

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

November 6, 2008

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, November 6, 2008, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Darrell Downing, Chair; G. Nelson Van Fleet, Vice Chair; David Foster; Bud Hentzen; Hoyt Hillman; Bill Johnson; Ronald Marnell; M.S. Mitchell; Don Sherman (in @ 1:35 P.M.) and Debra Miller Stevens. Don Anderson; David Dennis; Michael Gisick and John W. McKay, Jr. were absent. Staff members present were: Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; and Maryann Crockett, Recording Secretary.

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

MOTION: To approve the October 23, 2008, minutes, as amended.

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

STRAHL indicated that staff had received the grading plan for item 2-3 (SUB2008-83).

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**
SUBDIVISION CASE DETAILS

- 2-1. **SUB 2008-81: One-Step Final Plat -- AUTO IMAGE ADDITION**, located west of Rock Road and on the south side of Harry.

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

STAFF COMMENTS:

- A. Water Utilities Department advises that municipal services are available to serve the site.
- B. City Engineering has approved the drainage plan. Encroachments into the floodway need to be addressed at site development. Minimum pads need to be established at 2.0 BFE for new development. Existing development may be retained at 1.6 BFE.
- C. The plat proposes complete access control along Harry except one opening. Traffic Engineering has approved the access controls subject to a cross-lot access agreement with the property to the east.
- D. The site is located within the Maximum Mission Area of the Air Installation Compatible Use Zone (AICUZ) study to identify noise impact areas around McConnell Air Force Base. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- E. The plat includes a 10-foot right-of-way dedication. The plat's text shall note the dedication of the streets to and for the use of the public.
- F. County Surveying notes that the plat needs a benchmark datum.

- G. County Surveying notes that in the legal description, “Range 2, East” needs to be corrected.
- H. The MAPC Chairman needs to be corrected to “Darrell A. Downing.”
- I. The condemnation case needs to be referenced regarding Gypsum Creek.
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- K. The 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 that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant’s responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

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

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

2-2. SUB 2008-80: One-Step Final Plat -- WESTSIDE CHURCH OF CHRIST ADDITION,
located on the north side of 47th Street South and west of Meridian.

NOTE: This is a replat of a portion of the Angel Acres Addition including a vacation of Richmond.

STAFF COMMENTS:

- A. Water Utilities Department has advised that sewer is available. Water will need to be extended for fire protection. The main extension will eliminate the fees in lieu of assessment for water.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the drainage plan. The 33-foot drainage easement needs to be labeled as a drainage and utility easement.
- D. Traffic Engineering has approved access controls. The applicant proposes one opening along 47th St. South that needs to be denoted on the face of the plat.
- E. 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.
- F. The applicant shall submit a copy of the instrument, which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the appropriate governing body.
- G. On the final plat tracing, reference to the "50-foot building setback line" along the west line of the plat shall further note that the setback line is a Building Setback Line for the Cities Service Pipeline.
- H. GIS has requested the street be labeled as "47th St S".
- I. 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.
- J. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone:

316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

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

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

2-3. SUB 2008-83: Final Portion of Overall Preliminary Plat -- EMERALD BAY ESTATES SECOND ADDITION, located north of 21st Street North and west of West Street.

NOTE: This final plat is a portion of the overall preliminary plat approved for the Emerald Bay Estates Addition and represents the second phase of development. The street layout and lot configuration is consistent with the preliminary plat.

STAFF COMMENTS:

- A. Water Utilities Department has required the applicant to guarantee the extension of City water and sanitary sewer (mains and laterals) to serve the lots being platted.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Engineering needs an updated grading plan prior to MAPC meeting. Drainage easements need to be denoted on the plat.
- D. Traffic Engineering has approved access controls. The plat proposes one street opening along West Street and complete access control along the remaining street frontage.
- E. The plat needs to include the entire right of way on West Street.
- F. The location of the floodway needs to be labeled in regards to West Street.

- G. The Applicant shall guarantee the paving of the proposed streets.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within ten feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- K. 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. GIS has requested Bayside Ct be renamed Paradise Ct. Bayside adjoining Lots 33-39, Block 1 shall be renamed Paradise. Bayside adjoining the south plat line needs to be renamed 23rd St North or Clearmeadow.
- M. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within

the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

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

T. Westar Energy has requested additional utility easements to be platted on this property.

U. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

STRAHL commented that the applicant has submitted an updated grading plan as requested.

