "GC" General Commercial and is developed with a Wal-Mart. The surrounding area also is characterized by its proximity to the Mid-Continent Airport. The subject property is located under the approach to Mid-Continent Airport approximately one mile north of the end of the runway. Due to its location, the site is subjected to significant noise from aircraft. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-6" Single-Family Residential, which accommodates moderate-density single-family residential development and complementary land uses. Given the site's location along high-traffic streets, near a regional commercial center, and under the approach to an airport, it is unlikely that the site will develop with single-family residential uses. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the step-down in zoning, which provides a buffer from the commercial development along in the form of duplexes with a similar density to single-family lots. Length of time the subject property has remained vacant as zoned: The subject property was platted into single-family residential lots in 1956 and has yet to develop with single-family residential units. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: Although the Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development, the Commercial Locational Guidelines indicated that commercial convenience centers ranging in size from 2-4 acres may be appropriately located at the intersection of an arterial and a collector street, where proper turn lanes are in place or planned. The subject property meets these criteria since it is located at the intersection of two collector streets with traffic volumes approaching those of an arterial street. The Residential Locational Guidelines indicate that medium-density residential uses may serve to buffer low-density residential uses from commercial uses. The proposed duplexes would serve to buffer the low-density residential uses to the west from the proposed commercial center. The Comprehensive Plan contains the following objective: encourage residential redevelopment, infill, and higher density residential development, that maximizes the public investment in existing and planned facilities and services. The objective is intended to be achieved through the following strategy: use Community Unit Plans, Planned Development Districts, and zoning as tools to promote mixed use development, higher density residential environments, and appropriate buffering. The proposed use of the of the subject property is a mixed-use, higher-density infill development with appropriate buffers from existing single-family residences. Impact of the proposed development on community facilities: Community facilities should not be adversely impacted as long as sufficient right-of-way, access controls, and traffic improvements are provided for through the replatting process.) I move that we recommend to the governing body that the request be approved, subject to replatting within 1 year and the following provisions of Protective Overlay district No. 82:

1. The following uses shall not be permitted: convenience store; drive-thru restaurant; cemetery; correctional placement residence; golf course; halfway house; recycling collection station; reverse vending machine; animal care, general; car wash; kennel; marine facility, recreational; night club; pawnshop; printing and publishing, general; recreation and entertainment, outdoor; and recreational vehicle campground.
2. A 6 foot high masonry wall shall be constructed parallel to the west property line. A 15 foot deep landscaped buffer shall be provided along the entire length of the west property line on the west side of the masonry wall. The landscaped buffer shall be planted with 1 shade tree or 2 ornamental trees per 30 lineal feet of frontage along Brummet.
3. If the vacant property north of the site develops with residential uses, a 6 foot high masonry wall shall be constructed along the north property line.
4. Light poles shall be limited to a maximum height of 14 feet.
5. Building exteriors shall share uniform architectural character and shall be predominantly earth-tone colors with vivid colors limited to incidental accent. Extensive use of backlit canopies and neon or fluorescent tube lighting on buildings shall not be permitted.

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

CARRAHER "There are two speakers left from the previous speakers' list-- Ms. Osborne-Howes and Mr. Marnell. Would you like to speak?"

OSBORNE-HOWES "I just wanted a clarification now that this has come up. If it was 'NR', would you need the screening?"

KROUT "Yes. Because we don't normally require a wall along a street side. So because there is residential on the other side of the street, we thought it was appropriate in this case and we do need the Protective Overlay to do that."

OSBORNE-HOWES "So could you have 'NR' and have this, or is that the reason or is that the reason for the 'LC'?"

KROUT "That was our recommendation was 'NR' with the wall and the Protective Overlay. The differences are more flexibility of uses that he could do an auto repair shop, a hotel or motel and a few other uses that are permitted in 'LC' that are permitted in the Neighborhood Retail."

MARNELL "I would like to say that I generally agree with what Dr. Platt says; however out in this area, that map is a little bit misleading. It looks like the original plats, and what you can't see by that is that all of those streets along there are blocked off from access to Taft, and that is undeveloped land going up there.

I think by putting the four requirements on here it is a good compromise between the two. So I will support the motion."

CARRAHER "Are there any further questions or commentary regarding the motion on the floor? Seeing none, we will move into a voice vote.

> **VOTE ON THE MOTION:** The motion carried with 10 votes in favor (Warren, Johnson, Osborne-Howes, Warner, Carraher, Michaelis, Garofalo, Barfield, Marnell and Hentzen). Platt opposed. McKay and Lopez were not present.

---

5. **Case No. CUP2000-00047; DP-196 One Kellogg Place Amendment #1** - Kellogg-Greenwich Road Associates c/o Robert W. Kaplan (owner), The R.H. Johnson Company c/o Owen Buckley (contract purchaser); Baughman, P.A. c/o Phil Meyer (agent); J.P. Weigand c/o Grant Tideman (agent) request to to expand DP-196 One Kellogg Place Community Unit Plan and adjust parcel sizes and configurations, on property described as:

Lots 1 thru 5, inclusive, Block 1, Lots 1 thru 8, inclusive, Block 2, Lots 1 thru 7, inclusive, Block 3, Lots 1 thru 3, inclusive, Block 4, and Reserves A, B, C, D, E & F, One Kellogg Place Addition, Wichita, Sedgwick County, Kansas. Generally located on the southeast corner of Kellogg and Greenwich Road.

DONNA GOLTRY, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

BACKGROUND: The applicant is proposing to add 50.52 acres to DP-196 One Kellogg Place Community Unit Plan. The current C.U.P. includes only 350 feet along the south side of Kellogg for approximately one-half mile east of Greenwich. The amended C.U.P. would include all the property between Kellogg and the I-35 Turnpike east of Greenwich to Brundige Road (vacated) except the car dealership at the corner of the intersection and two existing residences along Greenwich. Total size after the expansion would be 74.12 acres.

The C.U.P. is designed with three large interior parcels suitable for big box retail users or a shopping center. Seven smaller parcels are located along the Kellogg Drive, and one parcel is located on Greenwich Road. Access is proposed with internal circulation that connects to Zelta, Ellson, Dowell, and Greenwich Road. The applicant does not propose to construct Kellogg Drive along the frontage, although the applicant had previously guaranteed (1993 paving petition) to construct 20' of Kellogg Drive as part of the existing D.P.-196. The applicant also proposes to vacate the streets within the C.U.P. that have already been platted. These streets include Gilbert and portions of Zelta and Ellson.

The proposed C.U.P. would consist of 12 parcels. Parcel 1 (20.66 acres; zoned "GC" General Commercial and "LI" Limited Industrial") is the largest parcel and has direct access along Kellogg Drive. Parcel 2 (2.54 acres; zoned "LI") has access to Greenwich Road via a Common Frontage Area "B". Parcel 3 (16.49 acres; zoned "GC" and "LI") and Parcel 4 (12.78 acres; zoned "GC" and "LI") have access via Common Frontage Area "A" that connects via Ellson and Zelta to Kellogg Drive. Parcel 5 (1.47 acres; zoned "GC"), Parcel 6-10 (1.25 acres; zoned "GC"), and Parcel 11 (1.24 acres; zoned "GC") have direct access to Kellogg Drive and secondary access on Common Frontage Area "A". Parcel 12 (2.55 acres; zoned "NR" Neighborhood Retail and "LI") has direct access onto Greenwich Road. Reserve A (1.75 acres; zoned "LI") and Reserve B (1.90 acres; zoned "LI") are for drainage purposes.

The C.U.P. proposes a maximum building coverage of 30 percent, a maximum building floor area of 35 %, and maximum building height of 35 feet. Building setbacks are 35 feet along Kellogg Drive and Greenwich, the exterior parcel lines, and Common Frontage Area "B". For Common Frontage Area "A", the setbacks are 35 feet on the south but no setbacks are shown on the north. As shown, buildings could be constructed on the rear property lines along the north side of Common Frontage Area "A". No setbacks are shown along the southern property line of the C.U.P., although 35 feet is required along all street right-of-way lines in C.U.P.s by the Unified Zoning Code.

Proposed uses are those permitted in the "GC" General Commercial zoning district, excluding: adult entertainment establishments, group homes, group residential, correctional placement residences, private clubs, taverns, and drinking establishments. Restaurants that serve liquor are permitted as long as food is the primary service of the establishment.

Proposed signage includes freestanding signs at 30 feet in height on Parcels 1-4 and 20 feet in height on Parcels 5-12, spaced a minimum of 150 feet apart. The amounts requested, by parcel, are: Parcel 1 – 200 sq. ft. on Kellogg Dr. and 200 sq. ft on Greenwich; Parcel 2 – 170 sq. ft. on Greenwich (no direct frontage); Parcel 3 – 250 sq. ft. on Kellogg Dr. (no direct frontage); Parcel 4 – 250 sq. ft. on Kellogg Dr. (no direct frontage); Parcels 5-11 – 150 sq. ft. on Kellogg Dr.; Parcel 12 – 100 sq. ft. on Greenwich.

The C.U.P. proposed uniform architectural control among the three large parcels (Parcels 1, 3, and 4), among Parcels 5-11 located along Kellogg Drive, and between Parcels 2 and 12 along Greenwich. It also stipulates uniform lighting, limited to 30 feet in height for Parcels 1, 3, and 4, and 24 feet for the remaining parcels. It calls for screening of rooftop mechanical equipment, trash receptacles, and outdoor work and storage areas. There is no specific requirement on screening of outdoor display. Also, the applicant did not include a screening wall along the rear of the large parcels abutting the I-35 Turnpike.

Standard landscaping is required along Kellogg and Greenwich. Additionally, the C.U.P. requires parking lot landscaping for Parcels 1, 3, and 4, and an equivalent number of trees along the Turnpike as would be required in a landscaped street yard by the Landscape Ordinance, but not the landscaped street yard area. A pedestrian circulation plan is required.

Existing development along Kellogg includes several car dealerships and used car sales lots, auto repair, and manufactured homes sales lots. The property to the east is developed with mini-storage warehouses (DP-117 East Kellogg Mini Storage C.U.P.). The I-35 Turnpike forms the southern boundary, with the newly constructed Seltzer Elementary School and Woodland Lakes Estates located south of the Turnpike. There are two residences adjoining Parcel 12, and eight residences on the western side of Greenwich Road.

CASE HISTORY: The property is platted as One Kellogg Place Addition, recorded October 4, 1993. It is recommended that the property be replatted since the amended C.U.P. would alter boundary lines, utility easements, eliminate all of Gilbert Drive and most of Ellson Drive and Zelta Drive.

ADJACENT ZONING AND LAND USE:

NORTH:	"GC"; "LC"; "SF-6"	Car and manufactured home sales lots, vacant
EAST:	"GC"	Vacant tract, mini-storage warehouses
SOUTH:	"SF-6"	Turnpike, school, vacant
WEST:	"GC"; "SF-6"	Car and manufactured homes sales lots, houses

PUBLIC SERVICES: Transportation access is provided to the site via Kellogg (US 54), which is scheduled for reconstruction to freeway standards by 2007, and Greenwich Road, which is scheduled for widening to four lanes in 2007. Average daily traffic on Greenwich was 7,436 cars per day in 1997 and projected to increase to 14,897 in 2030. Traffic on this segment of Kellogg (U.S. 54) was 21,180 cars per day in 1997 and projected as 51,179 cars per day by 2030.

The Traffic Study Greenwich Road and Kellogg Ave. (U.S.-54) Wichita, KS, Traffic Engineering Consultants, Inc., November 2000 ("TEC") was submitted to analyze the effects of traffic created by this development. The traffic study assumed that Parcel 1 would be developed with a discount superstore (big box), Parcel 3 with a shopping center, Parcel 4 with home improvement superstore (big box), and the remaining parcels with restaurants, fast-food restaurants, and a drive-in bank. It should be noted that TEC assumed full build-out at a total floor area below that requested by the applicant (see Recommendations for discussion).

The study assumed four entrances. The entrance on Greenwich Road would allow full turning movements and would be signalized. The entrance at Ellson would be right-in/left-in and right-out only drive. The entrance at Zelta would be full turning movements with signalization. Dowell was a right-in/right-out only.

TEC's recommended improvements to maintain an acceptable "D" level of service on all entrances included dual left-turn lanes at Kellogg and Greenwich, signalization at Greenwich and Common Frontage Area "B" with a three-lane entrance onto Greenwich, signalization and dual left turns from Zelta to Kellogg. (See Recommendations for details.)

Other municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide in the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan shows the area for "commercial" and "industrial" development." Kellogg is identified in the Comprehensive Plan for the most intense types of commercial development.

RECOMMENDATION: The proposed C.U.P. is in conformance with the Comprehensive Plan, which shows the area along Kellogg as "commercial" and the area nearer the Turnpike as "industrial". Surrounding development to the north, northwest and east is of equal or higher intensity of commercial use when compared to the proposed uses. Additionally, it is anticipated that when Kellogg becomes a freeway, some of the existing commercial properties might be redeveloped with higher-value retail uses.

A pocket of residential use is located along Greenwich near the "NR" Neighborhood Retail zoning that buffer the residences from the bulk of the commercial development. And, it should be noted that these residences are shown for "industrial" use on the Comprehensive Plan.

The most critical concern with this C.U.P. is that the traffic study analyzed impacts based on a significantly lower build-out of the site than the amount of floor area requested by the applicant. TEC's report used a total building floor area of 600,000 square feet, but the total requested in the C.U.P. is 973,212 square feet. Using TEC's traffic generation rates to estimate traffic generated by the total floor area requested, estimated vehicle trips jump from 33,775 cars per day (Table 1, p. 7) to 69,760 trips per day.

With this sizable increase, it is difficult to evaluate the traffic impacts on Kellogg, once the freeway is completed. The main change will be that Dowell and Ellson will connect to Kellogg Drive only, and there will be a bridge over Kellogg at Zelta. The site will have no direct access onto Kellogg (US-54), but it is relatively close (1/2 mile) to the interchange at Greenwich.

What is clear from the TEC report (p. 16-18) is that the traffic improvements, as proposed by TEC for additional lanes and signalization, provides an acceptable level of service for approximately 10-12 years if Parcel 3 (shopping center) was eliminated, or for 5 years if the property were fully developed with 600,000 square feet. Based on this analysis, it is recommended that development be restricted until Kellogg is improved to freeway standards to a maximum of 400,000 square feet of gross floor area and that traffic generated does not exceed 23,000 vehicles per day based on the types of commercial activities developed at the site.

Additionally, the applicant has requested a 35% floor area ratio for every parcel. This is the maximum level permitted by the Unified Zoning Code, and exceeds the FARs allowed on many C.U.P.s. It is difficult to achieve a 35% FAR unless the property utilizes multi-story buildings because of other requirements for parking, drive isles, etc. Rarely do freestanding 1-storey restaurants/strip centers achieve the 30% FAR. Therefore, we would recommend that the FARs be reduced to 30%.

Finally, Staff has concerns that the amount of transportation improvements defined by the TEC study will trigger improvements that would not be needed once Kellogg is construction to freeway status and Greenwich is widened. Both transportation projects are scheduled for completion in 2007. We are recommending some phasing of improvements to avoid improvements to be removed as part of the construction projects. However, a certain amount of improvements are imperative to ensure that if the discount superstore and perhaps a home improvement center are constructed by 2002, that traffic will not overwhelm the existing capacity of Kellogg and Greenwich, Additional review and discussion by KDOT and Staff will focus on refining the needed interim improvements.

Based on these factors and information available prior to the public hearing, Staff recommends the application be <u>APPROVED subject to replatting within one year and subject to the following conditions:</u>

1. General Provisions #1 and #2 and the Parcel Descriptions be revised to reflect a 30% floor area ratio.

2. The C.U.P. be revised to add a 35' setback on the southern boundary of Parcels 1, 3, and 4.

3. A Site Circulation Plan shall be submitted to the Traffic Engineer for approval. This Plan shall include a smooth flowing internal drive with no parking spaces taking direct access from the drive that connects Common Frontage Area "A" with Common Frontage Area "B" across Parcel 1.

4. General Provision #26 be revised to state "this C.U.P. shall be restricted to a maximum gross floor area of 400,000 square feet, and provided that the site generated traffic does not exceed 23,000 vehicles per day until such time as Kellogg (US-54) is improved to a freeway standard. In the event the developer seeks to exceed this limit of 400,000 square feet prior to freeway construction, a study shall be provided for review and approval by the Traffic Engineer demonstrating that the volume of site generated traffic does not exceed 23,000 vehicles per day.

5. The following transportation improvements, as recommended by the TEC study shall be guaranteed at the time of replatting:

   A. <u>Kellogg and Greenwich Road Improvements</u>:

      Northbound dual-left turn lanes with 250 feet of storage
      Northbound single-right turn lane with 150 feet of storage

      Southbound dual-left turn lanes with 200 feet of storage
      Southbound single-right turn lane with 330 feet of storage

      Eastbound single-left turn lane with 420 feet of storage
      Eastbound single-right turn lane with 100 feet of storage

      Westbound single-left turn lane with 400 feet of storage

Westbound single-right turn lane with 100 feet of storage

B. Kellogg Accel/Decel Lane: Decel lane begins west of Ellson and continues to east of Zelta

C. Kellogg and Dowell Improvements: Dowell shall be restricted to right-in/right-out movements, with a guarantee that some or all movements may be restricted in conjunction with the freeway ramps.

D. Kellogg and Ellson Improvements: Channelize the center median at Kellogg and provide a raised, channelized median in the drive to eliminate all left turn movements.

E. Kellogg and Zelta Improvements:

Northbound dual-left turn lanes with 200 feet of storage (provide a raised median from Kellogg to Common Frontage Area "A")
Northbound single-through/left turn lane shared.

Southbound left/through/right lanes should match those of the northbound segment.

Eastbound single-left turn lane with 100 feet of storage
Eastbound single-right turn lane with part of continuous auxiliary lane for accel/decel used for storage.

Westbound dual-left turn lanes with 300 feet of storage

Installation of signalization

F. Greenwich and Common Frontage Area "B" Improvements:

Southbound single-left turn lane with 300 feet of storage

Westbound single-left turn lane with 150 feet of storage (provide raised center median)
Westbound single-right turn lane with 320 feet of storage

Signalization, if warranted, shall be installed at developer's cost

G. Interim Improvements: Improvements required prior to freeway construction and Greenwich widening include those specified in 5(B) Kellogg accel/decel lane, 5(C) restriction of Dowell to right-in/right-out only, 5(D) Kellogg/Ellson channelization for right-in/right-out only, 5(E) Kellogg/Zelta, and 5(F) Greenwich/Common Frontage Area "B", and a continuous center left turn lane on Greenwich Road from Kellogg to south of the Frontage "B" intersection. In addition, a portion of improvements specified in 5(A), including northbound left-turn lane, eastbound right-turn lane, and westbound left-turn lane shall be provided. Details for these improvements shall be further reviewed and identified as part of the replatting.

H. Platting guarantees associated with the original C.U.P. (General Provision #9) shall remain in effect, except as superceded by guarantees required by Amendment #1.

6. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the Plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.

7. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.

8. 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.

9. All property included within this C.U.P. and zone case shall be replatted within one year after approval of this C.U.P. by the Governing Body, or the cases shall be considered denied and closed.

10. Prior to issuing a building permit on any portion of the C.U.P., the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-196) includes special conditions for development on this property.

11. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Most of the property surrounding the application area is zoned "GC" General Commercial and "LC" Limited Commercial, and is developed with commercial uses, including car dealerships and used car lots, a body shop, a car rental agency, manufactured home sales and mini-storage warehouses. However, there are two residences adjoining the application area and several houses across Greenwich. These residences are zoned "SF-6" Single-Family, but shown for industrial use on the Comprehensive Plan.

2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed as zoned, "GC" and "LI" Limited Industrial. A C.U.P. already governs the northern 350 feet of the application area.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The traffic anticipated from the commercial development would be expected to detrimentally affect the nearby residences, however, this could occur regardless of the C.U.P. approval since the application area is already zoned "GC" and "LI".

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested change is in conformance with the Comprehensive Plan. It supports the commercial strategy of providing auto-related commercial activities along Kellogg.

5. Impact of the proposed development on community facilities: The site will have a significant impact on traffic. This would be mitigated by the improvements contained herein and limiting of the floor area build-out as recommended.

CARRAHER "Before Ms. Goltry starts, are there any ex parte contacts that need to be disclosed at this time? Okay. Seeing none, Ms. Goltry, the floor is yours."

GOLTRY "This is a request for an amendment to DP-196, One Kellogg Place. It also expands the Kellogg Place CUP from just a 22-acre parcel to about a 74-acre parcel. This is not accompanied by any zoning change request, so therefore it is just the CUP amendment that we will be considering today.

The property is already platted and zoned. The upper portion of it is zoned 'GC' and then the remaining part is zoned 'LI'. If you pick up the little bit of light blue over here (indicating), that is 'NR' Neighborhood Retail. The proposed amendment to the CUP is designed to allow a big box type user to be located on several of the larger parcels. That would be Parcels 1 and 4, primarily, with the possibility of a shopping center for stand-alone type retailers on the other large parcel in the middle. There would be a number of out parcels along a common frontage road; it is called 'A', but it would be an interior common frontage road until Kellogg Drive is constructed along the north for possibly banks, restaurants, etc. Then we have the one little 'NR' part on the edge.

I just received today, and you just received a copy of the revised CUP drawing that makes a few miner changes to the one that you received in your packets last Monday. The changes here are quite minor as far as I could tell. I was looking at them prior to the meeting. If you can follow along with me, the changes are that the boundaries between Parcels 1 and 3 and Parcels 3 and 4 shifted just slightly to give Parcel 1 more land and Parcel 4 more land and took the bite out of the middle.

Another change is if you will notice on our diagram up here, there is a little piece of dedicated street right-of-way left from what used to be Ellson and what used to be Zelta. If you will notice, on your revision, instead it goes straight across. Now those would all be privately owned drives that would be developed privately along the Kellogg Frontage Road.

If you notice, the property proposes to vacate the platted streets that have been located within the parcel--Gilbert, Ellson, Zelta. Instead they would turn into private drives. That is the reason calling for the replatting of the entire area because there are quite a few changes. Staff has made a few recommendations primarily related to transportation issues. If you would turn over to Pages 6 and 7, I will go through them. To the north of this there are a lot of heavy duty commercial uses because it is mostly manufactured home sales, but they aren't high dollar generating type uses at the current time. There is an auto body shop directly across the street. There is another auto dealership at the northeast corner of Kellogg and Greenwich.

(Pointing to Parcel 12) If you will notice, on your revised CUP drawing that Mr. Meyer just handed out today, he originally had this lot split up the middle with a little bit of developable area for a small retail activity and a detention area along the southern half of it. Today's revision, which probably makes a lot of sense, is instead to have the reserve back in one area and then we have, along the frontage, an area used for 'NR' Neighborhood Retail uses. I do want to point out that there is a residual of residential land still existing in this area (pointing to Greenwich Road) although it is not shown that way on the Comprehensive Plan. There are 8 houses directly across the street on Greenwich and there are two houses, shown as an exception on the CUP plan. That is the existing two residences that remain on the east side of Greenwich Road.

I believe that staff has looked at this CUP and thinks that this is an appropriate location for big box types of users and for out-parcels because, after all, Kellogg is the place where we do recommend heavy commercial activities to be concentrated, rather than in another location.

So we have a fairly short list of recommendations. Recommendation No. 1 is that the general provisions and the parcel descriptions be revised to reflect a 30% floor area ratio. It is my understanding that the applicant is in agreement on this. A 30% floor area ratio is much more standard with what we actually see built within the Wichita area.

The second item that has been revised to reflect a 35 foot setback on the southern parcel boundaries has already been done on your CUP that you have before you today. They are in agreement with recommendation No. 3-- site circulation plan--to have a good internal flow of circulation within the parcel. When we get down to Item No. 4, we had recommended a cap of 400,000 for developable area until the freeway is constructed, based on a traffic study that was prepared by the applicant, which showed that that was the level at which they could have an adequate level of service. We have looked through this traffic study; their Traffic Engineer has looked through the traffic study and they will probably be revising the traffic study because they feel that they over-projected some of the volume of traffic that would be generated by some of the uses. So if you will notice, the last sentence of this condition is that if the developer wanted to exceed this limit, that they would re-review the study and provide evidence that it wasn't going to generate too much traffic. I believe we are in agreement on that point, as well. So I would anticipate that the amount of development that they are going to be allowed will go above 400,000 square feet prior to Kellogg's construction once we get the revised figures.

In terms of transportation improvements, there are some fairly significant changes in this section. The first thing is that this is an awkward situation. We have the Kellogg Freeway coming through by 2007. Almost everything that is called out for to be built in these interim improvements is going to be torn out. We have Greenwich Road being scheduled to be built to four lane standards, also to be completed by 2007. Once again, if you do interim improvements, all for naught. Most of it is coming out. So with a little bit of discussion on it, the recommendation was that instead of the applicant being required to guarantee the Kellogg and Greenwich improvements; a share of those--because a share of them would be predicated on the traffic from their site. Instead they were looking to make the permanent improvements at Greenwich and Common Frontage Road B.

Permanent improvements include widening the left turn lane to four lane standards. We have checked and it appears that there is adequate right-of-way to be able to do this. So they will be doing more construction from the Turnpike north to past their property. Those will be permanent improvements. From their property north to Kellogg then, they would continue the third lane in the middle, so you would have a third lane. So that would affect Item 5a and 5f. It affects the interim improvement portions of 5f.

Now, let's look at Item 5b. It calls out for an accel/decel lane beginning west of Ellson and continuing on over to Zelta. The applicant has requested revision on this and not to have the accel lane after Zelta. Staff is in agreement with the possibility that that might be all right, but it is really up to KDOT to tell us whether that is all right or not. Kellogg is KDOT's road, not the City's road, so they have a say on how accel/decel lanes and cross lanes from left-turn traffic, etc., are located along it.

On Item 5c--strike it altogether. Dowell will not be opened at all. Item 5d stands as is. On 5e, Kellogg and Zelta improvements stand as they are. I just want to point out that some of these are improvements that are going to be on-site because they will be built at Kellogg and Zelta. Here at this location (indicating), they will be building lanes that are within their site to feed into the Kellogg.

And 5f stands as is. Those are the permanent improvements that they are agreeing to do immediately, with the exception of the 3 lane temporary lane continuing from the north of what would have been Gilbert to Kellogg. And then on interim improvements, strike out 5c again.

I just want to note, because there were some clarification of this asked by other people. The very last sentence when we are asking on improvements for 5a, there are some interim improvements involved, and that is one northbound left-turn lane, one eastbound right-turn lane, and one westbound left-turn lane.

I might defer to Jamsheed in case I have not covered all of the transportation issues. We had quite a meeting with about 12 gentlemen yesterday to try to hammer out these traffic issues. I don't have any further comments, and would stand for questions."

WARREN "Identify those two 'NR' zone parcels. Is that 12 and 2?"

GOLTRY "Yes. Parcel 12."

WARREN "Just 12?"

GOLTRY "Yes. And it is not all of Parcel 12, it is the front portion of it, or the western portion of it."

CARRAHER "Are there any further questions for staff? Thank you, Ms. Goltry. Now we will hear from the applicant."

PHIL MEYER "I am with the Baughman Company, agent for the applicant. With me here today is Grant Tideman, who is representing the contract purchaser as a real estate agent. He will be glad to answer any questions you have. The contract purchaser was unable to make it into town due to a trip he went on.