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

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

SHERMAN in @ 1:35 P.M.

3. PUBLIC HEARING – VACATION ITEMS

3-1. VAC2008-33: County request to vacate a platted utility easement.

OWNER/APPLICANT: Gene W. Foster

LEGAL DESCRIPTION: The platted 10-foot utility easement that runs parallel to 13th Street North and the north lot line of Lot 1, Block 3, Crestview Country Club Estates North Point Addition, Sedgwick County, Kansas.

LOCATION: Generally located midway between 127th and 143rd Streets East, south of 13th Street North, on the northwest side of Northpoint and St. Andrews Drives. (BoCC #1, 3-mile ring).

REASON FOR REQUEST: No utilities in easement

CURRENT ZONING: Subject property and abutting southern, eastern and western properties are zoned SF-20 Single-family Residential (“SF-20”). Adjacent northern properties are zoned SF-20 and SF-5 Single-family Residential (“SF-5”).

The applicant is requesting consideration for the vacation of the described platted 10-foot utility easement. There are no manholes, sewer or water lines in the platted easement; a water line is located in the 13th Street North right-of-way (ROW) and sewer is located in the southwestern portion of the subject lot, within a platted easement. Comments from franchised utilities have not been received and are needed to determine if they have utilities located within the described easement. The County Engineer and City Public Works need to comment on the proposed vacation. Because the site is located in Sedgwick County, but within the City of Wichita’s 3-mile ring subdivision jurisdiction, consideration and recommendation by the Wichita City Council and consideration and final action by the Sedgwick County Board of County Commissioners is required. The Crestview Country Club Estates North Point Addition was recorded with the Register of Deeds November 23, 1970.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle and the Derby Reporter, of notice of this vacation proceeding one time October 16, 2008, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described platted utility easement and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the platted utility easement described in the petition should be approved with conditions:
- (1) Vacate only that portion of the easement as described in an approved legal description, as approved by County Engineer, City Public Works and franchised utilities. Provide Planning Staff with the approved legal description of the vacated portion of platted utility easement, via e-mail on a Word document.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility, and at the expense of the applicant and per County, City and franchised utilities standards.
 - (3) Provide Planning Staff with all required dedications by separate instruments for public utility easements. Provide franchised utilities with any needed easements. All provided the original to planning/franchised utilities prior to the vacation case proceeding to the governing bodies final action.
 - (4) No structures, walls, irrigation or landscaping allowed in the 13th Street North ROW.
 - (5) All improvements shall be according to County and City Standards and at the applicant's expense.
 - (6) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate only that portion of the easement as described in an approved legal description, as approved by County Engineer, City Public Works and franchised utilities. Provide Planning Staff with the approved legal description of the vacated portion of platted utility easement, via e-mail on a Word document.

- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility, and at the expense of the applicant and per County, City and franchised utilities standards.
- (3) Provide Planning Staff with all required dedications by separate instruments for public utility easements. Provide franchised utilities with any needed easements. All provided the original to planning/franchised utilities prior to the vacation case proceeding to the governing bodies final action.
- (4) No structures, walls, irrigation or landscaping allowed in the 13th Street North ROW.
- (5) All improvements shall be according to County and City Standards and at the applicant's expense.
- (6) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation.

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

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

PUBLIC HEARINGS

4. **Case No.: ZON2008-51** -Ledgestone Homes, Inc., (applicant/owner); Ruggles & Bohm, P.A., c/o Chris Bohm, P.A., c/o Chris Bohm (agent) Request City zone change from SF-5 Single-family Residential to TF-3 Two-family Residential on property described as:

A tract beginning 40 rods North and 34 rods West of the Southeast corner of the Southeast Quarter of Section 31, Township 27 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence North 20 rods; thence West 8 rods; thence South 20 rods; thence East 8 rods to the point of beginning; except the South 30 feet thereof for road purposes. Generally located north of Pawnee Avenue, west of Seneca Street, on the north side of Haskell Avenue (1328 W. Haskell).

BACKGROUND: The applicant requests a zone change from SF-5 Single-Family Residential ("SF-5") to TF-3 Two-Family Residential ("TF-3") on an approximately 0.85-acre unplatted tract. The site is currently developed as a single-family residence with several accessory buildings. The applicant proposes to redevelop the site with duplexes.