I will try to be as brief as I can as I go through these. I did pass out a revised CUP drawing to you. The main reason for doing that was to adjust Parcel 12 and get the configuration right on that. While we were making the changes to Parcel

12, we went ahead and picked up and made the revisions for the 30% floor ratio area. That is Item No. 1 in the staff report. We added the setbacks for Parcels 1,3 and 4, which is Item No. 2. We are in agreement with Item No. 3 on the staff report. No. 4 is the traffic study, which is an issue that Donna went over. Basically, Item No. 4 as presented there limits us to 400,000 square feet of developable space. Our Traffic Engineer came into town yesterday. As Donna said, we met with City Engineering, with the Planning Department, with KDOT and overall had a very good meeting. We are revising our traffic study right now. I would like for the Planning Commission to approve this CUP, subject to whatever that new number is that comes in the traffic report that is agreeable with staff. I think we are all in agreement in changes that can be made to the traffic study, which will increase that 400,000 square feet. If you want to know the specifics of it, I can get into it in a little bit of detail; as much as I can as a layman, but I can explain things that he can adjust in that traffic study and what he plans on adjusting.

The traffic improvements, Donna did a pretty good job of explaining what we are going to do. I think we kind of agreed yesterday that we would defer these final improvements to the platting stage, which allows KDOT to have some input. KDOT and City Engineering is going to have some input so the final guarantees that are required with the project will come at the time of platting. I did make the revision to the plat for removing that area right there (indicating) as public street right-of-way and put it on to the private project. I made three text changes that I want to go over, just to clarify them. On Parcels 1,3 and 4, we have added the note under 'f'. Before it said that the building was limited to 35 feet in height. We are leaving that and the building is still limited to 35 feet in height except for architectural features, such as peaks, which shall not exceed 50 feet. That is already allowed in the Zoning Ordinance, but it is a clarification that several of the box users want it added to this. They can do that any way as an architectural feature, but it cleans the item up.

On Item No. 14, it required all screening to be with either masonry walls or material consistent with the building. We have added the sentence 'or as approved by the Planning Director and the Zoning Administrator'. That leaves the box users the ability to come in and show a modification. If it doesn't meet the intent, then they will not be able to do that, but it gives them the flexibility that they wanted to get the thing approved. The last addition was clarifying the portion of 'NR' in Parcel 12. With that, I will be glad to answer any questions you may have."

WARREN "You are asking us to approve a CUP. When was the zoning approved on this as it would relate to these various parcels, or are we doing that now, too?"

MEYER "No, the zoning was approved, and I can check the date, but it has been 6 or 7 years ago that the zoning was approved."

WARREN "But it was approved on a plat like this?"

MEYER "It was approved. Let me clarify the zoning. This area right here was the original CUP, and it is zoned 'GC'. Everything south of that, except for this little portion right here is zoned Industrial."

WARREN "Okay."

GOLTRY "Let me back up to the zoning map and show you. It was done in probably 1991 or 1992, so it was platted in maybe 1992."

WARREN "So the zoning has pretty much been approved as your map would indicate then?"

MEYER "The zoning has been approved. Actually what we are doing is laying a CUP over the Industrial restricting it back to General Commercial uses. But all of the zoning is intact today. I do believe that the CUP has to go to the City Council, due to the expansion of the CUP. So, we are asking you, on like the revised traffic study, that that issue can be resolved between now and the City Council approval in concurrence with staff."

BARFIELD "What were your comments regarding Item No. 14?"

MEYER "We added a sentence in there that also allows the developers to come in on screening material with something other than masonry or something other that matches the architecture of the building. They can come in and present that to the Planning Director and the Director of Central Inspection, and with both of their concurrence, they would have the flexibility to use a different material. That won't be easy to do, but it will at least leave us that flexibility to do that."

BARFIELD "And you also made some comments regarding the decel lane. What were those?"

MEYER "We are guaranteeing a decel lane on Kellogg from Ellson to Zelta. Now, there was discussion yesterday amongst everybody as to whether an accel lane east of Zelta was necessary with the traffic signal going in. It really doesn't serve a benefit because you are going to pull up, you are going to stop, you are going to take a right when the traffic signal allows you. KDOT wasn't even sure they wanted the accel/decel. We are willing to discuss that with them some more and we will put it in if they require it. If they don't, we won't put it in."

GAROFALO "I just need to clear this up for myself. So you are in agreement with all of the conditions laid out by the staff here except on No. 4, which is to do a traffic study on square footage? And the decel lane, in 5b?"

MEYER "We are in agreement with all of staff comments except Nos. 4 and 5. No. 4, we have deferred to a revised traffic study and we will concur with staff upon that revised traffic study. On 5, I think we are all in agreement on, not what is

written in the staff report, but per the meeting we had yesterday, we are in agreement on all of the guarantees we are going to do to serve this site. Those can best be finalized during the plat. I can walk you through them. I have a very good handle on them."

KROUT "There is no disagreement between them and staff."

GAROFALO "That is what I wanted to know."

CARRAHER "Are there any further questions of the applicant? Thank you, Mr. Meyer. Now we will move it to the gallery. Is there anyone in the gallery who wishes to speak in favor of this item? Yes, sir."

CECIL MASTERS "I live at 7711 South Greenwich Road. I am in favor of this project and I hope it goes. But I have a concern of drainage of water. We have the property from Greenwich Road west and south of Kellogg including the two sales lots; Dandales Western Store; where the old Carport Motel was; the used car sales. All of the water from the whole area up there, including Raytheon, the theater, a big portion of the mobile home park up there, the two car dealers, and of course, our place drains….well, there are three boxes underneath Kellogg where it comes down from the theater, then there are two boxes where it comes underneath Kellogg west of our property. All of that water comes right through our property. I have been there 35 years and originally there was a trickle ditch that took care of that. Now, of course, this project has nothing to do with the ones that come from the west, but we have had flood water get into the back door of Dandales Western Store. Then there is another box drainage that comes underneath our property from the Buick dealership. So there is another box. That is six boxes and there are two boxes that go on under Turnpike.

Recently, and there was probably not much added, but where Wendy's went in, the Conoco and in the past 6 or 8 months another mobile home dealership went in, and now they are going to widen Kellogg, which will probably double the amount of concrete that is there now. With this project, as near as I can tell, there will be very little water that will come there, but I am of the belief that a very little is a lot. It has got to be stopped sometime. It doesn't bother us, really, as much as it does the neighbors behind us because it all goes into this one drainage ditch that goes under the Turnpike.

Raytheon has a holding pond that, well, a couple of them, but the part I am talking about, there is really hardly no holding pond. There is a pond there, but it is a pond, not a holding pond. There is no controlled outlet on it. I don't know whether flood control has any projects to control this water that comes down through our lots or not, but we are flooded now. We look forward to the roads, that will help out there, but it will also give us more water. And any little addage to the water is just going to flood us more. Maybe this is not the place to bring this concern up, but we are concerned because when they built the car dealers out there, I went to them and they said that flood control would control that."

CARRAHER "Are there any questions of the speaker? Seeing none, thank you, Mr. Masters. The agent has two minutes for rebuttal."

MEYER "I don't really have a rebuttal to his comments. All of our site drains to the south under KTA at two locations. None of it drains to the west on the north side of KTA. We will go through the standard process during the platting of submitting a drainage plan with calculations to City Engineering and have that approved. I will be glad to answer any questions you may have of me over the drainage.

One point, and I don't know that I need to clarify it, but I guess I want to get it on the record. Parcels 1,3 and 4, we have got two box users looking at. We are about done with the site plans, pretty much, for the two--Parcel 1 and Parcel 4, but I would like the flexibility between now and City Council that if the interior setbacks of those parcels change a little bit, I can shift them and pro-rate the square footages proportionately. I think I am about done, but you never know if these projects go through committees and approval."

CARRAHER "Are there any questions of the applicant? Thank you, Mr. Meyer. We will bring it back to the Commission. Are there any questions or commentary regarding the item? What is the pleasure of the Commission?"

> **MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: Most of the property surrounding the application area is zoned "GC" General Commercial and "LC" Limited Commercial, and is developed with commercial uses, including car dealerships and used car lots, a body shop, a car rental agency, manufactured home sales and mini-storage warehouses. However, there are two residences adjoining the application area and several houses across Greenwich. These residences are zoned "SF-6" Single-Family, but shown for industrial use on the Comprehensive Plan. The suitability of the subject property for the uses to which it has been restricted: The property could be developed as zoned, "GC" and "LI" Limited Industrial. A C.U.P. already governs the northern 350 feet of the application area. Extent to which removal of the restrictions will detrimentally affect nearby property: The traffic anticipated from the commercial development would be expected to detrimentally affect the nearby residences, however, this could occur regardless of the C.U.P. approval since the application area is already zoned "GC" and "LI". Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested change is in

conformance with the Comprehensive Plan. It supports the commercial strategy of providing auto-related commercial activities along Kellogg. Impact of the proposed development on community facilities: The site will have a significant impact on traffic. This would be mitigated by the improvements contained herein and limiting of the floor area build-out as recommended.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. A Site Circulation Plan shall be submitted to the Traffic Engineer for approval. This Plan shall include a smooth flowing internal drive with no parking spaces taking direct access from the drive that connects Common Frontage Area "A" with Common Frontage Area "B" across Parcel 1.

2. General Provision #26 be revised to state "this C.U.P. shall be restricted to a maximum gross floor area of 400,000 square feet, and provided that the site generated traffic does not exceed 23,000 vehicles per day until such time as Kellogg (US-54) is improved to a freeway standard. In the event the developer seeks to exceed this limit of 400,000 square feet prior to freeway construction, a study shall be provided for review and approval by the Traffic Engineer demonstrating that the volume of site generated traffic does not exceed 23,000 vehicles per day.

3. The following transportation improvements shall be guaranteed at the time of replatting, or provided as onsite improvements:

   A. Kellogg Accel/Decel Lane: Decel lane begins west of Ellson and continues to Zelta, and with a possible accel lane east of Zelta if required by KDOT.

   B. Kellogg and Ellson Improvements: Channelize the center median at Kellogg and provide a raised, channelized median in the drive to eliminate all left turn movements.

   C. Kellogg and Zelta Improvements:

      Northbound dual-left turn lanes with 200 feet of storage (provide a raised median from Kellogg to Common Frontage Area "A").

      Northbound single-through/left turn lane shared.

      Southbound left/through/right lanes should match those of the northbound segment.

      Eastbound single-left turn lane with 100 feet of storage
      Eastbound single-right turn lane with part of continuous auxiliary lane for accel/decel used for storage.

      Westbound dual-left turn lanes with 300 feet of storage; ; or in event dual-left lanes cannot be accommodated, a single left turn lane with extended length to provide comparable turning lane capacity, as required by KDOT.

      Installation of signalization.

   D. Improvements to Greenwich Road and Intersection with Common Frontage Area "B":

      Improvements as per City standards on Greenwich Road shall include a four-lane section from I-35 KTA north through the intersection of Greenwich and Frontage "B".

      Westbound single-left turn lane with 150 feet of storage (provide raised center median).

      Westbound single-right turn lane with 320 feet of storage.

      Signalization, if warranted, shall be installed at developer's cost.

   E. Interim Improvements: Improvements required prior to freeway construction and Greenwich widening include those specified in 3(A) Kellogg accel/decel lane, 3(B) Kellogg/Ellson channelization for right-in/right-out only, 3(C) Kellogg/Zelta. Kellogg/Greenwich interim improvements include an eastbound right-turn lane, a westbound left-turn lane, and a north-bound continuous center left turn lane extending from the endpoint of the permanent improvements on Greenwich to Kellogg.

   F. Platting guarantees associated with the original C.U.P. (General Provision #9) shall remain in effect, except as superceded by guarantees required by Amendment #1.

4. The development of this property shall proceed in accordance with the revised development plan, as recommended for approval by the Planning Commission and approved by the Governing Body, and any

substantial deviation of the Plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.

5. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.

6. 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.

7. All property included within this C.U.P. and zone case shall be replatted within one year after approval of this C.U.P. by the Governing Body, or the cases shall be considered denied and closed.

8. Prior to issuing a building permit on any portion of the C.U.P., the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-196) includes special conditions for development on this property.

9. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

BARFIELD moved, **HENTZEN** seconded the motion.

CARRAHER "Are there any questions or commentary regarding the motion? Seeing none, we will move into a voice vote."

VOTE ON THE MOTION: The motion carried unanimously with 11 votes in favor. McKay and Lopez were not present.

---

6. **Case No. CON2000-00050** - George David (Owner/Applicant) John Tasset (Agent) request a Conditional Use to allow outdoor vehicle and equipment sales on property described as:

Lot 3, Block D, Vilm Gardens Second Addition, Sedgwick County, Kansas. Generally located on the southwest corner of South Seneca and 43rd Street South (4401 South Seneca).

BARRY CARROLL, Planning staff, pointed out land use and zoning, and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant is requesting a Conditional Use to permit used car sales on a platted .47-acre tract of land. The applicant indicates a desire to offer up to 15 vehicles for sale. This property is zoned "LC" Limited Commercial and is located at the southwest corner of South Seneca and 43rd Street South. Access to the site is from one opening on the west side South Seneca; there is also access from the south side of 43rd Street South, a gravel street. There was a former automotive service store (Right Way Automotive) at this location. The site has been vacant for approximately two months.

North of the application area are the Poorman's Auto Supply and L & M Manufacturing businesses that are zoned "LC" Limited Commercial. The businesses to the south are the Wingert Animal Hospital and Jay Horn Motors (garage) are nonconforming uses on land zoned "SF-6" Single-Family Residential. Across South Seneca to the east are manufactured homes and the Gray Car & Truck Repair business that are zoned "LC" Limited Commercial; to the west are duplexes that are zoned "LC" Limited Commercial. There is a six-foot wooden fence along the western boundary line and partially across the northern perimeter.

Outdoor vehicle and equipment sales in the "LC," Limited Commercial, district may be permitted if: the location is contiguous to a major street; visual screening of areas contiguous to residential zoning is provided; storage and display areas paved with concrete, asphalt or other comparable material; outdoor lighting employs cut-off luminaries and mounted at a height not exceeding one-half the distance from the neighboring lot unless evidence is shown that the light source is not visible from the neighboring lot; no noise amplification system is permitted if music or voices can be heard within any residential zoning district located within 500 feet of the site; no repair work maybe conducted except in an enclosed building; and no body or fender work is permitted.

Code required parking is at the rate of one space per 500 square feet of building area, plus two spaces for the first 10,000 square feet of area used for sales, display and storage, plus one space per 10,000 square feet thereafter. This site contains approximately 18,104 square feet of sales, display and storage area and approximately 1,950 square feet of building area. The site will require a total of nine (9) spaces for customer and employee parking. The site plan submitted by the applicant indicates that there are nine (9) parking spaces (see site plan).

Since the property to the south (Wingert Animal Hospital) is zoned "SF-6," the applicant area shall comply with the compatibility standards (setbacks, height, noise, & site design standards, etc.) as set forth in the Unified Zoning Code (UZC) IV-C, 1-7.

There are no used car lots in the general vicinity. The closest used car lot is located two (2) miles to the north and east at the intersection of Broadway and MacArthur.

CASE HISTORY: The current site was platted as the Vilm Gardens 2nd Addition in 1953.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC" Limited Commercial	Commercial Business
EAST:	"LC" Limited Commercial	Commercial Business
SOUTH:	"SF-6" Single-Family Residential	Wingert Animal Hospital
WEST:	"LC" Limited Commercial	Residential

PUBLIC SERVICES: South Seneca is a four-lane arterial street with estimated traffic 1997 volumes of 9,350 and projected 2030 volumes of 10,866 average daily trips (ADTs). Water/sewer and other municipal services are provided to the site.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide map of the Comprehensive Plan identifies this location as a "commercial" area. The plan contains an objective which states: "Confine highway-oriented, auto-related and non-retail commercial uses to a limited number of urban areas, such as portions of Kellogg, Broadway, the CBD fringe, and other similar areas." Another Plan objective states that future commercial uses should be located so as to compliment existing commercial activities, provide convenient access and mitigate detrimental impacts to other adjacent land uses. The "Wichita Residential Area Enhancement Map" depicts this area as a "conservation" area. These areas, which are basically, sound physically and viable economically, would be protected from decline by policies which would ensure population stability, and maintain levels of investments, market strength, and environmental quality and neighborhood character. These areas cover a large portion of Wichita, including not only areas with no apparent threats to stability, but also areas where future viability may be questionable because of encroaching land uses or other impacts. Treatment policies and actions would include continuing strict code enforcement, ongoing maintenance of community facilities and prevention of land use conflicts.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be denied. The Comprehensive Plan does not indicate that a used car lot would be appropriate for this area, there are not any other vehicle sales lots existing or allowed by zoning in the general vicinity. The commercial uses along this portion of South Seneca are neighborhood serving and do not involve the outdoor display storage associated with vehicle sales.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The application area is zoned "LC," Limited Commercial. The "LC" district does not permit auto sales without a Conditional Use permit. The site has commercial uses on three sides and a residential use on one side. These two districts do not permit extensive outside display. The area is developed predominantly with lower intensity, small-scale neighborhood serving retail and service commercial uses. A car sales lot would not be consistent with the character and type of uses located at this site.

2. The suitability of the subject property for the uses to which it has been restricted: The "LC" district permits a wide range of retail sales and less intense uses. It seems plausible that a use could be found for this site that is permitted by the current zoning. South Seneca carries a high enough volume of traffic and is of a sufficient size to be able to accommodate most smaller scale retail sales uses, office, or neighborhood oriented service tenants.

3. The length of time the subject property has remained vacant as zoned: The property is now vacant. The site was used previously as an automotive parts store. According, to the applicant, the site has been vacant for approximately two months.

4. Extent to which removal of the restrictions will detrimentally affect nearby property. Outdoor storage and display of vehicles is not consistent with the type of development existing at this intersection. Approval of this request will most likely open other sites nearby for additional vehicle sales lots and other "heavier" commercial uses. South Seneca is deserving of some level of protection against outside display and storage uses, otherwise it will begin to take on a South Broadway appearance.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies this property as "commercial. "The plan contains an objective which states: "Confine highway-oriented, auto-related and non-retail commercial uses to a limited number of urban areas, such as portions of Kellogg, Broadway, the CBD fringe, and other similar areas." The proposed use does not match these criteria. This area has no used car lots and if approved could be precedent setting for the neighborhood.

6. Impact of the proposed development on community facilities: Municipal services are available to serve this site, and the proposed use should not generate any more traffic than other permitted uses.

If, however, the Planning Commission believes this is an appropriate use, staff recommends approval be subject to the following conditions:

1. In addition to uses permitted in the "LC" Limited Commercial district, the site shall be limited to the rental and sales of vehicles. The rental and vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be permitted without first obtaining "GC" General Commercial zoning.

2. The rental and vehicle sales lot shall be developed in accordance with a revised plan, that will show landscaping plantings, specific location of cars to be sold and all paved areas, submitted within 60-days that is approved by the Planning Director, and which shows the location for all spaces that will be used for customer parking and the storage or display of vehicles. The required customer and employee parking shall not be used for the display of vehicles.

3. All proposed parking, storage and display areas paved with concrete, asphalt or similar surface. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles so not encroach onto public right-of-way.

4. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons.

5. There shall be no use of elevated platforms for the display of vehicles.

6. No amplification system shall be permitted.

7. No outside storage of salvaged vehicles or parts shall be permitted in association with this use.

8. The lighting standards of Section IV-B.4 of the Unified Zoning Code shall be complied with.

9. Any violation of the conditions approved, as a part of this request, shall render the Conditional Use null and void.

CARROLL "The application area is located at the southwest corner of south Seneca and 43rd Street South. It is currently zoned 'LC' and is approximately one-half acre in size. The applicant is proposing outdoor vehicle and equipment sales. You have been provided a site plan. Currently, the site is very clean. It has been vacant for about two months. There are two businesses to the north. The northeast is predominately residential. Across to the east, there are mobile homes and then to the southeast, there is another automotive shop. To the south there is an animal hospital and a little farther south, there is a automotive shop. There is a wooden screening fence to the west and to the west of that are duplexes that are zoned 'LC'.

The agent, John Tasset, is here today. Last night the District Advisory Board for District No. 4 considered this item and recommended 9-0 to disapprove this request. You should have received a memorandum to that affect. To summarize, staff is recommending disapproval, being consistent with our Comprehensive Plan. There are no used car sales along this section of South Seneca. The closest one I could find was to the east at Broadway and MacArthur. If you vote to approve this, however, we have, on the back page, 10 recommendations that we are suggesting. I will answer any questions that you might have."

CARRAHER "Are there any questions of staff regarding this item? Thank you, Mr. Carroll. Now we will hear from the applicant."

JOHN TASSET "I am acting as agent for Mr. George David. I live at 207 North Pershing. First off, I would like to clarify this application. It should be considered as an outdoor vehicle and equipment rental and sales facility. Primarily, it will be a 15-passenger van rental with other equipment included. But since both fall under the same classification, the rental portion was not considered worth mentioning, even though that will be the primary function. Sales will basically be resulting from disposal of existing used vehicles, not from buying and selling vehicles.

This application is simply an effort to open a business in an existing facility, which was and has always been a vehicle-related facility. As you must also be aware, there are two vehicle repair shops and a vehicle parts and accessory shop within the same block. To try to segregate any legitimate business to a specific area because of its classification simply because the City staff does not consider it appropriate to locate there is excessive segregation. Let the business succeed or fail on its own merits, which is certainly what it will do. Besides that, there is already a car lot in the 1600 block and a U-haul rental in the 2800 block of south Seneca. I hear similar application has already been approved for a location at Meridian and Harry; all of which are considerably heavier populated with residences.

Add to that the best residential that exists nearby, except maybe a scattering of older residences, are duplexes, four plexes and remotely apartments. But the bulk of the surrounding areas north, east and west are trailer parks. Add to that a large area that has not even been platted; a large commercial area needing to be restored; and a large natural gas pumping station within the block. I fail to see how any decently operated facility, regardless of its nature of business is not

considered far better than to let it stand idle and add nothing but additional blight to the community. This is what has happened before. The present owners made an effort to make it presentable and useful.

I might mention that there will be no unsightly accumulation of scrap or junk and that the use of the garage facility will only be used for servicing their own vehicles. The size of the lot, 135 ft. x 140 ft. is more than ample for such a business. This is not a large operation with a multitude of vehicles such as Davis Moore or Rusty Eck. If you would find it possible for this application to be approved, we would like to address the requirement, again imposed by staff, that full landscaping requirements be provided. There is no construction being done other than providing paving over the bulk of the lot. Since the paving is on all portions facing Seneca, and because of such excess costs to remove it, we would ask that the paving screening not be applied. Also, there are planters in place at approximately 100 square feet in the front end. The bulk of the landscaping can be provided for the rear of the lot boarding 43rd Street, which, incidentally, is not paved either.

I am unaware of any opposition to this application except from the City staff. Why beat a dead horse? Please consider that by allowing this facility to open and operate, you will only aid in the recovery of this already badly destructed area. Thank you."

CARRAHER "Are there any questions of the applicant?"

BARFIELD "Mr. Tasset, is this business presently occupied?"

TASSET "No, sir. It hasn't been for several months."

BARFIELD "Okay. And the equipment sales you mentioned. What would those be?"

TASSET "I suppose the accessory thing that go with possibly trailers. I am not aware of anything other than possibly trailers."

BARFIELD "Okay. And you say that this is not a large operation, so how many vehicles would you say?"

TASSET "Well, one man is basically renting 15 passenger vans. I don't suppose he will have over 15 or 20 vehicles in there."

WARREN "Mr. Tasset, if this were approved, the staff has indicated items 1 through 10. Specifically now, is there anything in those 1 through 10 items that you are objecting to?"

TASSET "Yes, sir. Nos. 1 and 2 probably don't even apply in this case because it is a rental facility primarily, and not a sales facility in its own intent. So we are not opposing that. The only thing that we are really bucking is the Landscape Ordinance in its full intent, which requires considerable breaking out of the existing paving at the front end of that thing bordering Seneca."

GAROFALO "Well, whether it is sales or rentals, it is still outdoor storage."

TASSET "Yes."

CARRAHER "Are there any further questions for the applicant? Thank you, Mr. Tasset. Now we will move it to the gallery. Is there anyone in the gallery who wishes to speak in favor of this item? Is there anyone in the gallery who wishes to speak in opposition to this item? Seeing none either way, we will move it back to the Commission."

OSBORNE-HOWES "I have a question of staff. The agent alluded to the landscaping requirements that might require him to pull up concrete and parking area. Would he have to do that to comply with your conditions?"

CARROLL "It does have planters there. I would think that he would have to provide street yard landscaping."

KROUT "The Landscape Ordinance normally doesn't require you to convert from one use to another permitted use unless you are doing a major addition or a major improvement to the property, so it wouldn't normally kick in. The reason we recommended it in this case is because we had, if you remember, at the retreat the Planning Commission had several weeks ago, some discussion about car lots and car washes. It was an informal discussion, and we thought that one of the conclusions was that one of the reasons that these car lots don't seem to fit in very well along commercial strips is because they tend to take these properties that have been previously paved to the property line and if anything needs some more landscaping in order to make it more compatible with its neighbors, it is car lots and car washes and uses like that. So we felt that yes, it is not something that we would necessarily require in every case where you are converting to another use and you have existing pavement down. But we thought that because of the nature of this use, some of the controversy that we have had in the past, that if you were going to approve it, we thought that that was something that came out of your discussion at the retreat."

OSBORNE-HOWES "Okay. But following along with that, what specifically, would he have to do there then?"

KROUT "He would have to create a landscaped area that was approximately the equivalent of a 10-foot strip where he doesn't have a drive-way and would have to plant several trees in that parkway area."

OSBORNE-HOWES "That would involve him taking up some of the concrete?"

KROUT "Yeah."

OSBORNE-HOWES "Okay. I just didn't know whether he had misunderstood or how much it required."

KROUT "No, I think he understands."

CARRAHER "Are there any further questions or commentary regarding the item by the Commission?"

BARFIELD "In No. 1, if we were to approve this, are you saying 'no sales of equipment'?"

CARRAHER "Who is your question directed to?"

BARFIELD "Staff."

KROUT "I think that if you wanted to rent, you would have to add rental as well as sales to No. 1. I think that we intended it to be limited to vehicles and not vehicles and equipment, but that is something you can address in a motion. But if there is a motion to approve, it should definitely include rentals as well as sales of vehicles."

WARNER "I have been by this particular location. I made it a point to go look at it. It looked to me like if we have had an appropriate location for something like this before us in the past, that this is one. I can't see any reason to deny it due to the fact of where it is and what is around it. I would be in favor or approving it."

WARREN "Did you move that?"

JOHNSON "Make a motion."

CARRAHER "Would you care to make a motion?"

WARNER "Yeah."

> **MOTION:** Having considered the factors as contained in Policy statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The application area is zoned "LC," Limited Commercial. The "LC" district does not permit auto sales without a Conditional Use permit. The site has commercial uses on three sides and a residential use on one side. These two districts do not permit extensive outside display. The area is developed predominantly with lower intensity, small-scale neighborhood serving retail and service commercial uses. A car sales lot would not be consistent with the character and type of uses located at this site. The suitability of the subject property for the uses to which it has been restricted: The "LC" district permits a wide range of retail sales and less intense uses. It seems plausible that a use could be found for this site that is permitted by the current zoning. South Seneca carries a high enough volume of traffic and is of a sufficient size to be able to accommodate most smaller scale retail sales uses, office, or neighborhood oriented service tenants. The length of time the subject property has remained vacant as zoned: The property is now vacant. The site was used previously as an automotive parts store. According, to the applicant, the site has been vacant for approximately two months. Extent to which removal of the restrictions will detrimentally affect nearby property. Outdoor storage and display of vehicles is not consistent with the type of development existing at this intersection. Approval of this request will most likely open other sites nearby for additional vehicle sales lots and other "heavier" commercial uses. South Seneca is deserving of some level of protection against outside display and storage uses, otherwise it will begin to take on a South Broadway appearance. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies this property as "commercial. "The plan contains an objective which states: "Confine highway-oriented, auto-related and non-retail commercial uses to a limited number of urban areas, such as portions of Kellogg, Broadway, the CBD fringe, and other similar areas." The proposed use does not match these criteria. This area has no used car lots and if approved could be precedent setting for the neighborhood. Impact of the proposed development on community facilities: Municipal services are available to serve this site, and the proposed use should not generate any more traffic than other permitted uses.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. In addition to uses permitted in the "LC" Limited Commercial district, the site shall be limited to the rental and sales of vehicles. The rental and vehicle sales lot shall not be conducted in conjunction with any use not

directly related to such a business. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be permitted without first obtaining "GC" General Commercial zoning.

2. The rental and vehicle sales lot shall be developed in accordance with a revised plan, that will show landscaping plantings, specific location of cars to be sold and all paved areas, submitted within 60-days that is approved by the Planning Director, and which shows the location for all spaces that will be used for customer parking and the storage or display of vehicles. The required customer and employee parking shall not be used for the display of vehicles.

3. All proposed parking, storage and display areas paved with concrete, asphalt or similar surface. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles so not encroach onto public right-of-way.

4. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons.

5. There shall be no use of elevated platforms for the display of vehicles.

6. No amplification system shall be permitted.

7. No outside storage of salvaged vehicles or parts shall be permitted in association with this use.

8. The lighting standards of Section IV-B.4 of the Unified Zoning Code shall be complied with.

9. Any violation of the conditions approved, as a part of this request, shall render the Conditional Use null and void.

WARNER moved, **WARREN** seconded the motion.

CARRAHER "Are there any questions or commentary regarding the motion?"

HENTZEN "I want to ask for clarification on the motion. It is to approve the application and change No. 1 to include rentals and eliminate what?"

WARNER "No. 3."

HENTZEN "No. 3. What about No. 2? I am just asking."

WARREN "If it requires landscape planning, we had better eliminate it."

CARRAHER "Mr. Hentzen, what are you asking about specifically? Asking about No. 2 seems kind of vague. Do you have a specific question with regard to point No. 2?"

HENTZEN "What I was thinking about, if we took No. 3 out, how does that affect the first sentence of No. 2? It says 'will show landscaping, plantings, etc.'"

KROUT "In the past, we have expected people and required people, when we didn't require them to pull up pavement to create landscaped area on their lot, to at least plant street trees in the parking area along the right-of-way. Do you have a problem with that, Mr. Tasset? So that would be part of a revised site plan."

TASSET (From the audience) "That would be just fine."

HENTZEN "Okay."

CARRAHER "Are there any further questions or commentary regarding the motion?"

JOHNSON "I guess going back to the retreat thing. I know it was informal, but in reviewing a lot of these lots, I can see some that are done that are done awfully nicely. It seems that they took a little bit of effort as far as types of fencing, maybe, and some landscaping, and all of a sudden, something like this that is a whole lot better looking there than I have seen it in some cases, but I think with a little bit more work, it could be very attractive.

I guess since Seneca has kind of been that situation where the tornado going through there and a lot of changes being made in there, I am not so sure that I wouldn't like to see that we leave some kind of landscape requirement in there so we can kind of set a stage for anything else that comes in here."

GAROFALO "I just want to know, and maybe the applicants can say…is that building going to stay?"

TASSET (From the audience) "Yes. Oh, yes."

GAROFALO "You are not going to tear it down?"

TASSET (From the audience) "It is going to be the office for the rental. The drive will be used strictly for servicing their own vehicles."

CARRAHER "If I can clarify. I live in the general vicinity of that area. If I remember correctly, Mr. Tasset, you can correct me….after the May 1999 tornado, I believe some significant work was done on that area. Mr. Tasset, could I have you approach the podium?"

TASSET "Yeah. They built three buildings a block north of that. I have been involved in most of that stuff in that particular lot and block both on 42nd and 43rd Street where the same owners of this property, incidentally rebuilt the liquor store that had been totally destroyed. They are making an effort right now to rebuild all of the four plexes that were blown down. They are trying to recover and rebuilt in that area. But to the north of that, it is just blank area."

CARRAHER "Thank you. Is there any further questions or commentary regarding the motion? Seeing none, we will move into a voice vote."

> **VOTE ON THE MOTION:** The motion carried with 7 votes in favor (Marnell, Warren, Warner, Carraher, Garofalo, Barfield, Hentzen) and 3 in opposition (Osborne-Howes, Platt and Johnson) Michaelis abstained.

JOHNSON "I guess the other thing, my reason on this particular case, as many trees as were destroyed from that tornado in that area, I think anything we could have done to help that, would have helped it a lot. I am not against a business or reusing the existing building or anything like that."

MICHAELIS "I think I need to show, for the record, I wasn't here for the first part of that presentation, so I didn't vote. So that should not count as an abstention as a positive vote, is that correct?"

KROUT "It will count as a positive vote, but we will show it as an abstention."

MICHAELIS "Okay."

Osborne-Howes left the meeting at 4:40 p.m.

7. **Case No. ZON2000-00055** - Brentwood Development, Inc., c/o Steve Miller (Owner/Applicant); Savoy, Ruggles, & Bohm, PA c/o Mark Savoy (Agent) request a zone change from "SF-20" Single-Family residential to "LC" Limited Commercial and "MF-18" Multi-Family Residential on property described as:

LC ZONING:
Lot 1, Block 1, Proposed Maple Shade Addition. That part of the SW 1/4 of Sec. 33, Twp. 27-S, R-2-E of the 6th P.M., Sedgwick County, Kansas described as commencing at the N.W. Corner thereof; thence S00 degrees 15'38"W along the west line of said SW1/4, 447.18 feet; thence N 89 degrees 41'29"E, 50 feet for a place of beginning; thence continuing N 89 degrees 41'29"E, 93.77 feet to the P.C. of a curve to the left, having a radius of 147.14 feet and a central angle of 44 degrees 04'56"; thence northeasterly along said curve, 113.21 feet to the P.T. of said curve; thence N45 degrees 36'33"E, 85.03 feet; thence S00 degrees 15'38"W, 322.99 feet to a point on the north line of Lot 1,Block 1, Christ Community Church Additiona, Wichita, Sedgwick County Kansas; thence N89 degrees 46'22"W, along the north line of said Lot 1, 256.20 feet to the N.W. Corner of said Lot 1; thence N00 degrees 15'38"E, 219.99 feet to the place of beginning.

MF-18 ZONING:
Lot 2, Block 1, proposed Maple Shade Addition
That part of the SW 1/4 of Sec. 33, Twp. 27-S, R-2-E of the 6th P.M., Sedgwick County, Kansas described as commencing at the N.W. corner thereof; thence S00 degrees 15'38"W along the west line of said SW 1/4, 447.18 feet; thence N 89 degrees 41'29"E, 143.77 feet to the P.C. of a curve to the left, having a radius of 147.14 feet and a central angle of 44 degrees 04'56"; thence northeasterly along said curve, 113.21 feet to the P.T. of said curve; thence N 45 degrees 36'33"E, 85.03 feet for a place of beginning; thence continuing N 45 degrees 36'33"E, 136.16 feet to the P.C. of a curve to the right, having a radius of 318.94 feet and a central angle of 44 degrees 04'57"; thence northeasterly along said curve, 245.39 feet to a point of reverse curve, said point being the P.C. of a curve to the left, having a radius of 462.30 feet and a central angle of 31 degrees 56'25"; thence northeasterly along said curve 257.72 feet to the P.T. of said curve; thence N 57 degrees 45' 04"E, 44.75 feet; thence S 32 degrees 14' 56"E, 85.32 feet to the P.C. a curve to the left, having a radius of 232.00 feet and a central angle of 58 degrees 03'35"; thence southeasterly along said curve, 235.09 feet to the P.T. of said curve; thence N 89 degrees 41'29"E, 171.81 feet to a point 1321.25 feet east of the west line of said SW 1/4, as measured at right angles; thence S 00 degrees 15'38"W, 429.05 feet to a point on the north line of Lot 1, Block 1, Christ Community Church Addition, Wichita, Sedgwick County, Kansas; thence N 89 degrees 46'22"W, along the north line of said Lot 1, 1015.06 feet to a point 256.20 feet east of the N.W. Corner of said Lot 1; thence N 00 degrees 15' 38"E, 322.99 feet to the place of beginning. Generally located south of Mt. Vernon (extended) and east of Webb.

SCOTT KNEBEL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant requests a zone change from "SF-20" Single-Family Residential to "LC" Limited Commercial and "MF-18" Multi-Family Residential on a 12.6 acre unplatted tract located south of Mt. Vernon (extended) and east of Webb. The applicant indicates that the rezoning request has been submitted to permit patio homes in condominium ownership and office or commercial development. The applicant indicates that the patio homes would be of a density of approximately six units per acre; however, the multi-family zoning is requested to permit condominium ownership consisting of multiple dwelling units on a single lot. A preliminary plat (SUB2000-00055) was approved by the Subdivision Committee on July 20, 2000 that includes the subject property (see attached).

The surrounding area is characterized by developing single-family residential and institutional uses with significant amounts of undeveloped property remaining in the vicinity. The property north of the subject property is zoned "SF-20" Single-Family Residential and is primarily undeveloped with a natural gas utility substation located on the western portion along Webb. The property south of the subject property is zoned "SF-6" Single-Family Residential and is developed with a church. The property east of the subject property is zoned "SF-20" Single-Family Residential and is undeveloped. The properties west of the subject property across Webb are zoned "SF-6" Single-Family Residential and are developed with single-family residences.

No development plan has been provided for the proposed patio home uses and no specific office or commercial uses have been proposed. The "MF-18" Multi-Family Residential district would permit 200 dwelling units in buildings up to 45 feet in height and would not restrict uses to patio homes. The "LC" Limited Commercial district would permit high-intensity commercial uses such as convenience stores and drive-thru restaurants.

CASE HISTORY: The site is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-20"	Utility substation; undeveloped
SOUTH:	"SF-6"	Church
EAST:	"SF-20"	Undeveloped
WEST:	"SF-6"	Single-family

PUBLIC SERVICES: The site has access to Webb, a two-lane arterial street with 1997 traffic volumes of approximately 6,700 vehicles per day. The 2030 Transportation Plan estimates that traffic volume on Webb will increase to approximately 12,200 vehicles per day. The Capital Improvement Program for the City of Wichita contains a project to widen Webb to four lanes between Harry and Pawnee in the year 2000. Public water and sewer are available or can be extended to serve the site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Low-Density Residential" development. The Low Density Residential category provides for the lowest density (1 to 6 units per acre) of urban residential land use and consists of single-family detached homes, zero lot line units, cluster subdivisions, and planned developments with a mix of housing types that may include townhouse and multi-family units. The requested "MF-18" Multi-Family Residential zoning does not conform to the Land Use Guide due to the higher permitted densities and the lack of a planned development. The Commercial Locational Guidelines of the 1999 Update to the Comprehensive Plan indicates the commercial uses should be located in compact clusters or nodes versus strip developments. The requested "LC" Limited Commercial zoning does not conform to the Locational Guidelines since it is located mid-mile along an arterial and is not near a cluster or node of commercial zoning.

RECOMMENDATION: Planning staff finds that the subject property is not appropriate for high-density residential and high-intensity commercial uses based upon the following factors. First, the Comprehensive Plan indicates that a mix of housing types including townhouse and multi-family units is appropriate for areas identified for low-density residential development only when they are part of a planned development. As submitted, the application does not include a development plan for the property requested for "MF-18" Multi-Family Residential zoning. Second, the requested "LC" Limited Commercial zoning would permit higher-intensity uses such as convenience stores and drive-thru restaurants that would likely create detrimental affects from lighting, noise, trash, and traffic on nearby residential properties. Planning staff finds that offices providing services to the immediate neighborhood are a more appropriate use than high-intensity commercial uses. Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request for "LC" Limited Commercial zoning be DENIED and instead that "NO" Neighborhood Office and "MF-18" Multi-Family Residential zoning be APPROVED, subject to platting within 1-year and subject to the following provisions of a Protective Overlay:

1. Gross residential density shall be limited to 6 units per acre.

2. Dwelling units shall be limited to detached single-family structures.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by developing single-family residential and institutional uses with significant amounts of undeveloped property remaining in the vicinity. The property north of the subject property is zoned "SF-20" Single-Family Residential and is primarily undeveloped with a natural gas utility substation located on the western portion along Webb. The property south of the subject property is zoned "SF-6" Single-Family Residential and is developed with a church. The property east of the subject property is zoned "SF-20" Single-Family Residential and is undeveloped. The properties west of the subject property across Webb are zoned "SF-6" Single-Family Residential and are developed with single-family residences.

2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "SF-20" Single-Family Residential, which accommodates large lot residential development and complementary land uses. By annexing the property into the City of Wichita, the property's zoning could be automatically changed to "SF-6" Single-Family Residential, which accommodates moderate-density, single-family residential development and complementary land uses. The subject property is suitable for the uses permitted in the "SF-6" Single-Family Residential district.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The requested "LC" Limited Commercial zoning would permit higher-intensity uses such as convenience stores and drive-thru restaurants that would likely create detrimental affects from lighting, noise, trash, and traffic on nearby residential properties.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Low-Density Residential" development. The Low Density Residential category provides for the lowest density (1 to 6 units per acre) of urban residential land use and consists of single-family detached homes, zero lot line units, cluster subdivisions, and planned developments with a mix of housing types that may include townhouse and multi-family units. The requested "MF-18" Multi-Family Residential zoning does not conform to the Land Use Guide due to the higher permitted densities and the lack of a planned development. The Commercial Locational Guidelines of the 1999 Update to the Comprehensive Plan indicates the commercial uses should be located in compact clusters or nodes versus strip developments. The requested "LC" Limited Commercial zoning does not conform to the Locational Guidelines since it is located mid-mile along an arterial and is not near a cluster or node of commercial zoning.

5. Impact of the proposed development on community facilities: No impacts on community facilities have been identified.

KNEBEL "The red lines here are the current lines of the Wichita City limits. You can see that this property is surrounded currently on three sides by the City limits, and is located east of Webb and south of Mt. Vernon if Mt. Vernon were to be extended to the east.

The applicant is requesting multi-family residential 'MF-18' and 'LC' Limited Commercial. The applicant has indicated that the proposed uses on the site for the 'MF-18' zoning would be patio homes at the approximate density of 6 units an acre. There is some updated information that was not in the staff report, and I will get to that a little bit later in the presentation. They are requesting the Multi-Family zoning so that the property can be platted as one lot and the ownership of the underlying ground can be maintained in one ownership in multiple units whether they are patio homes or duplexes could be permitted on the lot. If it were to be zoned for duplex or for single family and were to be platted as one large lot, then they would be only allowed either one duplex or one single-family home on that 11-acre lot. The Limited Commercial parcel, there is really no indication as to the proposed use, although the applicant did indicate that they were looking primarily at office uses rather than commercial uses.

The surrounding area is a developing area. Quite a bit of the ground, especially to the east and to the south is vacant. The property to the north and west is under development currently with the property west of the site more developed than the property to the north. There has been some additional development due north in the past four years since our aerial was taken. South of the site currently is a church and then a maintenance yard for Sedgwick County Public Works. Just north of the site is a gas substation enclosed by a masonry wall, and then some single-family housing on both sides of Webb. It is undeveloped to the east. There are single-family properties west of the site.

The site has access to Webb Road, which is currently a two-lane arterial road. It is in the Capital Improvement Program of the City of Wichita to be widened to four lanes between Harry and Pawnee. The Land Use Guide indicates that the subject property is appropriate for low density development. This category is intended to support development in the 1-6 units per acre range and is supportive of a mixed use of housing types, whether that be town homes, multi-family units, duplexes, or single-family, if the property is included as a part of a planned development.

The commercial locational guidelines indicate that property for commercial uses should be located in compact clusters or nodes rather than stripping them out along the frontage of arterial streets. This particular request for 'LC' zoning would be a stand-alone parcel. There is no other commercial zoning anywhere near the vicinity of this property. It is approximately half a mile to the north and half a mile to the south to the nearest commercial zoning.

The Planning staff, in reviewing this, has found that the subject property is not appropriate for high density residential or high intensity commercial uses. As I mentioned before, the Comprehensive Plan indicates that low density development

can contain a mixture of housing types if they are a part of a plan development, and the Planning staff is supportive of that approach and we are supportive of the multi-family zoning to allow a low density development under a single ownership lot. We are not supportive of the Limited Commercial zoning. We have spoken with the applicant and the applicant has indicated that they are more interested in Office zoning, so we are recommending Neighborhood Office zoning instead of Limited Commercial. I will let the applicant speak to that whether or not they are in agreement with it, but I believe they are.

The applicant did provide a site plan, which is attached to a memo that I have written to you. It shows one proposal for how the multi-family parcel could be developed with a combination of patio homes and duplexes. This type of plan development is something that the Planning staff is supportive of. Due to that, we have recommended that the 'MF-18' zoning be approved, subject to platting within 1 year and subject to a Protective Overlay. The recommendation is on the blue sheet. It is a slight change from what is in the staff report. Just to confuse things a little bit, after talking with the applicant, I am going to make one more change to it. On Item No. 1, it says 'the site shall be developed'. The applicant mentioned that there is both multi-family and office development proposed for this site, so I would like to amend that to say 'residential development on the site shall be developed in general conformance with a development plan, which shall be approved by the Planning Director prior to issuance of a building permit'. And then 'the development plan may contain a mixture of housing types as long as the overall residential density does not exceed the maximum of the low-density residential category, which is 6 units per acre'. These recommendations are based on the findings on Page 3 and 4 of your staff report, and I am available for questions."

CARRAHER "Are there any questions for staff regarding this item?"

MARNELL "I may have just missed this. What is the zoning on the Parcel marked 'exception' up there?"

KNEBEL "It is 'SF-20'. It is out of the city."

WARREN "I take it then that you are in agreement with their zoning request, with the exception of the 'LC', and you want to change that to 'NO'?"

KNEBEL "That is correct. We want to limit the density rather than 18 units an acre to 6 units per acre, and we would like the site to be developed based on a development plan, which is not typically required by a zoning change request."

WARREN "And that limitation would come about through what?"

KNEBEL "Through a Protective Overlay."

CARRAHER "Are there any further questions of staff? Thank you, Mr. Knebel. Now we will hear from the applicant."

RANDY JOHNSON "I am with Savoy, Ruggles and Bohm, here on behalf of the applicant. Basically, we agreed to the revised revised staff comments, which would be the ones on the blue sheet, with the exception of the residential development being added to No. 1.

We don't have a problem going from the 'LC' zoning down to the 'NO', which Mr. Knebel said that our general idea of using that site is for office, so that doesn't cause a problem for us. The current site plan that has been added to this blue sheet shows that it is roughly about 5.7 units per acre, so 6 units per acre is acceptable to us also. I would be happy to answer any questions."

BARFIELD "The residential part of this, what price range would those be?"

JOHNSON "I don't know about the exact price range. They are going to be very similar. This particular person has developed some just north of this site. I am going to guess that they are probably starting in the $110,000 to $120,000s, somewhere in there."

BARFIELD "So they would be considered middle to upper income?"

JOHNSON "Absolutely. A lot of the types of folks that are buying these kind of units are single professionals or retired folks that are looking for somebody to help take care of things outside of the units and things like that."

CARRAHER "Are there any further questions of the applicant? Thank you, Mr. Johnson. Now, we will move it to the gallery. Is there anyone in the gallery who wishes to speak in favor of this item? Is there anyone in the gallery who wishes to speak in opposition to this item? Seeing none, we will move it back to the Commission. Are there any questions or commentary by the Commission? Seeing none, what is the pleasure of the Commission?"

> **MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The surrounding area is characterized by developing single-family residential and institutional uses with significant amounts of undeveloped property remaining in the vicinity. The property north of the subject property is zoned "SF-20" Single-Family Residential and is primarily undeveloped with a natural gas utility substation located on the western portion

along Webb. The property south of the subject property is zoned "SF-6" Single-Family Residential and is developed with a church. The property east of the subject property is zoned "SF-20" Single-Family Residential and is undeveloped. The properties west of the subject property across Webb are zoned "SF-6" Single-Family Residential and are developed with single-family residences. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "SF-20" Single-Family Residential, which accommodates large lot residential development and complementary land uses. By annexing the property into the City of Wichita, the property's zoning could be automatically changed to "SF-6" Single-Family Residential, which accommodates moderate-density, single-family residential development and complementary land uses. The subject property is suitable for the uses permitted in the "SF-6" Single-Family Residential district. Extent to which removal of the restrictions will detrimentally affect nearby property: The requested "LC" Limited Commercial zoning would permit higher-intensity uses such as convenience stores and drive-thru restaurants that would likely create detrimental affects from lighting, noise, trash, and traffic on nearby residential properties. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Low-Density Residential" development. The Low Density Residential category provides for the lowest density (1 to 6 units per acre) of urban residential land use and consists of single-family detached homes, zero lot line units, cluster subdivisions, and planned developments with a mix of housing types that may include townhouse and multi-family units. The requested "MF-18" Multi-Family Residential zoning does not conform to the Land Use Guide due to the higher permitted densities and the lack of a planned development. The Commercial Locational Guidelines of the 1999 Update to the Comprehensive Plan indicates the commercial uses should be located in compact clusters or nodes versus strip developments. The requested "LC" Limited Commercial zoning does not conform to the Locational Guidelines since it is located mid-mile along an arterial and is not near a cluster or node of commercial zoning. Impact of the proposed development on community facilities: No impacts on community facilities have been identified.) I move that we recommend to the governing body that "NO" Neighborhood Office and "MF-18" Multi-Family Residential zoning be approved, subject to platting within 1-year and subject to the following provisions of Protective Overlay District #83:

1. Residential development on the site shall be developed in general conformance with a development plan to be approved by the Planning Director prior to the issuance of building permits.

2. The development plan may contain a mixture of housing types as long as the overall residential density of the development does not exceed 6 units per acre.

GAROFALO moved.

PLATT "Are these the revised staff recommendations or the original ones?"

GAROFALO "The revised ones."

HENTZEN "Let's mention that the application is for 'LC', but we are going to approve 'NO'."

GAROFALO "Right."

KNEBEL "Yes. That is the recommendation of staff."

JOHNSON seconded the motion.

CARRAHER "Are there any questions or commentary regarding the motion on the floor? Seeing none, we will move into a voice vote."

VOTE ON THE MOTION: The motion carried with 10 votes in favor. There was no opposition.

---

8. **ZON2000-00053** - Chester-Kappelman Group, Inc., (c/o Kathryn K. Chrui, owner)/Pioneer Land Company LLC (Doug Gaddisi), Chester-Kappelman Group, Inc. c/o Kathryn K. Chrui (applicants) request a zone change from "MF-29" Multi-family Residential to to "MH" Manufactured Housing on property described as:

Lot 1, Baxter Place, an Addition to Wichita, Sedgwick County, Kansas. Generally located south of Waterman,

east of Ellson.

DONNA GOLTRY, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

BACKGROUND: The applicants are seeking "MH" Manufactured Housing zoning on a 11.13 acre site located south of Waterman and east of Ellson. The site is platted as the Baxter Place Addition and is currently zoned "MF-29" Multi-family Residential. Baxter Place Addition has platted 25 foot building setbacks established along Lewis, Ellson and Waterman. A 25-foot wide, east to west, utility easement exists midway through the addition.

The applicant's site plan shows a total of 49 pad sites (4.45 units per acre). Primary access is off Waterman with an emergency access on Ellson. Internal circulation is via a 25-foot wide private drive. The entire site is to be fenced or walled. A clubhouse / storm shelter with a pool is shown in the eastern half of the development. The clubhouse / pool area is approximately 10,000 square feet in size. Minimum recreation area required by the code is 8% of the site with a minimum of 10,000 square feet for any recreation area. The site needs a total of 38,785 square feet of recreation area. A sidewalk is shown running through the middle of the development. Each pad site has off-street parking spaces provided.

The Unified Zoning Code requires a minimum site size of 5 acres for "MH" zoning in the City of Wichita. The Code requires a minimum lot width of 200 feet for parks. Minimum setbacks are 20 feet from public street right-of-way, 10 feet from all lot lines and 5 feet from private roadways. A minimum separation of 10 feet shall also be maintained between all manufactured home units within the park. The maximum density of dwelling units permitted is 8 dwelling units per acre. Maximum height permitted is 35 feet. Compatibility setbacks of a minimum of 15 feet up to 25 feet are required along side and rear lot lines where adjacent to property zoned TF-3 or more restrictive (minimum of 15 feet plus 1 foot for each five feet of lot width over 50 feet up to a maximum of 25 feet). Dumpsters and refuse receptacles are to be located a minimum of 20 feet from property zoned "TF-3" or more restrictive. A landscape buffer is required consisting of either a screening wall or fence, a 15 foot wide strip with one shade tree or two ornamentals and 5 shrubs every 30 feet.

Further, Chapter 26.04 of the City Code requires the submission of a development plan for approval by the Director of Planning in order to obtain a manufactured home park license. When platting is required, the plan may be submitted at platting. When platting is not required, the plan may be submitted at any time. The plan is to show the relationship of the home spaces to roadways, parking, open space and other information affecting overall park environment. Key requirements include: all spaces are to have access from a park roadway (no space is to have direct access to a public street or highway; all roadways are to be paved; parking is to be provided per the zoning code; sidewalks are to be provided per the sidewalk ordinance; eight percent of lot's gross area is to be set aside for recreation area, with a minimum size of 10,000 square feet; and all spaces are to be identified.

The applicant's site plan needs to be modified to reflect code requirements:

1. 25-foot building setbacks along the east property line.
2. Relocation of the accessory structures in the setback.
3. Submission of a landscape plan prior to occupancy.
4. A sidewalk that connects all the lots together and connects the lots with the storm shelter site and Waterman Street.
5. Minimum recreation space requirements. (Calculations to show that the present plan provides required minimums or revised plan to depict required minimums.) Better access needs to be provided to the reserve areas if they are to count as recreation space.
6. Commit to saving mature trees along street rights-of-way as identified on the submitted site plan.
7. Any gated access points shall set the gates back far enough to provide for off-street queuing.
8. Fencing should be "decorative" and should be set back from right-of-way lines along the streets at least 10 feet.

CASE HISTORY: Z-2625 granted (R-6)"MF-29" Multi-family Residential zoning in 1984. The Baxter Place Addition was recorded in 1985.

ADJACENT ZONING AND LAND USE:

NORTH: "MH" Manufacture Housing; manufactured housing park
SOUTH: "SF-6" Single-family Residential / "TF-3" Two-family Residential; residential
EAST: "SF-6" Single-family Residential / "TF-3" Two-family Residential; residential
WEST: "SF-6" Single-family Residential / "TF-3" Two-family Residential; residential

PUBLIC SERVICES: Ellson and Lewis Streets are unpaved sand and gravel streets. Waterman is a paved roadway. If the site were to be developed at the maximum units per acre permitted under its current zoning, this site would generate 2,105 average trips per day. If developed at the maximum density permitted for a manufactured home park, the project could generate 422 average daily trips. Public water and sewer service is available.

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan contains a Housing and Neighborhood objective of providing greater access to greater affordable owner and renter occupied housing opportunities. Manufactured home parks should be located on larger tracts, buffered from single-family neighborhoods by physical barriers (e.g. freeways, drainage ways or railways). The Plan depicts this site as a "revitalization area" where market decline is evident, but development opportunities exist. The City also has policies supporting in-fill development on passed over parcels.

RECOMMENDATION: Planning staff generally discourages mobile home park developments because: 1) they are more susceptible to damage from high winds; 2) they are taxed as personal property that depreciates rather than as real estate; and 3) they compete against the large stock of existing housing in older neighborhoods where revitalization is desired. Planning staff also has a policy of not supporting new "MH" Manufactured Home zoning in areas where site built housing may still be suitable. This platted lot has remained vacant zoned for residential use for ten years without being developed. This tract is also adjacent to an existing manufactured home park, and is proposed for development at a relatively low density. Therefore, based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to: guarantees for proportional share of paving for Ellson and Lewis Streets, approval of an updated drainage plan, and approval of the site play by the governing body.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. All nearby property is zoned "SF-6" Single-family Residential, "TF-3" Two-family Residential or "MH" Manufactured Housing district. Surrounding uses are site built residential, manufactured housing park or vacant. There are retail and commercial uses fronting Kellogg within a block of this application. It has been quite some time since this area has seen new development.

2. The suitability of the subject property for the uses to which it has been restricted. The site has been zoned "MF-29" for 15 years and has not been developed to-date.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Code required buffers, landscaping, dwelling density and setback requirements should mitigate any detrimental impacts. The "MF-29" district permits up to 29 dwelling units per acre. Manufactured housing requirements restrict manufactured housing parks to a maximum of 8 units per acre. If the site were to be developed at the maximum units per acre permitted under its current zoning, this site would generate 2,105 average trips per day. If developed at the maximum density permitted for a manufactured home park, the project could generate 422 average daily trips

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Wichita Land Use Guide depicts this site as appropriate for low density residential uses (1-6 dwelling units per acre). The Plan also depicts this site as a "revitalization area" where market decline is evident, but development opportunities exist. The City also has policies supporting in-fill development on passed over parcels.

5. Impact of the proposed development on community facilities: None identified.

GOLTRY "This case is directly north of the case we had earlier this afternoon on 'One Kellogg Place' that is separated by the commercial land uses that are along the north side of Kellogg. This is a request for 'MH' zoning. Normally, as you are aware, staff is reluctant to make recommendations in favor of 'MH' zoning for a lot of reasons: the fact that it is not permanent improvements;--it is not on the tax roles as real estate property; in this particular case, because this is juxtapositioned with other land uses in the surrounding area, the recommendation is in to approve this 'MH' zoning.

Here is one reason (indicating). We already have a very large tract of manufactured homes immediately to the north. There are 'SF-6' single-family houses that are around the perimeter of the property, but there is also, even in this tract, if you will notice--this is a little manufactured home park too. It is an old one and it is not in compliance; anywhere near the type of development that the applicant is proposing for this 48-unit manufactured home park. There is also another area over here (indicating) that also has some manufactured homes as well as some in here (indicating). So we see that that is a type of use that you do find within the area, as well as 'SF-6' type single-family site built housing.

There are a lot of existing trees. (I want to admit to you that this is not my case. I have driven in the area, but if I seem a little fuzzy on the directional locations, I haven't seen the slides before). While Waterman is a paved street with curb and gutter, it is not paved to very good standards. It is in pretty bad condition. In contrast, Lewis, Zelta and Ellson are all sand streets. Unpaved streets.

You probably noticed in the staff comments that we pointed out that manufactured home parks also have to be subject to Chapter 22 of the City Code. There are a number of technical requirements that the site plan is required to meet that they apparently did not meet at that time. The agent is here today and he has revised site plans, which he has said meets these criteria. He is passing those around, and I will let him speak to how they meet these different criteria. I also need to add about the DAB recommendation. At Monday night's DAB meeting, there were several people in appearance at the DAB meeting to speak regarding this case. As a result of their commentary, the DAB made a recommendation 8-0 in approval, but the neighbors were extremely concerned with the level of density that would be achieved by the manufactured home park. The proposed park is 49 dwelling units, which is lower than 5 dwelling per acre. They put a cap on it that it would not exceed 5 dwelling units per acre because it can go to 7.2, according to 'MH' regulations, unless that cap were placed upon it. They were concerned with not having a manufactured home park that was as dense as the one you saw to the north of Waterman. I did want to call that to your attention. I will stand for questions now."

CARRAHER "Are there any questions of staff regarding this item? Thank you, Ms. Goltry. Now we will hear from the applicant."

CHRIS MC ELGUNN "Thank you Mr. Chair, members. I am with Klenda, Mitchell, Austerman, Zerger; here to speak on behalf of the applicant. I will be very brief. You will see 8 items in the staff recommendation. We agree with each and every one of them and will accommodate those. With regard to the DAB meeting, we gladly agree to restrict the density

to 5 units per acre. As proposed, the original site plan was 49 units. The version that we circulated today reduces that to 48 units, which is about 4.3 units per acre, so we are well within that 5. And to put in the quality of development that we would like, we want to keep that at about 4.3 or 4.5 units. So we won't have any problems in complying with that stipulation. We would agree to have that incorporated as any approval.

Just a few brief points. The barriers on the north, on Waterman, that will be a poured fence that sometimes you can typically refer to as a 'Ritchie' fence. I believe that is going to be 8 feet high, so that is going to be more of a barrier than just decorative fencing. We have agreed that we will maintain all of the mature trees on the site. This lends itself to some nice landscaping. The revised site plan was to demonstrate, although there are a few things of a technical nature that we will probably still have to address to get the site plan finally approved and be able to secure the license. The one thing we wanted to be able to demonstrate, based on staff comments is that with the elimination of one unit, we could easily provide, (indicating) in this part of the site, and the interior sufficient recreational areas to meet the requirements. The requirements are approximately 36,000 to 37,000 square feet, based on the 11.1 acre site that we have, based upon the revisions that we have made. We have that recreational area up to in excess of 45,000. The notes on the site plan will reflect that.

With regard to the DAB meeting, we spent a good 90 minutes discussing things with the neighbors, and Donna can disagree with me or comment further if there are any questions. I think what we come down to at the end of the day, after the people in attendance saw the site plan and we answered their questions, that any concerns that they had were not specific as to 'MH' housing, it was as to just general development in this area and the impact on streets and those types of things. So we heard very little that was specific to a change in 'MH'.

I would also add that as it is presently zoned 'MF-29', which would allow for a considerably higher density and based on the staff report, you will see the traffic estimations, if you do the math, I believe that as developed according to our site plan, you can anticipate an additional 250 average trips per day increase where it would be substantially more if the property was developed according to the current zoning classification. It stood vacant for 15 years after receiving the 'MF-29' classification. So we believe that our site plan and what we propose to do is much more viable and has less of an objectionable impact if any at all. I don't have any other comments and would stand for any questions that you might have."

CARRAHER "Are there any questions of the applicant? Thank you, Mr. McElgunn. We will now move to the gallery. Is there anyone in the gallery who wishes to speak in favor of this item? Is there anyone in the gallery who wishes to speak in opposition to this item? Seeing none, we will move it back to the Commission."

> **MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood. All nearby property is zoned "SF-6" Single-family Residential, "TF-3" Two-family Residential or "MH" Manufactured Housing district. Surrounding uses are site built residential, manufactured housing park or vacant. There are retail and commercial uses fronting Kellogg within a block of this application. It has been quite some time since this area has seen new development. The suitability of the subject property for the uses to which it has been restricted. The site has been zoned "MF-29" for 15 years and has not been developed to-date. Extent to which removal of the restrictions will detrimentally affect nearby property: Code required buffers, landscaping, dwelling density and setback requirements should mitigate any detrimental impacts. The "MF-29" district permits up to 29 dwelling units per acre. Manufactured housing requirements restrict manufactured housing parks to a maximum of 8 units per acre. If the site were to be developed at the maximum units per acre permitted under its current zoning, this site would generate 2,105 average trips per day. If developed at the maximum density permitted for a manufactured home park, the project could generate 422 average daily trips. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Wichita Land Use Guide depicts this site as appropriate for low density residential uses (1-6 dwelling units per acre). The Plan also depicts this site as a "revitalization area" where market decline is evident, but development opportunities exist. The City also has policies supporting in-fill development on passed over parcels. Impact of the proposed development on community facilities: None identified.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. Guarantees for proportional share of paving for Ellson and Lewis Streets.

2. Approval of an updated drainage plan.

3. Approval of the site plan by the governing body.

4. The maximum density of the development shall be 5 dwelling units per acre.

WARREN moved, **MICHAELIS** seconded the motion.

HENTZEN "I was going to second that because I wanted to support the DAB in this case. But since he seconded it, I will leave that alone."

MICHAELIS "I would like to make a comment to that. I am very proud of staff for recommending approval on this. It shows that they do use an open mind and look at things accordingly and not be terribly biased against them just because it had 'MH' on it."

CARRAHER "Are there any further questions or commentary regarding the motion on the floor?"

VOTE ON THE MOTION: The motion carried unanimously (10-0).

---

9. **CON2000-00053** - BRZ Investments Inc. c/o R.D. Wood (Owner); Horizon Telecommunications, Inc. and Cricket Communications, Inc. (Applicants); Ferris Consulting c/o Greg Ferris (Agent) request Conditional Use for a wireless communication facility on property described as:

LEASE AREA DESCRIPTION:
A proposed lease area lying in and being part of Lot One (1), Powell's 10th Addition, Wichita, Sedgwick County, Kansas, being more particularly described as follows: Commencing at the Southwest corner of said Lot 1; Thence N 88 degrees 40'09"E, along the South line of said Lot 1, a distance of 97.78 feet; Thence N 00 degrees 23'32"W a distance of 91.37 feet to the point of beginning; Thence continuing N 00 degrees 23'32"W a distance of 40.00 feet; Thence N 89 degrees 55'11"E a distance of 60.00 feet; Thence S00 degrees 23'32"E a distance of 40.00 feet; Thence S 89 degrees 55'11"W a distance of 60.00 feet to the point of beginning. Containing 2400 square feet or 0.055 acres, more or less. Generally located north of Douglas and east of Kessler (3540 W. Douglas).

SCOTT KNEBEL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The owner is seeking a Conditional Use to permit the construction of a 150-foot high monopole tower (see attached elevation rendering) by Horizon Telecommunications, Inc. for use by Cricket Communications, Inc. The proposed site is zoned "GC" General Commercial. The Unified Zoning Code permits Wireless Communication Facilities up to 150 feet in height in the "GC" General Commercial zoning district with an Administrative Permit; however, the request for an Administrative Permit at this location was denied due to its lack of conformance with the Wireless Communication Master Plan. Therefore, the applicant is appealing that decision to the MAPC through this request for a Conditional Use.

The proposed tower would be sited on a 2,400 square foot area located north of Douglas and east of Kessler (3540 W. Douglas) in front of the storage units at Douglas Storage. The site plan (attached) depicts an 60-foot by 40-foot compound with the tower located in the center of the compound and the ground-level communication equipment located in the western portion of the compound. The site plan depicts a wrought iron fence around the entire compound with densely planted evergreens along the south side of the compound.

The character of the surrounding area is that of mixed use, with commercial development along Douglas, residential development to the north, and institutional uses to the south. The properties east and west of the site are zoned "GC" General Commercial and "LC" Limited Commercial and are developed with varied commercial uses, including the self-storage warehouses on the parent tract of the subject property. The properties north of the site are zoned "SF-6" Single-Family Residential and "TF-3" Two-Family Residential and are developed with duplexes and single-family residences. The properties south of the site are zoned "SF-6" Single-Family Residential and are developed with an armory, a park, and a school.

The application indicates that the proposed tower is needed for part of a planned initial build-out of a wireless phone system by Cricket Communications, Inc. (see attached RF engineering evaluation). The justification for the request (attached) indicates that existing commercial towers located north of the site are not suitable for use, in the case of the AM radio tower, or do not have sufficient height and cannot be extended in height, in the case of the Fox television tower.

The application also indicates that an existing self-support lattice tower at the Mayberry School site to the south had not been made available to be rebuilt as of the date of application (see attached correspondence). Correspondence with school district staff (see attached) indicates that the school district is in the process of making their towers available for reconstruction. Additionally, temporary structures such as "cellular on wheels" could be used in the interim to provide limited service to the area while issues involving the availability of the school tower are resolved.

CASE HISTORY: The site is platted as the Powell's 10th Addition, which was recorded on December 5, 1985.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-6" & "TF-3"	Single-family & duplexes
SOUTH:	"SF-6"	Armory, school, park

EAST:	"GC" & "LC"	Various commercial businesses
WEST:	"GC" & "LC"	Various commercial businesses

PUBLIC SERVICES: No municipally-supplied utility services are required. Access to the site is proposed from Douglas, a four-lane arterial street.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights-of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing; and 9) not use strobe lighting. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment.

RECOMMENDATION: Planning staff finds that the proposed wireless communication facility does not conform to the guidelines of the Wireless Communication Master Plan. First, the proposed facility does not utilize existing towers in the area. The school district has indicated that it is in the process of making its towers available for reconstruction, and approving a new tower to be constructed at the proposed location would lead to an unnecessary proliferation of towers in the area, especially when interim solutions such as "cellular on wheels" are available. Second, the proposed facility is not placed in an area where trees and/or buildings obscure some or all of the facility from the view. The facility is proposed to be placed at the front of the warehouse facility in full view from Douglas. Third, equipment cabinets are not proposed to be located indoors. Warehouse space is available on the site for the indoor storage of equipment. Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request be DENIED; however, if the MAPC finds the request appropriate, planning staff recommends that the MAPC make appropriate findings and that approval be subject to the following conditions:

A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
C. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
D. The monopole shall not exceed 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least four wireless service providers.
E. A landscape plan shall be submitted for approval by the Planning Director that provides shade trees to be planted and maintained every 30 feet adjacent to the south side of the compound.
F. Ground-level equipment shall be housed within the existing storage building structures.
G. Revised site plans and elevation drawings indicating the approved location and design of the wireless communication facility shall be submitted for approval by the Planning Director within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable.
H. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
I. The applicant shall obtain FAA approval of the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the Director of Airport Engineering for the City of Wichita.
J. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
K. Any violation of the conditions of approval shall render the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is that of mixed use, with commercial development along Douglas, residential development to the north, and institutional uses to the south. The properties east and west of the site are zoned "GC" General Commercial and "LC" Limited Commercial and are developed with varied commercial uses, including the self-storage warehouses on the parent tract of the subject property. The properties north of the site are zoned "SF-6" Single-Family Residential and "TF-3" Two-Family Residential and are developed with duplexes and single-family residences. The properties south of the site are zoned "SF-6" Single-Family Residential and are developed with an armory, a park, and a school.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "GC" General Commercial, and has been developed with an commercial use. Wireless communication facilities up to 150 feet in height in the "GC" district may be permitted with an Administrative Permit, but must conform to the

guidelines of the Wireless Communication Master Plan. A Conditional Use may be granted to permit a wireless communication facility in the "GC" district that does not conform to the guidelines of the Wireless Communication Plan; however, the facility should conform to the guidelines as much as possible.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Existing landscaping on the site does not adequately obscure the view of the proposed tower, which would lead to a negative visual impact from the tower on nearby residential properties.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility does not conform to the guidelines of the Wireless Communication Master Plan. First, the proposed facility does not utilize existing towers in the area. The school district has indicated that it is in the process of making its towers available for reconstruction, and approving a new tower to be constructed at the proposed location would lead to an unnecessary proliferation of towers in the area, especially when interim solutions such as "cellular on wheels" are available. Second, the proposed facility is not placed in an area where trees and/or buildings obscure some or all of the facility from the view. The facility is proposed to be placed at the front of the warehouse facility in full view from Douglas. Third, equipment cabinets are not proposed to be located indoors. Warehouse space is available on the site for the indoor storage of equipment.

5. Impact of the proposed development on community facilities: Access to the site is proposed to be from Douglas, a four-lane arterial street, so no negative impacts on community facilities are anticipated.

PLATT "I will step down from this item as owner of a building that is actively involved in leasing space to antenna organizations."

CARRAHER "For the record, Dr. Platt will be sitting out on this item."

KNEBEL "This is a request for a Conditional Use to construct a 150-foot high monopole tower by Horizon Communications for use by Cricket Communications. This probably all sounds quite familiar from a month ago.

The proposed site is zoned General Commercial, which would permit a 150-foot wireless communication facility; however, the applicant requested an administrative permit and it was denied by staff. The recourse for the applicant in such an instance is to appeal that decision for a Conditional Use request to the Planning Commission and they have done so. The site is currently developed with self-storage warehouses. The proposed tower would be located in front of those facilities. There is a site plan showing the location in a little more detail. The proposed tower would be a monopole tower. (Indicating on slide) This shows the hole in coverage that the tower is designed to fill, and as you can see, when the tower is added to the system, that hole in the coverage is removed.

The character of the area is that of mixed use. You have commercial along Douglas, there is residential development to the north and then you have institutional uses to the south in the form of a park; a National Guard armory and a couple of schools. There is commercial development just to the north and to the west.

The applicant, as I have indicated, is seeking to provide service by Cricket Communication. They have indicated that there are not any existing suitable towers in the area. There are some existing commercial towers; one is an AM radio tower and another is a tower at the FOX Television studio. The AM towers, the applicant has indicated, are a hazard for the use of their types of antennas, and the FOX Television tower is not at sufficient height and would need to be rebuilt.

The applicant has also indicated that the existing tower at Mayberry school, south of this site is not available to be reconstructed. I think we have had that discussion in the past. I won't go into it in any more detail than that. The Planning staff has reviewed this and has found a couple of major problems with it. The first, of course, being that the facility is not utilizing the school tower. I think we all know that we have a difference of opinion on. The second and third issues that we have problems with is the fact that the tower is proposed to be located in the very front of the facility with no provision to provide any screening of at least the bottom portion of that tower from view. It will be quite obvious to all who drive by. Then we are also concerned that the applicant has not chosen to put the ground level equipment indoors when there is indoor storage facilities nearby. Based on that, we have recommended that the request be denied; however, if the Planning Commission finds that the request is appropriate, we recommend that they make the appropriate findings and that the request be approved subject to several conditions. I will go through those briefly.

That it be constructed within one year; that the tower be of a monopole design; that it be restricted to 150 feet in height; be designed to provide antennas for at least four carriers; that a landscape plan be provided to provide some of that screening that I had mentioned that the ground level equipment be housed within the storage facilities rather than outdoors, and that the site be approved by the FAA. Our recommendation is based on the findings in the staff report and I will stand for questions."

BARFIELD "Could you go back to the slides showing the site?"

KNEBEL "The picture of the site? Sure."

BARFIELD "How far from Douglas Street is that?"

KNEBEL "It is probably 100 or so feet. Let me look at the site plan. Yes, around 100 feet."

CARRAHER "Are there any further questions for staff? Thank you, Mr. Knebel. We will hear from the applicant."

GREG FERRIS "I represent the landowner, Horizon Telecommunications and Cricket Communications in this application. I think Scott correctly spoke, this is a 150-foot application. He did leave out one point and that was that last night we appeared at the DAB #4, and they voted unanimously to approve this tower, which is no small accomplishment. I am not sure that that advisory board has voted to approve any towers to date. I know that they have at least voted a couple of them that they didn't want. I think on the merits of this case, they believed it was appropriate.

I will go through a few of the elements that I think are important. Primarily, I believe that this request has been denied because of the school issue. What I have provided for you is a couple of bits of information. First is a letter from Lucent Technologies, a representative of Cricket Communication that is to the vendor that was selected by the school district. If you recall, when we were here a month ago, the district promised us, assured us and guaranteed us that they would have a vendor in place with a contract signed by December 1. If you will recall at that time, I expressed some severe skepticism that they would have any agreement in place. As I stand before you today, they have no agreement. I believe it is after December 1, but I haven't checked my calendar today. I am pretty confident that it is.

However, we are still not opposed to trying to work with the school district. We have never taken an adversarial role. It is our position that if there is a way to do it, we will do it. You will see in the letter that we have drafted and sent to their representatives and asked them if possible, and I know that it was short notice, that we would have liked to have heard by today's meeting. We haven't even received a phone call. Even though I have been assured, even by members of city staff, that they have talked to people in Spectrasite and that they would call us, we still, on Thursday, after being assured this on Monday, have not received a phone call, even to acknowledge any information they might have, or even to ask us what we were doing.

This is a very large company. By the way, the school district did a good job. They selected a good company. They have enormous obstacles to overcome to try to get this approved, to get a contract, but in spite of that, in spite of all of the obstacles, we are willing, and I provided another letter with an additional condition, and this was approved last night at the DAB, and I have no problem adding this condition to our conditions, because of two reasons. One, it has been our position from even long before Day No. 1, long before we applied for any zoning cases, that we were willing to work with the school district.

Scott, have you had a chance to look this language over? Do you, as staff have any problems with this language? We can modify that if staff has any problems with this language. I do have a typo in the first paragraph. I apologize for that, but I was in a hurry when I put this together. It says 'if Unified School District No. 259 or its representatives have met all of these three conditions for this Conditional Use application, the Conditional Use application shall be considered void. It goes further to state that the district or its representatives receives a building permit for reconstruction of the existing tower, and in this case it would only be Mayberry. I will use the same language in the next case, which is Seltzer School, by December 21, that the representatives have had the opportunity to secure a lease by December 21, and that they will guarantee that that tower will be operational by January 20. Those dates are not just selected out of the sky. Frankly, we have a two-week protest period before we can do anything.

What I am saying is if you approve this today, and the school district comes along in a week and says 'okay, we are ready to go--here is our timetable'. We can meet this January 20 date. We will actually beat that by a couple of weeks. I am trying to go as far as I possibly can to accommodate these folks. I don't believe there is anybody here from the school district today. Frankly, I would be a little embarrassed a month later to tell you that we didn't have a contract after we assured you that these towers would be available on December 1. These towers are not any more available today than they were a month ago. I don't know, maybe in a month, they will be available, but I don't believe, and I think you acted appropriately at the last meeting, that it is fair to ask us to wait and wait and wait. You didn't, and I appreciated that very much. But we are willing to go even beyond what you did at your last meeting. I think this language pretty well will confirm that if the school district truly is able to accomplish something, I would feel very comfortable adding this condition and having no problem with it.

If there are any legal issues, and I am not an attorney, we certainly will be glad to work it so that this language is in a legal form that is appropriate. I think that deals with the school issue. I will be glad to answer any questions you might have regarding that. I am going to try to move real quickly through the rest of the case because I know that you would like to get out of here before midnight tonight.

This is a General Commercial area. The area around this is primarily Light Commercial, or there is a park and a school and the armory across the street. I believe the armory is in an area zoned residential. So if you will look at the zoning map and see residential over there, that is the armory, and I don't believe that use will have any opposition. In fact, and I can't speak for who is here today, but at the DAB meeting last night, there was no opposition. I don't believe there has been any opposition to this case.

This case is a little unique in that we posted a sign for 10 days during the first go-around when we did an administrative permit, and then again, the second go-around, we did a mailing notice and posted a sign. So this has been 'well noticed' to the neighborhood. In fact, one of the representatives of the neighborhood association that is immediately in this area is on the District Advisory Board. They sent out notices advising of this case last night. Some of those folks may be here today, I wouldn't be able to identify them. But there was nobody there last night to oppose this case. I believe it complies with the Wireless Plan, I believe that we have minimized the silhouette.

The only condition that I have a problem with in this is this indoor-outdoor storage. As you can see, the storage units are quite a ways back in the site. The front parts and storage units, if you are familiar, they are very small. You could not put in any equipment. So to try to get equipment in the back of these storage units and run those lines to this would not be feasible. District #4 recognized that and their recommendation was that we put a solid screen wall around this, which would be a wood fence. We have no problem with that. We will still screen it with the landscaping to the south with the evergreens. Also, we concur with the recommendations of staff to screen along Douglas.

I believe that this is a good case. I believe that this is a General Commercial and probably, short of the whole school issue, this probably would have received an Administrative Permit. But that is neither here nor there. We are here now standing before you. We have had two public hearings, after this one is concluded. I believe that you will see that this is an appropriate case, it is an appropriate location and should be approved by you. I would be glad to answer any questions."

CARRAHER "Are there any questions for the applicant regarding the item?"

BARFIELD "Regarding Item No. 5, have you been in contact with the FAA for their approval?"

FERRIS "We have submitted a preliminary. We always submit a preliminary. It takes about 60 days to get a final back from the FAA. I don't believe this will be an issue in this location. The Mayberry tower is 150 foot and it is in the same flight area. If we are unable to get an FAA, whatever you do is irrelevant. There is no way in the world we are going to build a tower that doesn't comply with the FAA. They will take Cricket's license away and that isn't going to happen. So, we will comply with that before we receive a building permit."

BARFIELD "One more question. On Item D, are you arguing over that?"

FERRIS "Yes, we are."

HENTZEN "Mr. Ferris, some weeks ago, we approved some sites for these type of things. They went to the city. I remember watching Mayor Knight in that discussion, addressing this school issue. I think they denied at least one of the ones we recommended. But he said 'bring it back on a certain date' and something like 'I am tired of waiting on the school board'. Now, here we have, again, the school board. Has that case that they kicked back been resolved?"

FERRIS "Actually, what happened at that meeting that you saw, Mr. Hentzen, was they asked for these cases--there are actually three of these cases, two of mine and one of another individual, to be brought to the City Council for their approval. They didn't deny them that day, they just wanted to look at the case. I believe the reason they wanted to look at the case was that Mrs. Cole, who brought the protest originally, believed that the school district was going to be completed by December 1. This was in November, and her feeling was that if the school district is going to be done with this in a week or so, then we certainly ought to wait that time period. That is why the letter that I have here that states December 11 is the date that we would like to hear from these people, because December 12 is the hearing at the City Council.

I thought it would be good if we could hear from them by today, but given the condition I have offered, it really kind of negates the need to. But I have to know by Monday so that I can have the City Council know whether or not the schools really are in play."

HENTZEN "That is the 'drop-dead' date, December 12? At the City Council meeting?"

FERRIS "Right."

CARRAHER "Are there any further questions of the speaker?"

WARREN "Now, if this were to be approved, you are then in agreement with staff comments, except for Item No. F, which is the housing?"

FERRIS "Yes. And we can substitute there that the applicant will build a solid screening wood fence around the perimeter of the compound."

MARNELL "Mr. Ferris, how come this wasn't located at the back of this facility instead of at the front on Douglas?"

FERRIS "The property at the far end of this, and you know you play this balancing act, is residential. That is a residential neighborhood to the far north. We attempted to keep it as far away from the residential neighborhood as possible to comply with the Master Plan. So, as we viewed this, we believed it better fit the Master Plan. There may be some debate on that. There are other issues. But at the end of the parent tract is residential property, and it is within residential for quite a way. If you go back to the original site plan if you have one there, you will see that we have kept this a long way from residential property to the north. That was really the object of moving it away from there."

CARRAHER "Are there any further questions? Thank you, Mr. Ferris. Now we will move to the gallery. Is there anyone in the gallery who wishes to speak in favor of this item? Seeing none, is there anyone in the gallery who wishes to speak in opposition to this item? Seeing none, we will move it back to the Commission. Are there any questions or commentary

from the Commission? What is the pleasure of the Commission?"

MOTION: I move that we recommend to the governing body that the request be approved, subject to the following:

1. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
2. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
3. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
4. The monopole shall not exceed 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least four wireless service providers.
5. A landscape plan shall be submitted for approval by the Planning Director that provides shade trees to be planted and maintained every 30 feet adjacent to the south side of the compound.
6. Ground-level equipment shall be screened by an 8-foot high solid screening fence with densely planted evergreen vegetation along the south side of the compound.
7. Revised site plans and elevation drawings indicating the approved location and design of the wireless communication facility shall be submitted for approval by the Planning Director within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable.
8. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
9. The applicant shall obtain FAA approval of the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the Director of Airport Engineering for the City of Wichita.
10. If Unified School District 259, or its representative, has met all of the following three conditions this Conditional Use Application shall be considered void. 1) The District, or its representative, has received a building permit for the reconstruction of the existing tower at the Mayberry Middle School site by December 21, 2000. 2) The District, or its representative, has provided to Cricket Communications a lease, comparable to existing leases in the Wichita area, for collocation on this tower at a lease rate competitive with existing Cricket Communications lease rates in the Wichita area by December 21, 2000. 3) The District, or its representative, will guarantee that the tower will be available for installation of all Cricket Communications and Lucent Technologies equipment by January 20, 2001.
11. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
12. Any violation of the conditions of approval shall render the Conditional Use null and void.

HENTZEN moved, **WARNER** seconded the motion, and it carried with 9 votes in favor. Platt abstained.

---

10. **Case No. CON2000-00054** - Irene and Max Miller (Owners); Horizon Telecommunications, Inc. and Cricket Communications, Inc. (Applicants); Ferris Consulting c/o Greg Ferris (Agent) request a Conditional Use for a wireless communication facility on property described as:

LEASE AREA DESCRIPTION:

A proposed lease area lying in and being a part of the Northeast Quarter (NE/4) of Section Twenty-Seven (27), Township Twenty-Seven (27) South, Range Two (2) East of the 6th P.M., Sedgwick County, Kansas, being more particularly described as follows: Commencing at the Northeast corner of said NE/4; Thence S 89 degrees 03'22"W, along the North line of said NE/4, a distance of 1529.64 feet; Thence S 01 degrees 17'48"E a distance of 409.99 feet to the point of beginning; Thence continuing S01 degrees 17'48"E a distance of 50.00 feet; Thence S 89 degrees 01'19"W a distance of 60.00 feet; Thence 01degrees 17'48"W a distance of 50.00 feet; thence N89 degrees 01'19"E a distance of 60.00 feet to the point of beginning. Containing 3000 square feet or 0.069 acres, more or less. Located south of Kellogg and west of 127th Street East.

SCOTT KNEBEL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The owner is seeking a Conditional Use to permit the construction of a 150-foot high monopole tower (see attached elevation rendering) by Horizon Telecommunications, Inc. for use by Cricket Communications, Inc. The proposed site is zoned "GC" General Commercial. The Unified Zoning Code permits Wireless Communication Facilities up to 150 feet in height in the "GC" General Commercial zoning district with an Administrative Permit; however, the request for an Administrative Permit at this location was denied due to its lack of conformance with the Wireless Communication Master Plan. Therefore, the applicant is appealing that decision to the MAPC through this request for a Conditional Use.

The proposed tower would be sited on a 3,000 square foot area located south of Kellogg and west of 127th Street East (12345 E. Kellogg) in the rear yard of Suburban Equipment (see attached vicinity plan). The site plan (attached) depicts a 60-foot by 50-foot compound with the tower located in the center of the compound and the ground-level communication

equipment located in the western portion of the compound. The site plan depicts a chain link fence around the entire compound. The site plan shows that access would be provided to the site through an access easement to Kellogg Drive, an unpaved access road.

The character of the surrounding area is a developing commercial/industrial area along the Kellogg expressway with developed residential properties located to the south and separated by a major barrier (I-35). The properties to the north, east, and west of the site are zoned "GC" General Commercial, "LC" Limited Commercial, "SF-20" Single-Family Residential and are primarily undeveloped, with the developed properties being a self-storage warehouse to the west and an outdoor equipment sales business to north on the parent tract of the subject property. The property immediately south of the site is zoned "SF-6" Single-Family Residential and is undeveloped. The properties further to south across I-35 are zoned "SF-6" Single-Family Residential and are under development with single-family uses.

The application indicates that the proposed tower is needed for part of a planned initial build-out of a wireless phone system by Cricket Communications, Inc. (see attached RF engineering evaluation). The justification for the request (attached) indicates that existing commercial towers located east and west of the site along the Kellogg do not provide adequate coverage at the heights available; however, this is not substantiated by radio frequency analyses. The justification also indicates that reconstructing the existing commercial towers would cost significantly more than constructing a new tower; however, the cost comparisons provided are not site specific.

The application also indicates that an existing self-support lattice tower at the former Seltzer School site to the southeast had not been made available to be rebuilt as of the date of application (see attached correspondence). Correspondence with school district staff (see attached) indicates that the school district is in the process of making their towers available for reconstruction. Additionally, temporary structures such as "cellular on wheels" could be used in the interim to provide limited service to the area while issues involving the availability of the school tower are resolved.

CASE HISTORY: The site is platted as the Suburban Equipment Addition, which was recorded on November 14, 1978.

ADJACENT ZONING AND LAND USE:

NORTH:	"GC", "LC" & "SF-20"	Undeveloped & Outdoor Equipment Sales
SOUTH:	"SF-6"	Undeveloped & Singe-Family
EAST:	"GC"	Undeveloped
WEST:	"GC" & "LC"	Undeveloped & Self-Storage Warehouse

PUBLIC SERVICES: No municipally-supplied utility services are required. Access to the site is proposed through an access easement to Kellogg Drive, an unpaved access road.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights-of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing; and 9) not use strobe lighting. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment.

RECOMMENDATION: Planning staff finds that the proposed wireless communication facility does not conform to the guidelines of the Wireless Communication Master Plan. First, the proposed facility does not utilize existing towers in the area. No site-specific radio frequency analyses have been provided to substantiate that the existing commercial towers are not feasible. Additionally, the school district has indicated that it is in the process of making its towers available for reconstruction, and approving a new tower to be constructed at the proposed location would lead to an unnecessary proliferation of towers in the area, especially when interim solutions such as "cellular on wheels" are available. Second, no landscaping is proposed to partially obscure the tower from view from the residential area to the south. Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request be DENIED; however, if the MAPC finds the request appropriate, Planning staff recommends that the MAPC make appropriate findings and that approval be subject to the following conditions:

1. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
2. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
3. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.

4. The monopole shall not exceed 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least four wireless service providers.
5. A landscape plan shall be submitted for approval by the Planning Director that provides two shade trees to be planted and maintained adjacent to the south side of the compound.
6. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
7. The applicant shall obtain FAA approval of the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the Director of Airport Engineering for the City of Wichita.
8. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
9. Any violation of the conditions of approval shall render the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is a developing commercial/industrial area along the Kellogg expressway with developed residential properties located to the south and separated by a major barrier (I-35). The properties to the north, east, and west of the site are zoned "GC" General Commercial, "LC" Limited Commercial, "SF-20" Single-Family Residential and are primarily undeveloped, with the developed properties being a self-storage warehouse to the west and an outdoor equipment sales business to north on the parent tract of the subject property. The property immediately south of the site is zoned "SF-6" Single-Family Residential and is undeveloped. The properties further to south across I-35 are zoned "SF-6" Single-Family Residential and are under development with single-family uses.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "GC" General Commercial, and has been developed with a commercial use. Wireless communication facilities up to 150 feet in height in the "GC" district may be permitted with an Administrative Permit, but must conform to the guidelines of the Wireless Communication Master Plan. A Conditional Use may be granted to permit a wireless communication facility in the "GC" district that does not conform to the guidelines of the Wireless Communication Plan; however, the facility should conform to the guidelines as much as possible.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Existing landscaping on the site does not adequately obscure the view of the proposed tower, which would lead to a negative visual impact from the tower on nearby residential properties.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility does not conform to the guidelines of the Wireless Communication Master Plan. First, the proposed facility does not utilize existing towers in the area. No site-specific radio frequency analyses have been provided to substantiate that the existing commercial towers are not feasible. Additionally, the school district has indicated that it is in the process of making its towers available for reconstruction, and approving a new tower to be constructed at the proposed location would lead to an unnecessary proliferation of towers in the area, especially when interim solutions such as "cellular on wheels" are available. Second, no landscaping is proposed to partially obscure the tower from view from the residential area to the south.

5. Impact of the proposed development on community facilities: Access to the site is proposed to be from Kellogg Drive, an unpaved access road, so no negative impacts on community facilities are anticipated.

PLATT "For the record, I will excuse myself from voting on this item."

KNEBEL "In the interest of time, this item is a request for a 150-foot tower in a different location. Most of the circumstances are the same. The underlying zoning is the same. As you can see, it is located on Kellogg near I-35. You can see (indicating) that there is some residential properties south of the interstate, some distance from the proposed tower. The property surrounding the site is primarily undeveloped. There is a business on the site currently.

The applicant is attempting to fill this gap between a tower located at Joe Self Chevrolet and a tower located in Andover. You can see how that is accomplished. The same issues surround this particular case. There are towers in the area that staff believes could be utilized. There is a lack of proposed landscaping to screen the site to the residential areas to the south. Therefore, we are recommending this for denial. If, however, the Planing Commission does find the request appropriate, we have some recommended conditions. Those being that it erected within 1 year, be a monopole again, up to four carriers, that a landscape plan be provided, and that it be approved by the FAA. With that, I will stand for questions."

CARRAHER "Are there any questions for staff regarding this item? Seeing none, thank you, Mr. Knebel. Now we will hear from the applicant."

KNEBEL "I should mention one other thing. The District Advisory Board heard this case on Monday night. They recommended it for approval unanimously with the added condition that the applicant added to the last case, regarding the availability of the school towers."

CARRAHER "On the blue sheet I have in front of me, it says the DAB recommended this 6-1."

KNEBEL "I think that is inaccurate. I think it was 7-0."

FERRIS (From the audience) "It was unanimous."

KNEBEL "That was my recollection, anyway."

CARRAHER "Okay. That's fine. Thank you."

GREG FERRIS "Mr. Chair, members of the Planning Commission, I represent the owners of this property, and also Horizon Telecommunications and Cricket Communications. We have very similar issues, except that I am very sure that this case would have received an Administrative Permit had it not been for the school tower, which is located in the area. Without going into any discussion, I would be glad to answer any questions. We offer the same condition that we offered on the last case and that is the condition that was recommended by the District Advisory Board. This is a very heavy industrial area. There are comments in your packet regarding the towers to the west and to the east. The only tower that really is a bona fide issue, I believe, is the Sprint tower, which is located on the other side of the Interstate and about a quarter of a mile to the east. We attempted to work with Sprint to try and rebuild that tower. We could get absolutely no response from them. This was an early tower that was constructed before they were under any regulations where they had to allow the reconstruction. I believe the new Wireless Plan takes care of those issues; however, it doesn't do us any good. You all know that if somebody doesn't want to talk to you there is nothing you can do to make them. If you can get the city to do that because of some regulations, you have a chance. In this case, you also have an e-mail that I sent to Sprint, asking them for information so we could see if we could add on or reconstruct this tower.

To date, and that is a month or two months old, I have not received a response to that inquiry. I believe this is really what the Wireless Plan had in mind when it was adopted. Had it not been for that little section of undeveloped white area to the north of I-35, we wouldn't be here today. We would have built this tower two or three months ago under the old ordinance because it complied with the old ordinance. It just didn't quite meet the setbacks from that undeveloped property there where there is nothing on there. We have no problem with any of the conditions that are here, or the conditions that were recommended by the District Advisory Board, which is what I offered to you. Without taking up any more of your time, I would be glad to answer any questions."

CARRAHER "Are there any questions of the applicant regarding this matter? Seeing none, thank you, Mr. Ferris. Is there anyone in the gallery who wishes to speak in favor of this item? Is there anyone in the gallery who wishes to speak in opposition to this item? Seeing none, we will move it back to the Commission. Are there any questions or commentary from the Commission regarding this item?"

MOTION: I move that the request be approved, subject to the following:

1. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
2. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
3. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
4. The monopole shall not exceed 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least four wireless service providers.
5. A landscape plan shall be submitted for approval by the Planning Director that provides two shade trees to be planted and maintained adjacent to the south side of the compound.
6. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
7. The applicant shall obtain FAA approval of the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the Director of Airport Engineering for the City of Wichita.
8. If Unified School District 259, or its representative, has met all of the following three conditions this Conditional Use Application shall be considered void. 1) The District, or its representative, has received a building permit for the reconstruction of the existing tower at the former Seltzer Elementary School site by December 21, 2000. 2) The District, or its representative, has provided to Cricket Communications a lease, comparable to existing leases in the Wichita area, for collocation on this tower at a lease rate competitive with existing Cricket Communications lease rates in the Wichita area by December 21, 2000. 3) The District, or its representative, will guarantee that the tower will be available for installation of all Cricket Communications and Lucent Technologies equipment by January 20, 2001.
9. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
10. Any violation of the conditions of approval shall render the Conditional Use null and void.

MICHAELIS moved, **WARNER** seconded the motion, and it carried unanimously (9-0-1). Platt abstained.

---

11. **Case No. ZON2000-00059** - Sawmill Creek, LLC, (Everett Long) request a zone change from "SF-6" Single-Family Residential to "MF-18" Multi-family Residential on property described as:

That part of the Southwest Quarter of Section 20, Township 26, Range 2 East of the 6th Principal Meridian lying South of the Missouri Pacific Railroad R.O.W. located in the Southeast Corner of said Section, except the South 50 feet of said parcel. Generally located north of 45th Street North and 3/8 mile east of Rock Road.

DONNA GOLTRY, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

BACKGROUND: The applicant is seeking "MF-18" Multi-family Residential zoning on property located 3/8 mile east of Rock Road on the north side of 45th Street North. The application area is 3.25 acres in size, and is part of the proposed Sawmill Creek Addition (Block 8, Lot 1). At the time this report was prepared, Sawmill Creek Addition has been approved by the MAPC, but has not received governing body approval. No specific residential use type has been identified for this site at the time this report was prepared. The proposed platted lot has complete access control along 45th Street for the first 150 feet east of the railroad tracks. From that point east, one point of access is to be permitted. At this point in time, no other roadways abut the site.

The Missouri Pacific Railroad is located immediately north of the application area, and creates a dividing "edge" between the application area and the proposed residential use to the north and west. The land further north and west is also part of the proposed Sawmill Addition and is proposed for single-family residential. This area is zoned "SF-6" Single-family Residential. Land to the east is vacant and is zoned "SF-20" Single-family Residential. Property to the south is zoned "TF-3" Two-family Residential and is currently being developed.

The "MF-18" district would permit up to 58 units in buildings with heights up to 45 feet. Setbacks are as follows: front yard – 25 feet; rear yard 20 feet and street side yard –20 feet.

Normal screening and landscape buffer plantings could be waived along the northern property line, because the site abuts a railroad right-of-way. Along the east line, the code requires either a screening wall or fence, or a 15-foot wide strip with one shade tree or two ornamentals and 5 shrubs every 30 feet. Street yard landscaping would be required along 45th Street. Compatibility setback and height standards are also triggered on uses in the MF-18 and less restrictive zoning districts. A deeper setback of 25 feet will be required along the east property line. No structure shall exceed 35 feet in height within 50 feet of a lot line zoned TF-3 or more restrictive. Structures located more than 50 feet from the lot line of property zoned TF-3 or more restrictive may increase one foot or each three feet of setback beyond 50 feet.

CASE HISTORY: The site was annexed in 2000. Sawmill Creek Addition was approved by the MAPC in 2000.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-6" Single-family Residential; vacant, but platted for single-family residential
SOUTH:	"TF-3" Two-family Residential & "SF-20" Single-family Residential; under development and large-lot residential
EAST:	"SF-20" Single-family Residential; vacant
WEST:	"SF-6" Single-family Residential; vacant, but platted for single-family residential

PUBLIC SERVICES: Public sewer and water is available or can be extended to serve this site. 45th Street is a paved two-lane arterial. Traffic counts are not available for 45th Street. If developed to the maximum density allowed of 58 units, this site could generate approximately 388 trips per day.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" depicts this site as appropriate for "low density residential". Low-density residential uses are defined as those developments with 1 to 6 dwelling units per acre. The Comprehensive Plan has a goal to "Develop…housing and neighborhoods that will provide safe, decent, marketable and affordable conditions for all residents." Plan objectives call for "…greater access to greater affordable owner and renter occupied housing opportunities." Residential location guidelines call for high-density residential uses (11 plus dwelling units per acre) to be located within walking distance of neighborhood commercial centers, parks, schools and public transportation routes. They should also be located in close proximity to concentrations of employment, major thoroughfares and utility trunk lines. High-density residential uses should be directly accessible to arterial or collector streets. Finally, high-density developments should be sited where they will not overload or create congestion in existing and planned facilities.

RECOMMENDATION: Planning staff generally supports projects proposing increased density since higher density uses more efficiently utilize publicly supplied services. However, the mid-mile location and small size and shape of this particular tract makes it difficult to see how densities as high as 18 units per acre can be effectively accommodated and stay in character with existing and proposed developments. Based upon information available prior to the public hearings, planning staff recommends that the request for "MF-18" Multi-family Residential be DENIED. Staff recommends that "TF-3" Two-family Residential zoning be APPROVED, subject to platting within one year. That will also allow for the filing of a Conditional Use permit in the future, if there is a development plan for condominiums or multi-family use up to 14.5 units per acre.

This recommendation is based on the following findings:

2. The zoning, uses and character of the neighborhood. Neighboring properties are zoned "SF-20" Single-family

Residential, "SF-6" Single-family Residential or "TF-3" Two-family Residential. Land to the north, east and west is undeveloped, but approved for single-family residential, while land to the south is developing with duplex units. A large-lot residential subdivision exists southeast of the application area.

2. The suitability of the subject property for the uses to which it has been restricted. The property is zoned "SF-6" Single-family Residential by virtue of its annexation. According to the applicant, due to its triangular shape and small size, this tract has proven to be difficult to design an effective single-family subdivision. A day care or small church may be alternate uses available under the "SF-6" zoning classification.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: "MF-18" it too intense a district given surrounding zoning and uses listed in 1 above. "TF-3" provides a more appropriate intensity and density of uses, while preserving an option for higher densities through the Conditional Use process.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The "Wichita Land Use Guide" depicts this site as appropriate for "low density residential". Low-density residential uses are defined as those developments with 1 to 6 dwelling units per acre. "MF-18" zoning is not consistent with Plan recommended densities. "TF-3" zoning would be more consistent with recommended densities.

5. Impact of the proposed development on community facilities: None identified, although at the time of platting, a left-turn lane and/or decel lane may be needed.

GOLTRY "This is located on a little triangular tract at the quarter section corner between railroad tracks and on 45th Street. We have undeveloped, residentially zoned property here (indicating); we have developed in large lots single-family here; we have 'TF-3' which is currently under construction. We have some industrial here (indicating) and the Sawmill Creek Addition, which is a single-family development under development, and then the remaining part of the quarter section.

As you saw in the staff report, the applicant has requested 'MF-18'. To get down to the meat of the recommendation on our part is that we think that 'MF-18', which represents high density residential use, that this is not the most appropriate location for all of the different recommendations for 'MF-18' that you have, such as within walking distance of neighborhood commercial centers, etc., that are contained in detail on Page 3. Therefore, the Planning staff is recommending that at this mid-mile location, it be rezoned 'TF-3', similar to the tract that is to the south of 45th Street. This does leave the option, were the applicant to wish to develop it in a multi-family type of use, it could do so through a Conditional Use vehicle.

We feel that the Conditional Use vehicle was the preferable way to approach it unless they are developing traditional duplexes. We all kind of know what traditional duplexes look like, and unless that is the type of development, the site plan review would be beneficial to look at the mix of building types, massing materials, roof lines, building orientations, site circulation. Therefore, that is the bulk of the staff recommendations.

I believe that Mr. Johnson, the agent for the applicant has prepared a revised site plan, and I will stand for questions."

CARRAHER "Are there any questions for staff regarding this item?"

WARREN "Have you looked at the new site plan?"

GOLTRY "Not closely. I saw it briefly at the beginning of the meeting."

WARREN "Does it more satisfy what you are looking for in the 'TF-3'?"

GOLTRY "I can't respond to that on the spot. Having just looked at it that way. It does give building orientation, site circulation type elements. We don't have any information on building-type materials, mass, those kinds of concerns."

CARRAHER "Are there any further questions of staff? Seeing none, thank you, Ms. Goltry. Would the applicant like to speak at this time?"

RANDY JOHNSON "I am with Savoy, Ruggles and Bohm, on behalf of the applicant. Basically, I just want to talk about at first that we believe that the goals that the developers have and goals that the city have as far as the best possible use for this ground are in the same area. We believe we are thinking on the same line as creating the best possible use for this ground being a low-density to a low medium density, which a low density in their category is 1-6.

The site plan that you see in front of you is basically eight units per acre, which is probably the highest density that would occur on this site as far as development. The one thing that we would like to take into consideration is the actual 'MF-18' zone case before you tonight and how to keep the thing going forward. We would like to propose, at your wish, that we continue on with the 'MF-18', or are granted the 'MF-18' zoning and apply a Protective Overlay to this site, which I could go through 3 or 4 restrictions that we would be willing to do. One would be to lower the density to 8 units per acre. One thing I wanted to add with the 'TF-3' zoning, if we were forced to do the 'TF-3' zoning at this point in time, we would only be allowed to build one duplex on that 3 acre lot without the use of a Conditional Use. We are just trying to keep the things going forward, and I think the ultimate goal is the same as far as the developers and the Planning staff.

The second idea would be to limit the height to 35 feet so that we could restrict down to 'TF-3' heights that are allowed. I believe 'MF-18' is 45 feet, so we are willing to drop that down.

The third thing, and Donna had touched on this. We agreed to go through the site plan review on it and make that part of the Protective Overlay that before anything happens that they get the chance to review it to make sure that the character of what we are trying to do is with the character of what is existing around, either to the south whichever direction. Basically, I just wanted to make sure that we kept the thing in forward progress. I think that by using the Protective Overlay with the 'MF-18' zoning, we could accomplish the same things and not have to resubmit and come back before you again with the Conditional Use asking you for the exact same things that I am asking for right now. I would be glad to answer any questions."

CARRAHER "Are there any questions of the applicant?"

GAROFALO "Sir, you said there were four points and you only gave us three."

JOHNSON "I mean three."

GAROFALO "Oh, okay."

JOHNSON "Could I just make one more comment to that? Those three items we felt were part of the major concern of the Planning staff as far as going with 'MF-18' zoning. We are willing to come down on those three items because I think that takes care of a lot of their major concerns that they had with that higher use zoning."

CARRAHER "Are there any further questions of the applicant? Thank you, Mr. Johnson. We will move out to the gallery now. Is there anyone in the gallery who wishes to speak in favor of this item? Is there anyone in the gallery who wishes to speak in opposition to this item?"

DAN MORRISON "Thank you for hearing me. I live at 8801 East and 45th North. I am the first property next to these. If we could go back to that, I could show you exactly where. I live in the Sun Air development, which is just east of there. This development has acre lots and larger--I believe between 1 and 5 acre lots.

On this little paper that I have handed out, in the orange area they are building 20 twin homes. That is 40 residences to be put in there. I believe they are rentals, as far as I know. Across the street, the area there in the red, is the proposed area. From what I understand, these are to be apartments. Well, this is a very rural, country neighborhood with lots of open space and green grass. The traffic in the neighborhood is about to double and it is going to triple if these apartments are built. The neighborhood will be changing from lots of green grass and good views to concrete and obstructed views.

Apartments in a neighborhood are not good for property values and the crime rate increases as the number of people in a neighborhood increases. My wife worked in the apartment industry for some five years as a manager. My family has owned duplexes, I have lived in duplexes. We moved out of the duplexes because of that reason, to move into single-family homes. It would be in the best interest of the existing residents if single-family homes or even quality twin homes were constructed. It would also be better if they were for purchase and not for rental. I think that is a big difference. Better yet, we propose that they turn this area into a park for the community instead of cramming another bunch of homes on top of each other in that area.

If we knew that another apartment complex or community was going to be built, we would not have purchased our existing residence. I moved from the south Florida area to Wichita because I liked the community. I wanted to raise my family in a less transient area. There are places that you want to raise a family in and those that you do not. We do not want to raise our small children adjacent to an apartment community. We do not object to single-family homes that have permanent residents in the area. That is all I have for your consideration. Thank you."

CARRAHER "Are there any questions for the speaker? Thank you, sir. Is there anyone else in the gallery who wishes to speak in opposition to this item? Seeing none, Mr. Johnson, you have the opportunity for a two minute rebuttal if you would like to take it."

JOHNSON "I just want to mention one thing. The developers of this site are also developing the property to the north of the railroad tracks. The intentions for them to come in and do something that would hurt their development do not exist. They are going to make sure that whatever they do is definitely in compliance or in the same character of the residential neighborhood. They don't want to have a harder time selling their lots or offend anybody else that is across the street or in any direction."

CARRAHER "Are there any questions of the applicant?"

GAROFALO "In the staff report, it mentions that the Sawmill Creek Addition has been approved by the MAPC but has not received the governing body approval. Does that mean it has been denied, or has it gone to them yet?"

KROUT "It hasn't gone to them yet."

GAROFALO "Thanks."

CARRAHER "Are there any questions for Mr. Johnson? Thank you, Mr. Johnson. Now, we will move it back to the Commission. Are there any questions or commentary from the Commission regarding this item?"

MARNELL "I would like to hear staff's comment on Mr. Johnson's proposal for the restrictions."

KROUT "It would be very similar to what you approved on Webb Road and Mt. Vernon earlier this afternoon if you can remember that far back. We approved 'MF-18' with restrictions for a site plan review and no more than 6 units per acre. I think it is very appropriate on sites likes this. It will make it easier to fit in buildings if you are not limited to all of the standards of having to put in city streets and lots.

I just think it ought to be limited to 6 units per acre. That is the density is across the street and the density you approved at Webb and Mt. Vernon. I think that will set up the tract to the east better for continued single-family development. But generally we don't have an objection with the way he wants to handle it."

CARRAHER "Are there any further questions or commentary on this item?"

GAROFALO "I wonder if we should ask the applicant if he would consider the six units per acre."

CARRAHER "Mr. Johnson, could we have you approach the podium, please. Could you ask the question again, Mr. Garofalo?"

GAROFALO "Mr. Johnson, you heard Mr. Krout's comments. Would you be in agreement or disagreement with that?"

JOHNSON "We would like to have the 8, but the 6 is probably acceptable. The 8 units per acre, again, we feel that it is not crowding the site too much. We probably wouldn't be able to get more than that on there. Down to 6, I think you would have a lot more space. How about 7?

Part of the problem is that it is a little bit speculative still, exactly what is going to get built. What we are showing you is probably what will be there, but we can't exactly say that for sure. So the unit count may vary a little bit. It will not go above 8, but it may go down a little bit from that. I can't say that 6 would be the number that it would have to go down to."

MICHAELIS "My comment on that, as far as the number of units per acre, I question whether this site is really that burdened by that because of the shape of it and the location and everything else. If you were driving down the street, could you tell whether this was a 6 unit per acre or an 8 unit per acre? I seriously question that. I think going for 'MF-18'; coming down to 8 units per acre is cutting it less than half. I just feel that that is a pretty good concession there."

JOHNSON "If I understand this right, Marvin, you would still get to review the plan, correct?"

KROUT "Right."

JOHNSON "I guess in defense of that, I wouldn't be opposed to the 8 either, as long as staff is reviewing it and if it looks like it is something we don't want, then they will know it."

> **MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood. Neighboring properties are zoned "SF-20" Single-family Residential, "SF-6" Single-family Residential or "TF-3" Two-family Residential. Land to the north, east and west is undeveloped, but approved for single-family residential, while land to the south is developing with duplex units. A large-lot residential subdivision exists southeast of the application area. The suitability of the subject property for the uses to which it has been restricted. The property is zoned "SF-6" Single-family Residential by virtue of its annexation. According to the applicant, due to its triangular shape and small size, this tract has proven to be difficult to design an effective single-family subdivision. A day care or small church may be alternate uses available under the "SF-6" zoning classification. Extent to which removal of the restrictions will detrimentally affect nearby property: "MF-18" it too intense a district given surrounding zoning and uses listed in 1 above. "TF-3" provides a more appropriate intensity and density of uses, while preserving an option for higher densities through the Conditional Use process. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The "Wichita Land Use Guide" depicts this site as appropriate for "low density residential". Low-density residential uses are defined as those developments with 1 to 6 dwelling units per acre. "MF-18" zoning is not consistent with Plan recommended densities. "TF-3" zoning would be more consistent with recommended densities. Impact of the proposed development on community facilities: None identified, although at the time of platting, a left-turn lane and/or decel lane may be needed.) I move that we recommend to the governing body that the request be approved, subject to platting within 1 year and the following additional provisions of a Protective Overlay:

1. At 8 dwelling units per acre,

2. The height of 35 feet, and

3. Staff reviewing the final layout.

JOHNSON moved, **WARREN** seconded the motion.

CARRAHER "Are there any questions or commentary regarding the motion on the floor? Seeing none, we will move into a voice vote."

VOTE ON THE MOTION: The motion carried unanimously (10-0).

---

12. **ZON2000-00058** - Dale G. Jr., and Corelia M. Diggs (Owner/Applicant); Andre Barry (Agent) request zone change from "GO" General Office and "B" Multi-Family Residential to "OW" Office Warehouse on property described as:

Odd Lots 1 through 33, inclusive, on 9th Street, Frisco Avenue Addition to Wichita, Kansas, Sedgwick County, Kansas. Generally located south of 9th Street North and west of Hillside (3101 E. 9th).

SCOTT KNEBEL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant requests a zone change from "GO" General Office and "B" Multi-Family Residential to "OW" Office Warehouse on a 1.13 acre platted tract located south of 9th Street North and west of Hillside (3101 E. 9th). The applicant is currently using the site as an office, warehouse, and outdoor storage yard for Diggs Construction Company. The current zoning does not permit these uses, and the applicant has received a notice of violation from the Office of Central Inspection. The "OW" Office Warehouse zoning district permits the current uses of the site.

The subject property is developed with a building that formerly housed a psychiatric clinic and a church. The subject property has a paved parking area and an unpaved outdoor storage area. Screening and buffering of the site is provided along the south property line by the combination of a masonry wall, the wall of the building, and a drainage canal. Screening and buffering along the west property line is provided by a hedge row and a street. The outdoor storage area is enclosed by a chain link fence.

The "OW" Office Warehouse zoning district limits the size of outdoor storage areas to 100% of the floor area of all buildings on the zoning lot. County real estate records indicate that the building on the subject property is 12,770 square feet; thus, a 12,770 square foot outdoor storage area would be permitted by the "OW" district. Screening by decorative fencing, evergreen vegetation, and/or landscaped earth berms would be required for an outdoor storage on the subject property.

The surrounding area is developed with residential uses to the south and west, institutional uses to the north, and commercial uses to the east. The properties south of the site are zoned "TF-3" Two-Family Residential and are developed with duplexes and single-family residences. The properties west of the site are zoned "MF-29" and "B" Multi-Family Residential and are developed with duplexes and single-family residences. The property north of the site is zoned "B" Multi-Family Residential and is developed with a cemetery. The properties east of the site are zoned "LC" Limited Commercial and "GC" General Commercial and are developed with a vacant commercial lot and an electrical contractor businesses with outdoor storage.

CASE HISTORY: The site is in the Frisco Avenue Addition, which was recorded July 25, 1887.

ADJACENT ZONING AND LAND USE:

NORTH:	"B"	Cemetery
SOUTH:	"TF-3"	Duplex, Single-Family
EAST:	"MF-29" & "B"	Duplex, Single-Family
WEST:	"LC" & "GC"	Vacant, Construction Sales and Service

PUBLIC SERVICES: The site has frontage to 9th Street North, a two-lane arterial street with 1997 traffic volumes of approximately 6,000 vehicles per day. The 2030 Transportation Plan estimates the volumes will increase to approximately 8,000 vehicles per day. The site is currently served with municipal water and sewer.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

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

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Commercial uses with outdoor storage are an established use in the area, with a contractor's storage yard located one block to the east. Residential uses in the area do not directly abut the site and are separated by a drainage canal to the south and a street to the west. The property mostly directly impacted by the proposed use is developed with a cemetery.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "GO" General Office and "B" Multi-Family Residential and could be used for office or multi-family uses.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site has significant buffers and screening from existing residential uses. Outdoor storage uses on the site would also be subject to additional screening requirements.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed zone change adheres to these Commercial Locational Guidelines.

5. Impact of the proposed development on community facilities: Community facilities should not be adversely impacted.

KNEBEL "The applicant in this case is Diggs Construction Company. They are currently occupying the building and have received a notice of violation from the Office of Central Inspection, due to the fact that they are utilizing the site to store equipment and materials. If they were only using the site for their office, it would be compliant with the zoning. Due to that, the applicant has requested a rezoning to the Office Warehouse District, which would allow an outdoor storage area equal to the size of the building and would be required to be screened. The site is relatively well-screened from residential property now by the building and by a drainage ditch. There is a solid row of evergreen trees on the east side. DAB No. 1 met on December 4 and voted for approval of this. Based on these factors, the Planning staff is recommending approval."

CARRAHER "Are there any questions for staff regarding this item? Mr. Knebel, I have a question. You said this issue came before DAB No. 1 on December 4. There is no blue sheet accompanying the staff report. What was the vote?"

KNEBEL "It was recommended for approval and there were no opposition votes."

BARFIELD "Based upon the outside storage of materials, is there any particular type of screening that will be required?"

KNEBEL "There are several options, all of which require solid screening. It could be solid evergreen vegetation, which they do have on the east side today. It could be a solid wood fence; it could be a berm and landscaping combination, but the material and the equipment would have to be screened from ground level view."

BARFIELD "Now, when you say the screening on the east side, don't you mean the west side?"

KNEBEL "Yes. It is the west side, that's right."

CARRAHER "Are there any further questions of staff? Thank you, Mr. Knebel. Now we will hear from the applicant."

ANDRE BARRY "I will make this short. I live at 7244 Bainbridge Court. I am representing Diggs Construction. We comply with all staff recommendations. Do you have any questions or comments?"

CARRAHER "Are there any questions for the applicant regarding this item?"

BARFIELD "Regarding the screening on Ninth Street, what type of construction do you propose?"

BARRY "Diggs Construction proposes, as the area is today, to the west, we have 15 plus feet of hedgerow. We have 15 plus feet of hedgerow to the south. We don't have any residential to the north of us. It is a graveyard. So, really, we didn't propose any type of screening for Ninth Street. But we do comply with staff recommendations."

BARFIELD "I think you just heard staff say that solid screening would be necessary on Ninth Street. That is why I asked you what you proposed there."

BARRY "Due to the meetings I have had with staff, the screen will be proposed for the actual equipment or material that is in the rear of the building, not for the whole site."

BARFIELD "I understand that. What I am saying is that what you refer to as the rear would be the west side?"

BARRY "Yes."

BARFIELD "Well, then I am speaking of the north side, on Ninth Street."

BARRY "If you could look at the building proposed to Ninth Street, the north side, do you propose that we screen the whole side, the north side of Ninth Street?"

BARFIELD "I was asking--you are storing materials out there. Those are clearly visible from Ninth Street. I am asking what are you proposing to screen it with?"

BARRY "Solid screening, such as wood or masonry, such as we have done in the front, which is to the east. We have put up a 10-foot block wall."

BARFIELD "That is what I was asking."

CARRAHER "Are there any further questions of the applicant? Thank you, Mr. Barry. Now we will move it to the gallery. Is there anyone in the gallery who wishes to speak in favor of this item?"

MRS. DIGGS "To address Mr. Barfield's question, I will make sure that Dale has some screening on Ninth Street. I ask that you would approve with the staff recommendations. Thank you."

CARRAHER "Are there any questions for the speaker? Seeing none, thank you ma'am. Is there anyone else who wishes to speak in favor of the item? Is there anyone in the gallery who wishes to speak in opposition to this item? Seeing none, we will move it back to the Commission."

> **MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (1. The zoning, uses and character of the neighborhood: Commercial uses with outdoor storage are an established use in the area, with a contractor's storage yard located one block to the east. Residential uses in the area do not directly abut the site and are separated by a drainage canal to the south and a street to the west. The property mostly directly impacted by the proposed use is developed with a cemetery. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "GO" General Office and "B" Multi-Family Residential and could be used for office or multi-family uses. Extent to which removal of the restrictions will detrimentally affect nearby property: The site has significant buffers and screening from existing residential uses. Outdoor storage uses on the site would also be subject to additional screening requirements. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed zone change adheres to these Commercial Locational Guidelines. Impact of the proposed development on community facilities: Community facilities should not be adversely impacted.) I move that we recommend to the governing body that the request be approved, subject to staff comments.
>
> **JOHNSON** moved, **GAROFALO** seconded the motion.

PLATT "I have a comment. I am having a hard time with this case. It seems to me that Ninth Street is developing as one of the important east/west connections between the eastern part of the City and downtown. It seems to me that is becoming a corridor in terms of a lot of health concepts with the Wesley Medical Center and going down to the Red Cross downtown. You have St. Francis along the way. I just basically don't like the idea of starting to put construction storage along Ninth Street. It doesn't make sense to me. It doesn't seem like it is the place for it. It seems to me that this sort of thing ought to be in an industrial area. We have done a tremendous amount of work trying to clean up a lot of the industrial areas along this corridor and I don't like to start putting additional things in. I don't like the idea of construction storage on Ninth Street at all."

CARRAHER "Are there any further questions or commentary regarding the motion on the floor. Seeing none, we will move into a voice vote."

> **VOTE ON THE MOTION:** The motion carried with 9 votes in favor (Marnell, Johnson, Warren, Warner, Carraher, Garofalo, Barfield, Michaelis and Hentzen). There was one in opposition (Platt).

---

13. **CON2000-00051** - Nina M. Day (Owner/applicant) Stephen K. Lester (contract purchaser/applicant) request a Conditional Use top permit Limited Manufacturing on property described as:

Lot 1, Day Addition, Wichita, Kansas, Sedgwick County, Kansas. Located on the southwest corner of South Hydraulic and Gilbert.

DONNA GOLTRY, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

BACKGROUND: The application area is located at the southwest corner of south Hydraulic and Gilbert. The site is platted as the Day Addition, is .43 acre (16,800 square feet) in size and is vacant. The applicant is seeking a Conditional Use to permit Limited Manufacturing (a woodworking shop) in the "LC" Limited Commercial district. The applicant builds, repairs and refinishes furniture. He wishes to build a 24-foot by 36-foot building (864 square feet) on the site. The building is to be approximately 15 feet tall, have a composition shingle roof and have painted siding. An overhead garage door will be placed to the north. The proposed building is to be located: 32.5 feet from both the northern and southern lot lines; 35 feet from the west property line and 87.5 feet from the east property line. Access to the site is to be off Gilbert. The plat restricts access to one point from Hydraulic; no access controls are evident on Gilbert. He currently maintains standard business hours of 8:00 A.M. to 6:00 P.M.

Surrounding land is zoned "B" Multi-family or "LC" Limited Commercial. Nearby land uses include residences, church and vacant. Land located north of Gilbert is occupied by a church. Land east, across Hydraulic is developed with an apartment complex, vacant and a strip center. Property to the south and west is developed with residences.

The Unified Zoning Code (UZC) permits "limited manufacturing" in the "LC" Limited Commercial zoning district as a Conditional Use subject to conditions:

1. The gross floor area of the manufacturing use shall not exceed 1 square foot of floor area to 3 square feet of lot area.
2. The minimum setback for any building shall be 30 feet.
3. No outside storage is permitted.
4. All parking and loading areas shall be paved and must not cover more than one-half of required open space.
5. The maximum number of employees on any one shift shall not exceed 15 per acre of lot area.

The UZC defines Limited Manufacturing as "…an establishment engaged in the on-site production of goods by hand manufacturing which generally involves only the use of hand tools or other equipment not exceeding two horsepower…. Typical uses include…millwork and cabinetry…."

Zoning screening (fencing, evergreen vegetation or landscaped berms) is required along side and rear yards where nonresidential uses are adjacent to residential zoning. This site will need to provide this screening along the south and west property line. The Landscape Ordinance requires parking lot screening, landscaped street yard and buffer plantings. Landscape buffers consist of a screening wall or fence, and a 15-foot wide strip with one shade tree or two ornamentals every 40 feet.

CASE HISTORY: Z-2476 granted "LC" Limited Commercial in 1982. Day Addition was platted in 1984.

ADJACENT ZONING AND LAND USE:

NORTH: "B" Multi-family Residential; church
SOUTH: "B" Multi-family Residential; single-family residence
EAST: "B" Multi-family Residential & "LC" Limited Commercial; apartments, vacant, strip center
WEST: "B" Multi-family Residential; residences

PUBLIC SERVICES: Publicly supplied services are available. Hydraulic is a paved arterial and is designated as a future 6-7-lane arterial. Current average daily traffic is 9700 trips.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" depicts this site as appropriate for Commercial uses. The Plan contains commercial location guidelines stating that:

1. Commercial sites should be located adjacent to arterial streets…to provide needed ingress and egress in order to avoid traffic congestion.
2. Commercial development should have site design features that limit noise, lighting, and other aspects of commercial activity that may adversely impact surrounding residential land uses.
3. Commercially generated traffic should not feed directly onto local residential streets.

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

1. The property shall be developed and maintained in compliance with approved site plans.
2. Permitted uses are those permitted by-right in the "LC" Limited Commercial district plus limited manufacturing (wood working shop)

3. Prior to the issuance of a building permit, the applicant shall submit a landscaped plan for approval by the Planning Director.
4. Any violation of the conditions of approval shall declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. Surrounding zoning is either "B" Multi-family Residential or "LC" Limited Commercial. Uses are primarily residential, with other uses being a church, a commercial strip center and vacant. Hydraulic is an arterial street that is scheduled to be improved to 6-7 lanes by 2030. All the land immediately east, across Hydraulic is zoned "LC". This corridor appears to be in a transition from an older pattern of homes fronting an arterial, to a pattern where the homes are being converted or removed to make way for intense uses.

2. The suitability of the subject property for the uses to which it has been restricted. The site is currently zoned "LC". The property has been zoned "LC" since 1984 and has remained vacant. Approval of the request would allow a known user to develop a lot that is currently vacant.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The conditions of approval, required buffers, landscaping and setbacks placed on the property serve to mitigate anticipated negative impacts.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The "Wichita Land Use Guide" depicts this site as appropriate for Commercial uses.

5. Impact of the proposed development on community facilities: If developed, traffic will increase. However a use of this size will generate a minimal amount of traffic.

GOLTRY "This will be brief because I am not familiar with the case. (It is not my case.) This is an application for 'LC' at the corner of Hydraulic and Gilbert. It is a Conditional Use for a woodworking shop. I honestly feel that I should defer to Mr. Krout on this case. He has at least read the staff report on it."

KROUT "I really don't think you would have to go any further. If you have any questions of us, we will assume that you have read the staff report. We are recommending approval, subject to the conditions that are in the report."

GOLTRY "I remember this totally from development review. We said that we thought this was a pretty good use for the property."

CARRAHER "Are there any questions of Ms. Goltry or Mr. Krout? Seeing none, we will hear from the applicant."

STEPHEN LESTER "I live at 235 North Pershing. I am the contract purchaser of this property. The property is presently a vacant lot that has been vacant for some time. I propose to build a building on it of approximately 24 x 36 feet in size to be used as a woodworking shop."

CARRAHER "Are there any questions of the applicant? Thank you, Mr. Lester. We will move to the gallery. Is there anyone in the gallery who is wanting to speak in favor of this item? Is there anyone in the gallery wishing to speak in opposition to this item? Seeing none, we will move it back to the Commission. What is the pleasure of the Commission?"

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood. Surrounding zoning is either "B" Multi-family Residential or "LC" Limited Commercial. Uses are primarily residential, with other uses being a church, a commercial strip center and vacant. Hydraulic is an arterial street that is scheduled to be improved to 6-7 lanes by 2030. All the land immediately east, across Hydraulic is zoned "LC". This corridor appears to be in a transition from an older pattern of homes fronting an arterial, to a pattern where the homes are being converted or removed to make way for intense uses. The suitability of the subject property for the uses to which it has been restricted. The site is currently zoned "LC". The property has been zoned "LC" since 1984 and has remained vacant. Approval of the request would allow a known user to develop a lot that is currently vacant. Extent to which removal of the restrictions will detrimentally affect nearby property: The conditions of approval, required buffers, landscaping and setbacks placed on the property serve to mitigate anticipated negative impacts. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The "Wichita Land Use Guide" depicts this site as appropriate for Commercial uses. Impact of the proposed development on community facilities: If developed, traffic will increase. However a use of this size will generate a minimal amount of traffic.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. The property shall be developed and maintained in compliance with approved site plans.

2. Permitted uses are those permitted by right in the "LC" Limited Commercial district plus limited manufacturing (wood working shop)

3. Prior to the issuance of a building permit, the applicant shall submit a landscaped plan for approval by the Planning Director.

4. Any violation of the conditions of approval shall declare the Conditional Use null and void.

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

---

14. **Case No. ZON2000-00050** -Bledsoe Enterprises, Inc. c/o Harry D. Bledsoe and John E. Dugan (Owners/Applicants); Baughman Company, P.A. c/o Philip J. Meyer (Agent) request zone change from "SF-6" Single-Family Residential to "LC" Limited Commercial on property described as:

The south 40.00 feet of Lot 11 EXCEPT the west 15.00 feet thereof for street, Lots 12 & 13 EXCEPT the west 15.00 feet for street, and that part of Lot 14 lying north of a line 600.00 feet north of and parallel with the south line of the SW 1/4 of Sec. 29, Twp. 27-S, R-1-W, EXCEPT the west 25.00 feet thereof for street, all in Verda Vista, Sedgwick County, Kansas, TOGETHER with a tract in the SW 1/4 of Sec. 29, Twp. 27-S, R-1-W, described as beginning at the NE corner of Lot 14, Verda Vista, Sedgwick County, Kansas; thence east along the north line of said Lot 14 extended 94.00 feet; thence south parallel with the east line of said Verda Vista, 43.90 feet to a point 600.00 feet north of the south line of said SW 1/4; thence west parallel with the south line of said SW 1/4, 94.00 feet to the east line of said Verda Vista; thence north 44.10 feet to beginning. Generally located on the north of Kellogg and east of Maize.

SCOTT KNEBEL, Planning staff, pointed out land use and zoning and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant requests a zone change from "SF-6" Single-Family Residential to "LC" Limited Commercial on a 1.42 acre partially-platted tract located north of Kellogg and east of Maize. The applicant indicates that the "LC" Limited Commercial zoning is needed to relocate an existing convenience store (Quik Trip) currently located on the adjoining property to the south. The business needs to be relocated due to the construction of a Kellogg/Maize interchange (see attached site plan). According to the site plan, the relocated business would only require approximately 0.3 acres on the southern portion of the property requested for rezoning, with no use identified by the applicant for the northern 1.12 acres of the subject property.

A plat (SUB2000-00110) that includes the property requested for rezoning is scheduled to heard by the MAPC at the same hearing as the rezoning request. Staff is recommending that as a condition of the plat that only two access openings be permitted along Maize, which would eliminate one of the access openings for the Quik Trip that is shown on the attached site plan unless the northern most opening were to be shared with the parcel to the north.

The surrounding area is characterized by both commercial and residential uses with significant amounts of undeveloped property remaining along Kellogg. The property immediately south of the site is developed with a Quik Trip on property zoned "LC" Limited Commercial. The properties north of the site are developed with single-family residences on property zoned "SF-6" Single-Family Residential. The property west of the site is undeveloped and is zoned "SF-6" Single-Family Residential. The properties east of the site across Maize are zoned "SF-6" Single-Family Residential and are developed with single-family residences.

CASE HISTORY: A portion of the site is platted as part of the Verda Vista Addition, which was recorded July 7, 1955.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-6"	Single-Family
SOUTH:	"LC"	Convenience Store
EAST:	"SF-6"	Single Family
WEST:	"SF-6"	Undeveloped

PUBLIC SERVICES: The site has access to Maize, a four-lane arterial street with 1997 traffic volumes of approximately 8,700 vehicles per day. The 2030 Transportation Plan estimates that traffic volume on Maize will increase to approximately 17,500 vehicles per day. Public water and sewer are available to serve the site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed use of the subject property meets these locational guidelines for commercial development. Additionally, expansions of businesses at existing sites are generally encouraged over constructing completely new sites for business expansions.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within one year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by both commercial and residential uses with significant amounts of undeveloped property remaining along Kellogg. The property immediately south of the site is developed with a Quik Trip on property zoned "LC" Limited Commercial. The properties north of the site are developed with single-family residences on property zoned "SF-6" Single-Family Residential. The property west of the site is undeveloped and is zoned "SF-6" Single-Family Residential. The properties east of the site across Maize are zoned "SF-6" Single-Family Residential and are developed with single-family residences.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-6" Single-Family Residential, which accommodates moderate-density, single-family residential development and complementary land uses. Given the limited size of the subject property and its location near a future freeway interchange, it is unlikely that the subject property would develop with single-family residential uses.

4. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the existing regulations of the Unified Zoning Code, Landscape Ordinance, and Sign Code, which should sufficiently limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed use of the subject property meets these locational guidelines for commercial development. Additionally, expansions of businesses at existing sites are generally encouraged over constructing completely new sites for business expansions.

5. Impact of the proposed development on community facilities: Community facilities should not be adversely impacted.

KNEBEL "This case has an associated case with it, Subdivision Item 1-3. The request is for Limited Commercial zoning located at Kellogg and Maize. The zoning request is being made due to the reconstruction of Kellogg to freeway standard, which is requiring the relocation of an existing Quik-Trip further to the north. The parcel that is being requested for rezoning would also have some vacant Limited Commercial ground that would be remaining north of that site. I think the only issue where there is disagreement between staff and the applicant is regarding the number of proposed entrances.

This is similar to a case that was discussed in depth earlier regarding how many entrances should be permitted. The applicant is requesting three drives along this stretch of Maize Road. Two of them would be for the Quik Trip business. You can see them here (indicating); they are located rather close together. Staff is recommending that there be one of these, or maybe one in the middle and then another, lined up with the street across Maize to the west for the parcel north of the Quik Trip. We are also recommending that the property be platted."

CARRAHER "Are there any questions for staff in regards to the item? Thank you, Mr. Knebel. Seeing none, we will move on to the applicant."

PHIL MEYER "I am with the Baughman Company, agent for the applicant. I think, as Scott stated, our only issue today is the access control. The plat was on Subdivision last week. We had the plat approved with the three openings. We visited with Engineering and they were aware and saw the site plan and approved it with the three openings. We had the two openings for the Quik Trip and another opening to the north that we agreed with Engineering would align with Ringer.

Quik Trip has been negotiating with the city for a year or so, maybe two years, to sell them this property. (Indicating) This is the existing store, which is needed for right-of-way. During that time, they discussed the site. They had always felt like they had shown the city the two drives. I am not sure that the Planning Department was privy in those conversations, but they have always shown these two drives. They want this drive (indicating), because it services the pump stations in the front of the store. They have an agreement with the owner to the east that they will allow him access to their site. They would like for this drive here (indicating) to allow his access to go through the site and out and not have to come in and start meandering through the store. They do not want to be limited to removing this drive and only having this one because from people coming to the pump stations, you have a lot of traffic trying to get down to the pump stations.

We would like to ask you today to support the zone change with the three drives as it was approved at Subdivision last week. With that, I will answer any questions you might have."

CARRAHER "Are there any questions of the applicant?"

JOHNSON "How many ways can you get into the existing Quik-Trip to the south of this?"

MEYER "Two."

JOHNSON "Are there two on the south and one on the north?"

MEYER "I'm sorry. There are three. There are two on the south, but they are two drives. (Indicating) There is one here and one here. Then there is that little access road that goes back to the opening on Kellogg. But that is the site plan for the existing store--the pump stations are here. Quik-Trip, and you have seen many of their cases, keeps expanding and expanding their stores and their operations. They are very successful stores. They are expanding their pumps at their location and moving to the double-stacked pump system."

HENTZEN "What is the present on that land? Is it residential?"

MEYER "A portion of what we are doing is single-family."

HENTZEN "And your property does not go all of the way to that next row of trees on the east side of Maize Road north of your property? In other words, you are not using the whole lot?"

MEYER "Correct. Quik-Trip had to purchase the entire piece of property to get the portion they needed at the north end. That is why we are requesting the zone change."

HENTZEN "Oh, okay."

CARRAHER "Are there any further questions of the applicant? Thank you, Mr. Meyer. We will now move to the gallery. Is there anyone in the gallery who wishes to speak in favor of this item? Is there anyone in the gallery who wishes to speak in opposition to this item?"

NORMAL ROELFS "I live a 10405 Ringer Drive, which is just the second house west on Ringer. We have no problem with Quik-Trip other than the traffic problem, and we definitely agree with the staff comments on the number of entrances. Right now, they have two entrances on Maize Road, but they are farther south and it is not quite as bad. But if you move them close, we've got something like 300 feet after we come around the corner. I think I sent a sketch that everybody has today. You have to merge across two lanes and turn in 300 feet and you have three entrances proposed in there. If you start looking at traffic patterns after living out there, there is about 16 different ways that cars can come across in front of you, behind you, beside you, or around you. We just feel like this is a big hazard.

I might show you a picture of what happened at the corner of the house. Could you pass those around? This is what happened here this fall in traffic. This went into the yard, but if somebody was coming down the street, it would be just as bad. We just feel like there is too much traffic coming down that street and it is too many entrances too close. We would be more than happy to restrict it to one entrance down at the south end where they want it and then one that lines up with Ringer Drive. That would not bother us. But the three entrances, I think, is an accident that even has a place to happen. I would like for you to see those pictures. By the way, the owner of that property was standing back there raking leaves when that car came flying through the fence."

CARRAHER "Are there any questions of the speaker? Thank you, Mr. Roelfs. Is there anyone else in the gallery who wishes to speak in opposition to this item? Seeing none, Mr. Meyer, you have the opportunity for a two-minute rebuttal if you so wish to take it."

MEYER "I can't say anything that wouldn't be redundant. We really feel that we need the two points of access for this site. Again, the separation of traffic, and we are supplying some access to the property to the east, which in the end, is what Planning is usually looking for, trying to get joint uses between property. We have access up here (indicating) and we would like for their traffic to get straight through. This is the logical location to this access point with the front of the store and the service pumps here. With that, I would be glad to answer any questions you have."

GAROFALO "Most of the Quik-Trips….do they have one or two entrances? Do you know?"

MEYER "They at least have two, if not three, on most of them. I am trying to think of some of the different stores around town. For example, Douglas and Washington has three. Lincoln and Hydraulic has three. This existing store has three. They have at least two and many of the sites have three. I can't think of one Quik-Trip that only has one access point."

KROUT "In cities that practice good access management like maybe Olathe or Overland Park where I know there are a lot of Quik-Trips, and they are probably building some of these larger stores with the dual access. Are those communities letting them build two access points 80 feet apart like this?"

MEYER "I don't know. I can't think of driving by one in Olathe and I go to Kansas City quite a bit. But I can't remember seeing any."

JOHNSON "Phil, is this similar to the one in Derby now that they are remodeling?"

MEYER "Yes."

JOHNSON "It's planned very similar to that. Just by being at that one, it appears to me that part of the reason for the two accesses, one has to do with delivery trucks, and it seems like the majority of the employees parked at the back where the deliveries were made and it kept the front entrance for the customers so they don't have conflicts between trucks unloading and customer parking."

MEYER "That particular site is laid out almost exactly like this one with the three openings."

BARFIELD "Marvin, do you happen to know what the distance is that separates the two drives at 13th and Oliver?"

KROUT "Isn't there only one drive on each of the driveways and then one on 14th Street?"

BARFIELD "No. There are two on Oliver."

KROUT "Well, they are very close together then."

MARNELL "Mr. Roelfs suggested moving the drive to line up with Ringer Street, and when I look at his plan and look at yours, it looks like you don't have the property to the north to allow that."

MEYER "We do. We have a drive that lines up with Ringer. That was City Engineering's requirement to us at the time of platting. These Quik-Trip stores carry so much traffic in them. My best example is the one at Douglas and Washington. The extra drives actually help release the traffic out of there a lot easier. There is a drive that lines up, right there."

MARNELL "Then it is probably this sketch that is in error then. Have you seen that?"

MEYER "Yes. I talked to Norman today. We have been out talking to all of the neighbors, trying to show them what we are doing, and I have been talking to Norman quite a bit."

WARREN "I am ready to make a motion."

CARRAHER "Put that on hold for now."

GAROFALO "One of your concerns is the property to the east having access, across."

MEYER "There is an agreement with the property owner to the east that he will have access to his property over there through there."

GAROFALO "Will there be a great problem for any traffic coming that way to go on up to the north drive?"

MEYER "We are not planning on building that north drive at this time."

GAROFALO "Well, okay, 'a' north drive is to be put in."

MEYER "I can only tell you the negotiations they have had to date that they have always planned on the drive going straight through. Most of those negotiations and discussions were made long before I entered into helping them zone and plat this property."

PLATT "Let's, for me, anyway, back up and make sure that I understand. The sketch we have has two of the three openings and there is a third one to the north that lines up with Ringer Street?"

MEYER "Yes, sir."

KROUT "And how far is it from the north opening of the Quik-Trip?"

MEYER "Well, the north opening of the Quik-Trip is right around in here (indicating). Those are 100 foot lots, so it is 170 feet."

CARRAHER "Are there any further questions of the applicant? Thank you, Mr. Meyer. We will move it back to the Commission. Are there any questions or commentary from the Commission regarding the item?"

KROUT "This one is important to us and we will bring this to the City Council if it is approved with two access points for the Quik-Trip. Look back at what we did early in the afternoon where we were saying five access points and these lots even had shared access between lots, and there were questions that maybe that was too much, the 1700 feet of right-of-way. Three access points in less than 300 feet of right-of-way doesn't make sense, whether it is the back of a Quik-Trip and the front of a Quik-Trip, are two different uses, there are too many access points.

If there are going to be conflicts, better for the conflicts to be in the Quik-Trip parking lot rather than out in the middle of Maize Road with the through traffic. These discussions that the City Engineer and the Traffic Engineer had with this applicant precede the strong effort that we have been making to try to improve our access management standards, and I

have since talked to the Traffic Engineer and the City Engineer and they agreed that they said it was okay a long time ago and that they have no objection if the staff tries to get better access controls in light of our efforts around the city to get better access control. So I would rather urge you, as part of the platting motion, the zoning, we have no problem with, I think, but on the platting motion, we strongly urge you to require the reduction of access points along Maize Road."

WARREN "Those of us who serve on the Subdivision Committee spent a lot of time on this and we had, available to us, the traffic engineers. Those traffic engineers did not object to this plat at it stands. I can see where it is going to be a strong deterrent to that business if we don't grant this application.

Like I said if Traffic had come down and said that they disapproved this, it would have made some difference, but they did not do that. Traffic approved what we had. Based on that, I am gong to make a motion. Do you want us to take this item first?"

KROUT "Yes, take the zoning first."

> **MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The surrounding area is characterized by both commercial and residential uses with significant amounts of undeveloped property remaining along Kellogg. The property immediately south of the site is developed with a Quik Trip on property zoned "LC" Limited Commercial. The properties north of the site are developed with single-family residences on property zoned "SF-6" Single-Family Residential. The property west of the site is undeveloped and is zoned "SF-6" Single-Family Residential. The properties east of the site across Maize are zoned "SF-6" Single-Family Residential and are developed with single-family residences. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-6" Single-Family Residential, which accommodates moderate-density, single-family residential development and complementary land uses. Given the limited size of the subject property and its location near a future freeway interchange, it is unlikely that the subject property would develop with single-family residential uses. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the existing regulations of the Unified Zoning Code, Landscape Ordinance, and Sign Code, which should sufficiently limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed use of the subject property meets these locational guidelines for commercial development. Additionally, expansions of businesses at existing sites are generally encouraged over constructing completely new sites for business expansions. Impact of the proposed development on community facilities: Community facilities should not be adversely impacted.) I move that we recommend to the governing body that the request be approved, subject to platting within 1 year.
>
> **WARREN** moved, **JOHNSON** seconded the motion.

CARRAHER "Are there any questions or commentary regarding the motion on the floor? Even though it is out of procedure, I am going to yield the floor to Mr. Meyer."

MEYER "I have a question. The motion per staff recommendation is to cut this back to two drives."

WARREN "Oh, I'm sorry."

KROUT "Well, this motion is only on agenda item No. 14, so it is only the zoning. When they make a motion on the plat, they will make a decision on the accesses."

WARREN "So if we make a motion on the Subdivision item, we can correct that?"

KROUT "Yes. I suggest you deal with the access issue when you deal with the plat approval."

CARRAHER "So, Mr. Warren, you are going to leave the motion as it is?":

WARREN "Yes."

VOTE ON THE MOTION: The motion carried unanimously (10-0).

CARRAHER "Now, we will move back to Subdivision agenda Item No. 1/3."

WARREN "As a member of that Subdivision Committee, I am going to move that we take the recommendation to approve this plat.

MOTION: That the recommendation of the Subdivision Committee be taken to approve the plat with the second opening as was requested by the applicant.

VOTE ON THE MOTION: The motion carried with 7 votes in favor (Warner, Warren, Hentzen, Johnson, Carraher, Barfield, Michaelis) and 3 in opposition (Marnell, Garofalo and Platt).

MICHAELIS "I think it would be better for us in Subdivision if something like this was that important that Traffic would be there at the proper time so that we don't get into these kind of situations. When we get there, we are kind of led a lot by what they say. It was not an issue then and subsequent to that, if it has become an issue, then you have the avenues to take care of it."

GAROFALO "Are you saying that the traffic people weren't there?"

MICHAELIS "No, they were."

GAROFALO "I thought you said they weren't."

KROUT "Paul Gunzelman was there and he said 'okay' because they had said 'okay' over a year ago and he felt that they should."

MARNELL "I just want to make a brief comment. I voted against this because I agree with staff on this. That is a very busy intersection. It is a major intersection and there is a very close drive right to it. That is the reason I voted against the motion."

GAROFALO "I would like to make a similar comment. I would second what Commissioner Marnell said. We have to think about the future. Maize Road is going to carry a tremendous amount of traffic. Especially since that site is so close to Kellogg. Just because we have given Quik-Trip access--two access and three access in certain locations, there is a big difference between Maize Road and some of the other locations in the amount of traffic."

15a. **Case No. ZON2000-00051** - Ritchie Corporation (H.T. Ritchie, owner/applicant); Baughman Company, P.A. (Russ Ewy) and Environmental Concepts and Design (Allan G. Chappell) request zone change from "SF-20D" Single-family residential to "LI" Limited Industrial; and

15b. **Case No. CON2000-00052** - Ritchie Corporation (H.T.Ritchie, owner/applicant); Baughman Company, P.A. (Russ Ewy) and Environmental Concepts and Design (Allan G. Chappell) request Conditional Use to allow construction and demolition landfill on property described as:

That part of the NW 1/4 of Section 36, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas lying west of the Arkansas River Levee (Condemnation Case CC-C-30467 and Condemnation Case A-33666), except the west 850 feet thereof. Generally located south of 37th Street North extended and east of West Street.

DALE MILLER, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

The applicant is seeking two actions – "LI" Limited Industrial zoning on 72.41 acres and a Conditional Use for a "construction and demolition landfill" (C&D landfill) on 67.66 acres. The 67.66 acres (C&D landfill) are mostly contained within the larger 72.41-acre "LI" request. The site is located south of 37th Street North (extended) and east of West Street. The Arkansas River is located to the east. The applicant owns the land located immediately south and west of the application area, and operates a sand plant and asphalt plant on that adjoining property. The applicant also owns the land west across West Street. Nearly all of the land under consideration has been excavated for sand and is a lake today. The additional acreage proposed for "LI" zoning is located west of the existing lake and would be used for the existing sand plant operations. Most of the application area is currently zoned "SF-20" Single-family Residential, with Conditional Use 525 to permit sand extraction. The western most portion of the C&D application area (identified as Phase I on the site plan) is already zoned "LI" (SCZ-0790).

The site plan submitted by the applicant depicts an irregular upside down "L" shaped parcel that would be used for the C&D landfill. Before landfill operations can occur, clean rubble, as defined by KDHE, will be used to fill the lake as County regulations require a 5-foot separation between groundwater and C&D fill material. The existing lake averages 35 feet in

depth. Fill operations would be divided into seven stages. Based upon testimony provided at the County's Solid Waste Committee meeting the applicant anticipates that most of the material brought to the site will be recycled. Increased recycling is expected because the applicants will institute an aggressive education and pricing program with contractors and others expected to use the facility that will encourage "clean" loads. Loads of clean concrete, asphalt, wood, sheet rock will be diverted from the landfill and recycled.

Initially, Phase 1 will contain a staging/sorting area (not indicated on the site plan, but indicated at the Solid Waste meeting). Phase on will also contain scales and scale house. As the site is filled, the staging/sorting area will move. A drainage pond would be retained at the southern end of the application area. Access to the facility is located approximately 200 feet south of 37th Street. A 30-foot wide private access road is depicted along the southern and western line of the fill area. A 30-foot wide buffer is shown along the river levee. City-County Flood Control has reviewed and approved this distance. As indicated on the site plan, material would be piled to a height of 40 to 70 feet, depending on the area being filled.

A rectangular tract of land not covered by the "CU" would be left located west of the fill area that would be zoned "LI". From the site plan it appears this tract would be used to support the existing asphalt and sand plant operations.

Property to the north is zoned "LC" Limited Commercial and "SF-20" Single-family Residential. This property is used for residential and agricultural uses. A house is located on this property and will trigger the need for the waiver in A below. The Arkansas River is located to the east. Land to the south is zoned SF-20 and Conditional Use 278 and "LI" Limited Industrial. This land is a lake created by past sand extraction operations and sand and asphalt plant operations. Land to the west is zoned "LC" Limited Commercial, SF-20 Single-family Residential and Conditional Use 91. This land is mostly a lake created by past sand extraction. Approximately ¼ mile west, along 37th Street, land has been approved for a solid waste transfer station. It may be mutually beneficial for the solid waste facility and a C&D facility to be located in close proximity to each other. The solid waste transfer station can not accept C&D material and the C&D facility can not accept solid waste. It would be convenient for customers to be re-directed to the appropriate facility if they found themselves at the wrong facility.

The project has been reviewed by Sedgwick County's Solid Waste Management Committee and has received their approval. The Solid Waste Committee also approved a draft resolution that contains regulations that require licensing and which outlines design and operation requirements. The Board of Sedgwick County Commissioners on November 10, 2000 approved these regulations. Pertinent site design requirements include:

A. No operations shall be located closer than 500 feet of an occupied dwelling, school, or hospital that was occupied on the date when the owner first applied for a permit, unless the owner of such dwelling, school or hospital consents in writing. (There is a dwelling located north across 37th Street. Staff can not verify if it is occupied; however the applicant's agent indicates that it is not occupied. If it is occupied, a waiver will be required.)
B. Newly permitted C&D facilities shall maintain a minimum 150-foot buffer from the edge of the C&D landfill's property line. The County Commissioner may grant a reduction in the size of buffer required. (Flood Control has reviewed and approved the buffer distance, but a waiver will be required.)
C. Surface water drainage and control systems shall divert surface water away from areas where waste is present or from operational areas.
D. Discharge of pollutants is prohibited.
E. C&D facilities shall be reasonably screened from adjacent roads, streets, and commercial or residential properties except at points of ingress and egress, to a minimum height of 8 feet by the use of berms, walls, fences or plantings. (The applicant was required to install landscaping along the north and west as part of previous cases)
F. Landscaping shall be maintained in proper order.
G. Facility property and property within one-half mile from the facility shall be kept reasonably free of debris, litter or vectors resulting from the C&D facility.
H. Access roads to the facility shall be all weather and negotiable at all times. Load limits on bridges and access roads shall be sufficient to support traffic generated by the facility.

Pertinent location restrictions include:

A. C&D facilities shall not be located within the 100-year floodplain unless protected by flood control levees.
B. C&D facilities will not cause significant degradation of wetlands.
C. C&D facilities will not result in the destruction of critical habitat of endangered or threatened species nor contribute to the taking of same.
D. The vertical separation between the lowest point of the lowest cell and the predicted maximum water table elevation shall be sufficient to maintain a five foot vertical distance between deposited material and the water table elevation.
E. No permit for a C&D facility shall be issued on or after the effective date of this resolution if such area is located within 1 mile of an intake point for any public water supply system. The owner may petition the County Commissioners for an exception based upon proof of protection of the public water supply.

CASE HISTORY: SCZ-0546 ("LI") and CU-278 approved in 1985 granted permission for sand extraction. CU-278 covered most of the land under the current application, while SCZ-0546 was mostly restricted to the western 800 feet. SCZ-0790 approved in 1999 granted "LI" zoning for a portion of the area covered by the Conditional Use request.

ADJACENT ZONING AND LAND USE:

NORTH: "LC" Limited Commercial and "SF-20" Single-family Residential; residence and farm ground
SOUTH: "SF-20" Single-family Residential and CU-278; Sand pit and sand and asphalt plants
EAST: "SF-6" Single-family Residential; Arkansas River and I-235
WEST: "LI" Limited Industrial; Sand and asphalt operations

PUBLIC SERVICES: West Street is a paved two-lane arterial roadway. County Public Works indicates the paving is thicker than normal due in part to the higher than usual volume of truck traffic due to the landfill being located further north of the application area. No public sewer or water is currently available.

CONFORMANCE TO PLANS/POLICIES: Location guidelines contained in the Comprehensive Plan indicate that industrial uses should be located near support services and be provided with good access to major arterials and should be extensions of existing industrial uses. Traffic from such uses should not feed directly onto local streets in residential areas. Industrial areas should be located away from residential areas. The plan does not have location guidelines for C&D landfills. However, plan objectives recognize the need to minimize the potential for environmental contamination while maintaining cost efficiency by proper management of solid waste generated within the county.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED. One issue that staff wrestled with was the appropriateness of creating a 67-acre site that will be virtually un-useable (when filling operations cease) for any other use except for open space that is located so close to Brooks Landfill. A more efficient use of land would be to fill in the gaps or voids of Brooks with C&D material, as the City Public Works Department has suggested and is exploring. Use of the Brooks site is already restricted by past landfill activities. Lake front property makes highly desirable building sites. When the sand and asphalt operations are completed, the application area could be a prime re-development site; or, the lake can be filled as proposed to the surrounding grade and then put to other use. Filling the site with 40-70 foot high mounds will eliminate any development potential other than open space.

The approval recommendation is subject to the following conditions:

A. Demolition and construction solid waste resulting from the construction, remodeling, repair, repair and demolition of structures, roads, sidewalks and utilities as further defined in K.S.A. 65-3402(u) shall be the only landfill material permitted. Household solid waste, hazardous or toxic wastes, as defined by K.S.A. 65-3430 et. seq. shall not be permitted for disposal at this site.
B. The landfill operation shall obtain all applicable permits or licenses. Operations shall proceed in accordance with all conditions established by the Kansas Department of Health and Environment (KDHE), Wichita-Sedgwick County Health Department, Sedgwick County Environmental Resources, FEMA, the Corps of Engineers, the Department of Wildlife and Parks or any other agency having jurisdiction or oversight authority for the activities conducted on the application area.
C. A landfill operator shall be on the site during all hours of operations for the purpose of screening incoming loads for authorization, inventory of the type, size and quantity of loads, and direction of loads to the appropriate cells. Access to the subject property shall be prohibited except during the hours of operation.
D. The delivery of construction and demolition waste to the site shall be only by way of the West Street entrance.
E. A minimum 6-foot high fence shall be installed to minimize the blowing of any materials onto adjacent properties. The fence shall be either chain link or welded or woven wire with openings no larger than two inches.
F. Upon written notice of any violation by the appropriate zoning administrator, or Sedgwick County Environmental Resources or the Wichita-Sedgwick County Health Department, the operation shall cease and the violation shall be corrected within 48 hours.
G. A detailed grading/drainage plan shall be submitted to the Department of Public Works for review and approval prior to commencement of operations. A copy of the approved grading and drainage plan shall be submitted to the Planning Department for filing with other case materials. The operation of the landfill shall be in conformance with the approved grading and drainage plan, and with the "Site Plan". Landfill operations shall be staged as indicated on the site plan. Only one phase may be in operation at one time. Prior to the opening of any new area the previous area shall be graded and seeded in accordance with approved plans, with at least 18 inches of clean cover material.
H. Material is to be piled no higher than 70 feet.
I. Landscaping will be maintained as required by previously approved Conditional Use and zoning cases.
J. A guarantee for a decel and/or an accel lane on West Street shall be provided prior to commencing operations. County Public Works using accepted traffic analysis standards indicating the improvements are warranted would trigger activation of the guarantee.
K. The C&D landfill shall developed and operated be in compliance with all conditions of approval or this Conditional Use shall be considered null and void.
L. The applicant shall provide a performance bond or environmental insurance coverage in an amount less than $3,000,000 to be used in the event that environmental remediation may be required.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. The area is a mix of "SF-20" Single-family Residential, "LI" Limited Industrial, "GI" General Industrial zoning and Conditional Uses to permit rock crushing and sand extraction. Land uses are primarily sand extraction, agricultural and two farm homes. The character of the area is one of agricultural, mining and industrial with sand plants, asphalt plants and truck traffic headed up West

Street to the land fill.

2. The suitability of the subject property for the uses to which it has been restricted. The site is zoned "SF-20" Single-family Residential with a Conditional Use to permit sand extraction. The "SF-20" district is primarily intended for large-lot residential uses. The site has been mined for sand and is currently a man-made lake with industrial type uses (sand plant, rock crusher and asphalt plant) adjacent to the application area. Given nearby zoning –"LI", "GI" and Conditional Use to permit a rock crusher- the current zoning is not suitable.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The applicant owns the land located south, and west of the application area. The Arkansas River is located to the east. The land to the north is agricultural with a farm residence. There is "LC" zoning located on the land to the north as well as "SF-20" zoning. The screening, buffering, and restrictions contained in the Conditional Use minimize detrimental impacts on adjoining

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The "Wichita Land Use Guide" depicts the site as appropriate for "industrial" uses. Industrial location guidelines indicate that industrial uses should be located in close proximity to support services and have good access to major arterials, belt highways and as extensions of existing industrial uses. Industrial uses should not feed directly onto local streets serving industrial uses. Industrial uses should be located away from existing or planned residential areas, and sited so as not to generate industrial traffic through less intensive land use areas. The plan does not have location guidelines for C&D landfills. However, plan objectives recognize the need to minimize the potential for environmental contamination while maintaining cost efficiency by proper management of solid waste generated within the county.

   Sedgwick County's solid waste plan promotes recycling and separation of the waste stream as much as practicable in order to minimize the amount of material that will have to be processed by a transfer station and shipped to a municipal solid waste landfill.

5. Impact of the proposed development on community facilities: None identified.

MILLER "I will give you the Readers' Digest version of this. I also want you to know that Susan Erlenwein is here from Sedgwick County Environmental Resources and she can answer questions about the rules.

Attached to your staff report was a draft of the C & D regulations that the Sedgwick County Solid Waste Task Force Committee considered. That apparently is not the version adopted by the County Commission. It is real close, but if there are differences that come up, she would be able to speak to that. I just wanted you to be aware of that.

Basically, what we have here is a request for two different things. One for Limited Industrial zoning to cover this area (indicating), and then we have a request for a Conditional Use for a C & D landfill that would cover a larger area here. You can see, from the old cases, that they do have industrial zoning to the west of their site. Thirty-Seventh Street West; K-96--you can see part of it here--(indicating) Brooks Landfill would be up here. There is only one house to the north and I have been advised that it is unoccupied at this point in time. The reason that is important is that part of the regulations say that before they can get a license from the Sedgwick County folks, they have to get a waiver or a letter saying that the folks on this residence are okay with the C&D operation. That is if the house is occupied. I am not able to prove that one way or the other and that will be up to Sedgwick County to sort that out. But there is only that one residence. There is also a mobile home sitting out there, for whatever reason.

The applicants obviously own this land, and they own the land to the south, and the land to the west. I believe they even own the land on the corner here (indicating). The only part they don't own is straight to the north. As far as folks that might be impacted by this request. There is a site plan that should be attached to your staff report.

This lake averages about 35 feet in depth, and one of the requirements is that they will have to fill this lake with clean rubble and obtain a separation of 5 feet from the lowest level of the C& D material to the level of the lake, or what would be groundwater at that time, once it is filled. So they will have to do that. They indicate that what they will do is (Indicating on application area slide) people will come in here; they will have a set of scales and a building there to direct people. They will unload the material, determine what part of it is recyclable and what part of it can go into the fill area. They anticipate, with an aggressive education program with contractors and people that are likely to bring the majority of the material here, that they can get clean loads and so if it is, for example, sheet rock, or lumber or asphalt, that kind of stuff, that that would then be diverted here if it is asphalt or concrete, and that sort of stuff, to go into the rock crusher and the asphalt system that they have over there. The lumber, etc., would then be recycled. I am not sure where, whether it is on this site or someplace else, but they are hoping that they will be able to recycle a majority of the material coming in here. They will be able to explain their process a little better than I can.

Jumping over to the recommendation section, we are recommending an approval. The only caveat or reservation that we had on the recommendation for approval, dealt with the issue of once this thing is filled, and if they go ahead and put C&D landfill on it to the height that they are asking, which is approximately 40 feet in this area (indicating) and then ultimately for the rest of the area to be able to pile stuff as high as 70 feet. Once it is stacked like that, there is not much you can do with it. There really isn't a reuse other than open space for it. The only thing that we would throw out is whether or not it makes sense to take this much acreage in this particular location and essentially render it unusable forever when you have Brooks immediately north and there are voids and gaps in the fill up there and it might be possible to place C&D

material in that area since that is already basically unusable for anything except open space.

This is better explained in the recommendation section, but that is kind of the long and short of it. Staff is recommending approval, subject to conditions found on pages 5 and 6. The only changes to those are on Item B, we would add in 'Sedgwick County Environmental Resources' as one of the folks that will oversee this operation. In fact they would be the chief local group that is responsible for monitoring and licensing and inspecting what goes on there.

On Item C, we would delete the first two sentences--the one saying that the landfill is not open to the general public and that it is only open to vehicles licensed to collect C&D material. They want to have the site open to the general public so that they can maximize recycling. We are okay with that. Then on Item F, we would add in Sedgwick County Environmental Resources as well for the same reason that we are putting it in Item No. B. Then, there would be a new Item 'M'. We are doing this to be consistent, for those of you who were here for the Cornejo C&D case, as part of that lease arrangement with the city, they were required to provide a $3 million guarantee, or insurance or bond instrument that would protect for various issues, in terms of final cover, final fill, final closure, and if there was environmental remediation needed. Susan has told me that KDHE, as part of their licensing requirement, requires a guarantee for closure. But as far as we can tell, there is no agency that requires any kinds of guarantees or bonds or insurance against environmental remediation. So we are suggesting that there be a new Item M item added that would require that. With that, I would answer questions."

CARRAHER "Are there any questions of staff with regards to this item?"

PLATT "I am not clear as to what the new Item M is going to say."

MILLER "The draft language that I had was 'the applicant shall also provide a performance bond or environmental insurance coverage in an amount not less than $3 million to be used in the event that environmental remediation may be required'."

CARRAHER "Are there any further questions of staff? Thank you, Mr. Miller. We will now move to the applicant."

RUSS EWY "I am with the Baughman Company, agent for the applicant. I will be brief due to the lateness of the hour. We do have several other speakers here for the applicant. Phil Brothers with the Ritchie Corporation and Allan Chappell with Environmental Concepts and Designs, the consultant that helped us put together this plan are here.

Dale did a good job of going over some of the slides showing you the aerial here as an example of the filling operation that has been ongoing for the past several years and will continue to be ongoing, regardless of this application. The lake is being filled with clean rubble.

The last thing I will address and I will go over it briefly, since this Commission has a pretty firm understanding of the nature of this area. We obviously started, as we did with BFI and the transfer station, as we did with the asphalt plant relocation on this site, found an area of the county that probably could not be better suited for this type of use. Having said that, everything else seemed to have fallen into place with the preparation of this plan. We have a rock crusher on site, we have an asphalt recycling center on site and we have the ability, on this property, to recycle the maximum amount of C&D waste that would be generated by the county. We are in close proximity to the transfer station, so we have a consolidation of traffic patterns hauling solid waste, so we felt that in overview that we had the best place in the county to site such a facility. I hope that we can be brief on our presentation, based on the materials that were sent out to you last week. If you have any questions of me, I will be more than happy to stand back up, but I will turn it over to Allan Chappell at this point."

CARRAHER "Are there any questions of Mr. Ewy at this time? Seeing none, Mr. Chappell, would you like to speak?"

CHAPPELL "I am with Environmental Concepts and Designs, acting as agent for the Ritchie Corporation. We did, in fact, prepare this packet, which basically walks you through our entire operation. This facility will be recycling 65% or more of the materials that come in the front door. I think what we would like to point out is that the facility where you enter from West Street you will come in, I think at about 400 feet of staging area. A scale house here (indicating) directly to the south is the asphalt and concrete operation and sand operation. We will be pursuing an aggressive education program, and we have performed this with another company here in town, Dean Frankenberry's Wood Recycling and Composting Center, where we will be going out to local businesses and contractors and people that will generate these types of C&D materials, and educating them to the fact that if they will segregate these materials and bring in clean loads of concrete, asphalt, wood and such, that there will be an incentive at the scale house. There will be a reduced tipping fee to give those people an incentive to do so.

The other materials, which we will call mixed loads will proceed in and be staged in this area, where they will be physically sorted by our people. We have one inspection point at the scale house, materials that are segregated go directly to recycling--do not even enter the C&D recycling and disposal facility. Mixed loads will come to here and those materials will be segregated with concrete and asphalt that is recyclable going back into the asphalt, sand and concrete operations. Materials such as wood, metals, possibly plastics, and drywalls will be segregated and staged in areas where they will be held until they are sent out for recycling.

Then clean rubble, and you will find that definition on Page 5 of the packets that we gave you. That material and that material only will be what will be filled into the lake area. That lake is actually a 35 feet deep at its deepest point and

many areas of the lake are around 22 foot deep. Just to give you a little better idea of the depth of the lake. Those materials will be what will build an actual working surface. Then we will be filling somewhere around 30 or 35% of what actually comes into this recycling and disposal facility, back into the fill-face of the landfill.

So, we wanted to give you an idea of how we were going to work the area and then give you a cross-section so that you could see clean rubble and clean rubble only generating that 5 foot separation and then the C&D fill-face in this area.

Also, I do want to speak on when the staff comments on the land use here. This C&D landfill and these figures were taken directly from Susan Erlenwein's Waste Characterization study, which, I think is less than 2 years old, at this point. Given anywhere from 100 to 300 tons per day entering this facility and given the recycling rate that we will achieve with this facility, this will be a 23 to 69 year C&D recycling and disposal facility. So, in my mind, any thought about land use beyond that point, it is well deserved to provide one spot that is very well located, particularly being that it is across the street from a transfer station.

When we have materials come in that are not suited for a C&D operation, such as MSW, we can send those right across the street to the transfer station. The transfer station, on the other hand, and I think we passed out some letters of support from Waste Connections, we have talked with them, and materials that come into their facility, such as C&D which is soon to be banned from the solid waste, can then come across the street to our solid waste facility. So I wanted to be clear about the operation and how we see that working in the high recycling rate. Also, the wood and drywall materials that do come in here, right now, what we are intending to do with that is to pass that through to wood recycling and composting centers so that all of those materials can be recycled and reused for beneficial use.

I think Dale spoke to the occupancy of the home. In our research, what we have found is that in June of 1999 the husband and wife that occupied that home both entered a managed care facility. In October of 1999, Mr. Miller passed away and Ms. Miller is still in that managed care facility. So that home has been unoccupied for 18 months to 2 years at this point.

I know we have been here quite a while and I don't want to be redundant. Also, the groundwater monitoring is something that I didn't see in the staff report. If I missed that, I apologize. We have developed a groundwater monitoring program. There will actually be wells around this facility. We will be installing monitoring wells (indicating) one in this area, one in this area, and one here, and then as we fill this facility, we will continue to place monitoring wells along the perimeter of the property line. We did have several meetings with Bob Jennings, the flood control supervisor, and we supports this activity relative to the floodway and the levee and the adjoining space. That groundwater monitoring will have specific protocol to turn up anything which might be a contaminant.

Also, I do want to point out that actually in the KDHE regulations governing these type of facilities, there is a mandated $1 million insurance relative to coverage for contamination or pollution of the environment. We certainly intend to comply with that. I have to tell you that a $3 million bond is, in our opinion, very excessive for this type of facility. Also, considering the types of materials that will be going in here and the fact that they are inert materials and we did provide definitions of C&D waste and clean rubble in your packets. Also, when we discussed with Susan and the Solid Waste Committee, in their regulations, they have adopted basically what KDHE is saying is that we would provide $1 million in insurance coverage for that type of incident. So we are certainly willing to do that. We will answer any questions.

At this time, if it is appropriate, would you like to hear from Susan Erlenwein with County Environmental Resources or John Davis from the Health Department. We have worked with them extensively in developing this project."

CARRAHER "After I have given the opportunity for my colleagues to ask any questions, I would definitely open the floor up to either one of them if they have anything that they would like to add.

Are there any questions for either Mr. Ewy or Mr. Chappell?"

MARNELL "You are putting monitoring wells at the north end of the site? Is that what I understood you to say?"

CHAPPELL "Yes, sir. There will be two on the north side, approximately here and here (indicating)."

MARNELL "Wasn't your groundwater contamination worse up there at the Brook's Landfill?"

CHAPPELL "Those are called upgradient wells. Actually, we have done water testing and we know that we have clean water with no negative environmental impact. What we like to do, because the groundwater actually moves in this direction, we are actually making sure that nothing that is contaminated comes on to the site. If it does, we would be able to document that. So we have upgradient wells and wells that would document anything that before it would exit the site, sir."

GAROFALO "I have two questions. One is are you saying that you are in full compliance with the county's regulations?"

CHAPPELL "The one that we will be going to the County Commission to seek a waiver on is the setbacks. No. 1, we are looking at a 30-foot setback on this side, which is adjacent to the levee right-of-way. In talking with Bob Jennings, he has no problem with that. He supports that. And then we are looking at 30 foot internally around here because we will actually have an access road that completely goes around the perimeter of this facility for maintenance as we go."

GAROFALO "That is the only exception?"

CHAPPELL "Yes, the setbacks."

GAROFALO "The other question I have is 'why is there such a separation on the life of the dump. From 23 years to 69 years--my goodness."

CHAPPELL "Susan's Waste Characterization Study showed total of about 300 tons of C&D material. C&D material includes clean rubble. That is part of C&D, but we can't tell you, us being a private enterprise, how much of that we will be able to market into our facility, so we gave you a range. If 100 tons a day comes in, it is a 69-year facility, and if 300 tons comes in a day, it is a 23 year facility. So we just gave you that range. I can't tell you, as I stand here, how many tons will come in at this point."

GAROFALO "Okay, thank you."

CARRAHER "Are there any further questions of Mr. Ewy or Mr. Chappell? Thank you, gentlemen. Ms. Erlenwein or Mr. Davis, would either one of you like to address the Commission?"

SUSAN ERLENWEIN "I am with Sedgwick County Environmental Resources. The proposed site was presented to the Solid Waste Management Committee and the Committee did approve this location. As has been mentioned, it is in an area that is south of the current landfill and east of the future transfer station. It does fit in appropriately with the Solid Waste Plan. The County Commissioners, about a month ago, approved the regulations for construction and demolition landfills and everything they have presented, with the exception of the setbacks, does comply with the regulations. We do have a clause in the regulations that they can go in front of the County Commissioners and ask for an exception to the setbacks. So they will have to do that. I will be happy to answer any questions."

GAROFALO "Ms. Erlenwein, is there any real concern with this kind of a dump for contamination? It is right there on the river."

ERLENWEIN "That is correct. If you look at the definition of construction demolition materials, such as dry wall, 2 x 4's, bricks, shingles. If the appropriate material goes into the facility, there should not be concern for contamination. There is always the possibility that something may slip through and they are doing extensive screening of the material because of their recycling. Because of this in our regulations, we put in that there must be two feet of an impermeable soil or monitoring wells so that if something does slip through, it will have that liner of soil or the monitoring wells. They have chosen the monitoring well scenario. That would help detect any contamination before it gets off site.

Also, our department will be inspecting construction demolition landfills at least weekly and it will be at random inspections so that we will have the ability to make sure that they have someone trained on site inspecting the loads. That is part of the requirements. We will be double checking that and fining them if it is inappropriate. So we feel that there are some safeguards in there that we have been put in. The county will be monitoring."

CARRAHER "Are there any other questions of the speaker? Thank you, Ms. Erlenwein. Mr. Davis, would you like to address the Commission?"

JOHN DAVIS "I am with the Wichita/Sedgwick County Department of Community Health. We have been working with Mr. Chappell and his consultants for some months on this project, particularly on areas of location of wells, groundwater flow and such like, and state regulations. We have gotten satisfactory results as to everything that we have asked them to do. We also will continue our long-time policy of inspecting facilities and noting irregularities and will be available to answer questions from the community as and when they arise. If any of you have questions, I will be happy to answer them."

CARRAHER "Are there any questions of the speaker? Thank you, Mr. Davis. We will now move to the gallery. Is there anyone in the gallery who wishes to speak in favor of this item?"

DEAN FRANKENBERRY "I am the owner and operator of the Wood Recycling Compost Center in Wichita. I am also on the Solid Waste Management Committee, and was involved with the regulations to come up for C&D landfill operations. We would encourage you to adopt and approve this policy. Being in the recycling business, we are very interested in seeing more recycling done in our area. We have been behind this for a number of years.

We will be working with this operator as well as with others in town. We hope to recycle items such as wood, sheet rock and other things that we can find another use for. Thank you."

CARRAHER "Are there any questions of the speaker? Thank you, sir. Is there anyone else in the gallery who wishes to speak in favor of this item? Is there anyone in the gallery who wishes to speak in opposition to this item? We will move it back to the Commission. Are there any questions or commentary of the Commission regarding this item?"

JOHNSON "The only question I have is of staff is 'is there a $3 million insurance mandate?"

MILLER "I talked to Marvin. We will double check that and if that is the case, then we will drop this request here."

JOHNSON "Okay, then, I will make a motion."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood. The area is a mix of "SF-20" Single-family Residential, "LI" Limited Industrial, "GI" General Industrial zoning and Conditional Uses to permit rock crushing and sand extraction. Land uses are primarily sand extraction, agricultural and two farm homes. The character of the area is one of agricultural, mining and industrial with sand plants, asphalt plants and truck traffic headed up West Street to the land fill. The suitability of the subject property for the uses to which it has been restricted. The site is zoned "SF-20" Single-family Residential with a Conditional Use to permit sand extraction. The "SF-20" district is primarily intended for large-lot residential uses. The site has been mined for sand and is currently a man-made lake with industrial type uses (sand plant, rock crusher and asphalt plant) adjacent to the application area. Given nearby zoning –"LI", "GI" and Conditional Use to permit a rock crusher-the current zoning is not suitable. Extent to which removal of the restrictions will detrimentally affect nearby property: The applicant owns the land located south, and west of the application area. The Arkansas River is located to the east. The land to the north is agricultural with a farm residence. There is "LC" zoning located on the land to the north as well as "SF-20" zoning. The screening, buffering, and restrictions contained in the Conditional Use minimize detrimental impacts on adjoining properties. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The "Wichita Land Use Guide" depicts the site as appropriate for "industrial" uses. Industrial location guidelines indicate that industrial uses should be located in close proximity to support services and have good access to major arterials, belt highways and as extensions of existing industrial uses. Industrial uses should not feed directly onto local streets serving industrial uses. Industrial uses should be located away from existing or planned residential areas, and sited so as not to generate industrial traffic through less intensive land use areas. The plan does not have location guidelines for C&D landfills. However, plan objectives recognize the need to minimize the potential for environmental contamination while maintaining cost efficiency by proper management of solid waste generated within the county. Sedgwick County's solid waste plan promotes recycling and separation of the waste stream as much as practicable in order to minimize the amount of material that will have to be processed by a transfer station and shipped to a municipal solid waste landfill. Impact of the proposed development on community facilities: None identified.) I move that we recommend to the governing body that the request be approved, subject to staff comments.

JOHNSON moved, **WARNER** seconded the motion.

CARRAHER "Are there any questions or commentary regarding the motion on the floor? Seeing none, we will move into a voice vote."

VOTE ON THE MOTION: The motion carried unanimously (10-0).

---

16. **CON 2000-00043** - G. Marc Myers, James R. Maetzold and Howard K. Sherwood (owners); MSM Leasing Company (Howard K. Sherwood, applicant) request a Conditional Use to permit a medical waste transfer on property described as:

The North 300 feet of Lot 7, Block A, Royal Industrial Addition, Sedgwick County, Kansas. Located on the northwest corner of MacArthur and West Street.

DALE MILLER, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: Stericycle, a company that specializes in managing medical waste, is seeking a Conditional Use permit to operate a "medical waste transfer station" on property located approximately 458 feet north of MacArthur and west of West Street. The applicant is co-leasing the site from the property owner. Another firm that handles municipal solid waste (MSW) is already leasing this site. The applicant has minimal rights to use the existing building, basically the restroom and some desk space. The MSW firm does not transfer waste at this site, but uses it for offices, maintenance and vehicle parking. The site is part of Lot 7 of the Royal Industrial Addition. The company collects medical waste from various sites around the area. The waste is then transported to this location for consolidation and shipment to an approved disposal site. No medical waste (or municipal solid waste) will be disposed of at this site. A total of three trucks are currently assigned to this location, two route trucks and one tractor-trailer rig. Route trucks are cargo type trucks, not packer trucks used for collection of solid waste. The applicant indicates that they back the route trucks up to the tractor-trailer and make

the transfer out-of-doors, trailer to trailer. All the waste is collected in sealed containers, as mandated by various state and federal agencies.

The application area is 1.5 acres in size and is zoned "LI" Limited Industrial. The site is developed with a single building today (3,750 sq. ft.). The building is used as an office, storage and maintenance facility. A chain link fence surrounds most of the site. A single curb cut along West Street provides access. The parking area is surfaced with asphalt or gravel and occupies most of the site not covered by the existing building. Four striped parking stalls are identified on the site plan.

According to K.S.A. 28-29-27 "medical services waste" is defined as "those solid waste materials which are potentially capable of causing disease or injury and which are generated in connection with human or animal care through inpatient and outpatient services. Medical services waste shall not include any solid waste which has been classified by the secretary as a hazardous waste under K.S.A. 1982 Supp. 65-3431 and any amendment thereto, or that is radioactive treatment material licensed under K.S.A. 1982 Supp. 48-1607 and regulations adopted under the statute."

Planning staff contacted both city and county solid waste officials to see if this use needs to comply with adopted solid waste transfer station regulations and guidelines. The response was that since this is a very specialized use with a relatively small waste stream and a small number of contractors it was not necessary to apply household solid waste rules for this type of application.

Surrounding land is zoned "LI" Limited Industrial or "LC" Limited Commercial. Surrounding uses include: trucking, auto repair, vacant or place of worship

CASE HISTORY: The Royal Industrial Addition was recorded in March of 1976.

ADJACENT ZONING AND LAND USE:

NORTH: "LI" Limited Industrial; vacant
SOUTH: "LI", Limited Industrial; trucking
EAST: "LI", Limited Industrial and "LC", Limited Commercial; auto repair and towing
WEST: "LI", Limited Industrial; trucking

PUBLIC SERVICES: West Street is a four-lane facility carrying an average daily traffic volume of 7,528 vehicles. Public sewer and water services are available.

CONFORMANCE TO PLANS/POLICIES: The 1999 "Wichita Land Use Guide" recommended land use map depict this site as appropriate for "industrial" uses. Industrial location guidelines indicate that industrial uses should be located in close proximity to: support services, major arterials, city truck routes, belt highways, utility trunk lines, rail spurs, airports and as extensions of existing industrial uses. Industrial uses should not feed directly into local streets in residential areas; and they should be located away from existing or planned residential areas, and sited so as not to generate industrial traffic through less intensive land use areas. The "Unified Zoning Code" in 1996 established solid waste transfer stations as uses conditionally permitted in the RR Rural Residential, LI Limited Industrial and GI General Industrial districts.

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

C. Permitted uses shall be restricted to those permitted by-right in the "LI" Limited Industrial district plus a medical waste transfer station. Only medical wastes (as defined in K.A.R. 28-29-27) may be received or handled at this location. No other types of solid waste may be accepted or processed at this location.
D. All vehicles transporting medical waste in or out of the facility will be licensed under Chapter 7.08 of the Code of the City of Wichita.
E. The applicant shall obtain all applicable permits prior to commencing operations on this site, including, but not limited to, compliance with K.A.R. 28-29-27.
F. The site shall be developed in general conformance with the approved site plan.
G. Any violation of these conditions shall render this Conditional Use Permit null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. Surrounding land is zoned "LI" Limited Industrial or "LC" Limited Commercial. Surrounding uses include: trucking, auto repair, vacant or place of worship. The character of the land uses in the area is industrial and heavy commercial.

2. The suitability of the subject property for the uses to which it has been restricted. The site is zoned "LI" Limited Industrial. This district permits nearly all uses except residential and heavier industrial uses. The site could be used for activities already permitted. However, the conditions placed on the property by this application adequately protect adjoining property.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the Conditional Use Permit will not detrimentally affect nearby property owners since nearly all the adjoining property is zoned

the same as the applicant's property, and the conditions applied to this request ensure that the requested use will not negatively impact nearby property.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The 1999 "Wichita Land Use Guide" recommended land use map depict this site as appropriate for "industrial" uses. This request is compatible with adopted plans.

5. Impact of the proposed development on community facilities: None identified.

MILLER "This is a repeat of the medical waste transfer station that we had on last time. There was some confusion over the fact that there was already a solid waste operator in residence at this location. We have that sorted out. They are a municipal solid waste carrier. They do not do any activities on this site other than office. They may park a few packer trucks, but it is properly zoned for that. They do not transfer any waste on this site. That clears up the issue of whether or not it is appropriate to have the statement on the recommended conditions on A where it says 'only medical waste may be received or handled at this location'. We are advised that since the other company doesn't transfer waste at this location that that is not going to hurt their operations.

The change is that we originally had a request to either lot split or replat because this is part of a larger platted lot, as you can see. We have since learned that they are only leasing this so it is not a purchase arrangement, so they don't need to do that. That request has been dropped. We are sticking with Item No. D, the request that the transfer take place in an enclosed building. We had a meeting since then with the applicant and I think they are here to kind of explain in detail how their transfer works today. But in general, they basically back the trucks up next to each other; the waste is then moved from the back of one pick-up collection vehicle into the semi-tractor/trailer rig. All of the material that is collected is inside either plastic containers or some sort of sealed containers. It is not like there are trash bags or that sort of thing. Everything is sealed. They even brought a sample of their container with them, so if you wanted to get a feel for what those containers are like, you can. We still felt like it was appropriate to have that done inside some kind of a structure.

As far as I know, that is the only issue that may be in contention. John Davis is here for this request as well if you have particular questions about the current state regulations relating to medical waste and how it is handled and those sorts of issues. With the conditions found on pages 3 and 4, we are recommending approval. I would answer any questions you have."

MARNELL "In regard to Item No. D, you said that you still think it should be inside. Do you have any kind of a logical reason why, other than you just feel like it should be?"

MILLER "Well, I think we responded to a couple of things. One is that the major complaint that I have received from at least one nearby property owner was the issue of how easily this stuff could escape and blow around or whatever. Whether it is a realistic concern, or whether it is just the lack of understanding, we felt like that given the way things happen, something always happens, that it made sense for it to be done inside an enclosed building. Just as a measure of protection or insurance or whatever."

JOHNSON "Dale, do you know what the status is on this? Is this still in the county, do you know?"

MILLER "It is still in the county, yes. It has not been annexed."

JOHNSON "Well, this is a Conditional Use. Is the county set up to enforce a Conditional Use?"

MILLER "Yes. Originally, the county was the only one that had Conditional Uses until 1996."

PLATT "Have you done any comparison of other transfer stations to see if they require it to be done in enclosed buildings?"

MILLER "Other than talking with the applicant, because they have facilities in other locations, I haven't personally called anybody. John (Davis) may know what some other states do, but he certainly knows what the state requires, and the applicant can speak to what they are doing in other states. I haven't done that myself."

PLATT "I would like to hear from Mr. Davis, as part of the staff comments, or whatever."

CARRAHER "Certainly. I was going to wait until we asked Mr. Miller all of his questions, and if Mr. Davis would like to address and take questions, that would be fine, too. Are there any further questions of Mr. Miller at this time? Okay, thank you, Mr. Miller. Mr. Davis, would you like to address the Commission, or if you would like to stand for any questions that anybody may have."

Hentzen left the meeting at 6:50 p.m.

JOHN DAVIS "I am from the Health Department. Within Kansas, there are no state regulations as to whether a medical waste transfer station has to be enclosed or not closed. In fact, the state regulations are being re-written at the moment. They even allow outdoor storage of medical waste. That would seem to indicate that the state has no intention of changing that.

I talked to a couple of other adjacent states just in passing, sanitarians I have run into, and no one has specific regulations one way or the other. So, I can't necessarily, from our experiences with medical waste stored outside in Wichita, I can't necessarily see that you would have a problem if it is well monitored. I can see some problems unless you had a very well-designed building if it was an indoor site. It could be a problem either way, but I don't really see it as a problem."

CARRAHER "Are there any further questions of Mr. Davis? Thank you. Would the applicant like to address the Commission at this time?"

Barfield left the meeting at 6:53 p.m.

CHUCK MERRITT "I am here representing Stericycle. We appreciate you hearing us at this late hour. I can assure you that this will be very brief because basically everything I was going to say has already been said. We have no substantial disagreement with any of the staff report, with, of course, the exception of the enclosure.

The first point I want to make with respect to enclosure speaks to the fact that there are really no federal or state requirements, at least within the State of Kansas to disallow this kind of activity. One of the questions that someone had was what we are doing in other states? How is this looked at on a national basis? My position within the company, I am an area Vice-President for environment safety and health, and I cover a broad geographical area in the course of doing my job. I have responsibilities in many states across the United States, and I can tell you that we perform this type of activity in exactly the same fashion that we would like to perform it here in Wichita. Essentially, we move the waste from one vehicle to another in an en-tact container. One thing I brought with me here tonight was some pictures. I would like to pass those amongst you so you can kind of see more clearly what I am talking about.

While you are all taking a look at those pictures, I just want to speak a little bit about this container that I brought with me. This is a Department of Transportation approved medical waste container. It has a certification number here and speaks to the fact that it has gone through a certification process that involves a drop test, a stack test, and a vibration test. Inside of this container is a liner. The liner is tied inside the top. This liner itself also has to go through two ASTM tests."

GAROFALO "Sir, why don't you walk back toward the podium so the mike can pick you up?"

MERRITT "The liner has to go through two ASTM tests, a 165 gram dart test, and a tear resistance test. So, the medical waste is well-contained in the course of our affairs, if you will.

The last point I would like to make speaks to some of the members of the general public that were here last month to speak in opposition to our operations. Unfortunately, there is a stigma that goes along with what we do. Medical waste is not generally the kind of thing that most communities welcome with open arms. So, in light of the fact that we did have some opposition, we went out into the community and met with some of these folks. We showed them our tub, we showed them pictures similar to what you see there, and described our operation fully.

We spoke with four different community members that we were told had objections to our operation. The first person we spoke with was Mr. Mark Springs. He has the county pond which is right down the street from where we would like to put our operation. We spoke with Mr. Springs as late as this morning and he felt strongly enough about what we were doing that he actually gave us a letter. I would like to give you this letter so you can read it. This is what I call a 'leap of faith'. You will notice that it is a sealed envelope. Mr. Springs told us that we needed to talk to Mr. Duncan, who has a salvage operation behind the proposed area. We spoke with Mr. Duncan approximately 2 weeks ago, and he seemed convinced that what we were doing was not something that would be a threat to his community. Mr. Duncan gave us the names of some other folks that we needed to speak with, Mr. Howard Wickham and Mr. Nick Dolling with the D&D Equipment Sales and Rental. All of these are folks that either own property adjacent to or very close to where we proposed to run our operation. We spoke with these individuals personally, we outlined what we wanted to do, we showed them our tub. You get the idea. Essentially, the message is this. I can tell you that the people we spoke with don't have any objections to our operation, as we described it, with one trailer backed up to another, moving an intact container from a route truck onto a trailer. So, having said that, I would welcome the opportunity to answer your questions."

CARRAHER "Are there any questions of the applicant?"

GAROFALO "How often would they fall off of the truck in being transferred?"

MERRITT "I can't really give you a number. I can tell you though, that it is very infrequently. You may have noticed that when I pulled that lid off, it didn't come off very easily. It is designed to be snapped on. These containers are designed to be dropped and not open up. So, maybe once every six months, and I am just taking a guess here."

GAROFALO "And the inside bag is tied?"

MERRITT "Yes, sir. That is correct."

CARRAHER "Are there any further questions of the applicant. Thank you, Mr. Merritt."

MERRITT "Thank you for your time."

CARRAHER "Now we will move it to the gallery. Is there anyone in the gallery who wishes to speak in favor of this item?"

JOHN SHERWOOD "I represent the owner of the property. I just wanted to say that we have no objections to this and see no need for the item D on the staff's recommendation. I have nothing further."

CARRAHER "Are there any questions for the speaker? Thank you, Mr. Sherwood. Is there anyone else who wishes to speak in favor of this item? Is there anyone wishing to speak in opposition to this item? With that in mind, we will move it back to the Commission."

> **MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood. Surrounding land is zoned "LI" Limited Industrial or "LC" Limited Commercial. Surrounding uses include: trucking, auto repair, vacant or place of worship. The character of the land uses in the area is industrial and heavy commercial. The suitability of the subject property for the uses to which it has been restricted. The site is zoned "LI" Limited Industrial. This district permits nearly all uses except residential and heavier industrial uses. The site could be used for activities already permitted. However, the conditions placed on the property by this application adequately protect adjoining property. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the Conditional Use Permit will not detrimentally affect nearby property owners since nearly all the adjoining property is zoned the same as the applicant's property, and the conditions applied to this request ensure that the requested use will not negatively impact nearby property. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The 1999 "Wichita Land Use Guide" recommended land use map depict this site as appropriate for "industrial" uses. This request is compatible with adopted plans. Impact of the proposed development on community facilities: None identified.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. Permitted uses shall be restricted to those permitted by-right in the "LI" Limited Industrial district plus a medical waste transfer station. Only medical wastes (as defined in K.A.R. 28-29-27) may be received or handled at this location. No other types of solid waste may be accepted or processed at this location.

2. All vehicles transporting medical waste in or out of the facility will be licensed under Chapter 7.08 of the Code of the City of Wichita.

3. The applicant shall obtain all applicable permits prior to commencing operations on this site, including, but not limited to, compliance with K.A.R. 28-29-27.

4. The site shall be developed in general conformance with the approved site plan.

5. Any violation of these conditions shall render this Conditional Use Permit null and void.

> **MARNELL** moved, **MICHAELIS** seconded the motion, and it carried unanimously (8-0).

Item taken out of order:

18. Approve Transportation Enhancements applications to KDOT for pedestrian-bicycle trails in Sedgwick County.

JAMSHEED MEHTA, Planning staff "You received this agenda item and have visited at least half of these projects on Page 2 of my memo about a month ago, and we have talked frequently about it. The City of Wichita is reapplying for three projects that they applied for last year and you approved. Sedgwick County is reapplying for one project which you had approved last year.

On projects 5,6 and 7--projects 5 and 6 are the City of Haysville; Project 7 is the City of Derby. You, as the MPO are required to approve any of these applications. These are the only applications going to the state. They are competitive and discretionary. If approved, the governing bodies have to cough up the 20% or 30% match that is required.

Following your approval of the projects, each of the governing bodies have to approve the remaining section where they pledge the match. The City Council will be hearing it next week on Tuesday, the County Commission will hear it on Wednesday. We will meet the deadline of December 15 to KDOT. If you have any questions, I can answer in more detail about any specific project."

CARRAHER "Are there any questions of the speaker?"

MOTION: That the Metropolitan Area Planning Commission recommend to the governing bodies that the projects be approved and further recommend approval of the enhancement projects.

WARREN moved, **GAROFALO** seconded the motion, and it carried unanimously (8-0).

Item taken out of order:

17. Setting of a public hearing date for the adoption of the Delano Neighborhood Revitalization Plan.

MILLER "We just need a motion to set a hearing date on this. We are recommending that you take the recommended action to set the hearing date as outlined in the memo."

GAROFALO "January 4 is not on the list."

MILLER "That is a different deal."

CARRAHER "That is for our main meetings."

GAROFALO "Oh, I see."

MILLER "This would be specifically for planning items and maybe we would want to talk about the zoning ordinance--that kind of stuff. We wouldn't handle any cases. It would be in place of a meeting."

GAROFALO "Oh, okay, fine."

MOTION: That the Metropolitan Area Planning Commission hold a special meeting on January 4 for a public hearing for the adoption of the Delano Neighborhood Revitalization Plan.

JOHNSON moved, **MARNELL** seconded the motion, and it carried unanimously (8-0).

---

19. Review for consistency with Comprehensive Plan:

TONI FAIRBANKS, Planning staff "On November 9, 2000, the MAPC found that the Valley Center annexation was compatible with the Wichita/Sedgwick County Comprehensive Plan, but based on staff recommendations, found it not compatible with the Valley Center Comprehensive Plan.

Since that date, we have received an updated plan, which we were not privy to initially. All we are doing at this point is asking that you find it compatible with the Valley Center Comprehensive Plan."

CARRAHER "Are there any questions? Thank you. Is there any commentary or a motion?"

MOTION: That the Metropolitan Area Planning Commission find that the plan is compatible with the Valley Center Comprehensive Plan.

WARREN moved, **JOHNSON** seconded the motion, and it carried unanimously (8-0).

---

20. Other Matters - Review and approve MAPC meeting schedule for the year 2001.

MILLER "What this will do is this is not the same schedule that you have been on this year. What we have done is to move the dates so it matches up better with the DAB meetings. I don't know whether that will affect anybody, but it minimizes the conflict between us and them in terms of them wanting staff reports a week ahead of their meetings, and their meetings a week ahead of this meeting, so we end up with less than 14 days to get anything done, which we can't do.

So technically, we should be meeting on the first full week of the month, which is usually the second week, and then the fourth week of the month. This is changing it to the first and the third."

WARREN "So this is brand new. Get rid of everything else. Mr. Garofalo was correct, we did leave the January 4th

meeting off of that schedule so that it wouldn't be a zoning and subdivision item. It would basically be planning items, like the Delano Plan, or if we are far enough along to do the zoning amendment briefing, Donna could do that. Those kinds of things."

MICHAELIS "I don't know what happened to mine, so I haven't had a chance to look at it, but we had discussed, a while back, the idea of just going every other week and not taking all of these breaks in between so we don't have these kinds of meetings, does that incorporate that?"

MILLER "It is basically the every other week. Every quarter we would end up with a meeting where we potentially could meet but are not meeting, but from staff's prospective, if you don't object, that is going to help us solve this DAB problem in a significant way. We just keep butting heads with them all of the time."

MICHAELIS "I don't really care about the DAB meetings. I am more concerned about this. We did talk about that a while back at one of these meetings. The consensus was, if I remember right, that we would rather go every other week and not skip those meetings so that we wouldn't get so loaded up like this."

MILLER "That won't make any difference. That is just the volume. This isn't really the result of only meeting once in November. We just have this many cases coming in the door."

MICHAELIS "Okay."

CARRAHER "Are there any further questions of staff? Thank you, Mr. Miller. I would like to open the floor for a motion."

> **MOTION:** That the Metropolitan Area Planning Commission approve the meeting schedule for the year 2001.
>
> **GAROFALO** moved, **WARNER** seconded the motion, and it carried unanimously (8-0).
>
> ---

CARRAHER "Are there any other matters that need to come before the Commission? Seeing none, I will open the floor for a motion to adjourn.

> **MOTION:** That the Metropolitan Area Planning Commission adjourn
>
> **WARNER** moved, **GAROFALO** seconded the motion, and it carried unanimously (8-0).

The meeting officially adjourned at 7:12 p.m.

State of Kansas)
Sedgwick County) ss

I, Marvin S. Krout, 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 _____, 2001.

_____
Marvin S. Krout, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)