The immediate area is characterized by SF-5 zoned single-family residences, built from the late 1920s through the 1970s; the single-family residence on the subject tract appears to be the oldest, built 1920, in the immediate neighborhood. An exception to the neighborhood's SF-5 zoning is a TF-3 zoned single-family residence (1945), abutting the northeast side of the subject tract; there is no record of a zone change on this TF-3 property, based on records dating back to 1953. The 0.85-acre subject tract appears to be the largest single-family residential property in the neighborhood. The subject tract extends from Haskell Avenue on its south side, to Lotus Street on its north side. Both Haskell and Lotus are residential streets. Lotus ends in a cul-de-sac on its east side, approximately 80 feet from the subject tract. Haskell intersects with Seneca Street, a principal arterial, on its east end, approximately 1/8-mile from the subject tract. There is also a vacant B Multi-family Residential ("B") zoned portion of a platted lot located approximately 180 feet east of the site.

There are LC Limited Commercial (“LC”) zoned office, retail and fast food developments at the Haskell – Seneca intersection, with the west side of Seneca being stripped out from Alley Park to the southwest side of Pawnee. These sections of Lotus and Haskell do not intersect directly or indirectly with an arterial or a collector on their west ends.

The subject tract will have to be platted. The TF-3 zoning district requires a minimum 6,000-square foot lot, 35 feet wide for a duplex.

CASE HISTORY: The site is located in an area that was annexed into the City of Wichita between the years 1951 - 1960.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Church, single-family residences
SOUTH:	SF-5	Single-family residences
EAST:	SF-5, TF-3, B	Single-family residences, vacant lot
WEST:	SF-5	Single-family residences, vacant lot

PUBLIC SERVICES: The subject tract has access to both Haskell Avenue on its south side and to Lotus Street on its north side, both classified as residential streets. This portion of Lotus is paved and curbed with 60 feet of right-of-way (ROW), which ends in a cul-de-sac on its east side, approximately 80 feet from the subject tract. This portion of Haskell is paved and curbed with 40 feet of ROW along the subject tract’s frontage. The block of Haskell located between Seneca Street and Elizabeth Avenue has an irregular pattern of 40 to 50 feet of ROW. Current Subdivision Code standards for a residential street require 60 feet of right-of-way. The 2030 Transportation Plan shows no change to any of the above-mentioned streets’ status. The nearest traffic counts are at the Pawnee Avenue and Seneca intersection (both principal arterials) and they range from 18,308 to 22,465 average trips per day. Public water, sewer service and all other utilities are available to serve the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan designates this area as appropriate for “Urban Residential” development. The Urban Residential category includes all housing types found in the municipality, including duplexes. The Comprehensive Plan contains the following objective: encourage residential redevelopment, infill, and higher density residential development, which maximize the public investment in existing and planned facilities and services. The objective is intended to be achieved through several strategies, including using zoning as tools to promote mixed-use development, higher density residential environments, and appropriate buffering. The proposed TF-3 zoning will promote redevelopment of the largest residential property (0.85-acres) in the area and replace the oldest single-family residence (1920) with a higher density residential development, duplexes, which maximize the public investment in existing and planned facilities and services. However no buffering is required by the Unified Zoning Code (UZC) between single-family residential use and duplex use. An abutting property is zoned TF-3, but is developed as a single-family residence, therefore the proposed TF-3 zoning does not introduce TF-3 zoning into the area.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within a year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The immediate area is characterized by SF-5 zoned single-family residences, built from the late 1920s through the 1970s; the single-family residence on the subject tract appears to be the oldest, built 1920, in the immediate neighborhood. The exceptions to the neighborhood’s SF-5 zoning is a TF-3 zoned single-family residence (1945), abutting the northeast side of the subject tract and a B zoned vacant property, located approximately 180 feet east of the site.

2. The suitability of the subject property for the uses to which it has been restricted: The 0.85-acre unplatted tract is zoned SF-5 and is currently developed as a single-family residence with several accessory buildings. The tract could continue to be used as single-family residential. The size of the tract could allow subdivision of the site into a minimum of four (4) single-family residential lots, two with frontage on Haskell Avenue and two with frontage on Lotus Street.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: There is another TF-3 zoned lot abutting the northeast side of the subject tract, but it is developed as a single-family residence. It is also the only TF-3 zoned property within a ½-mile of this neighborhood. The stated purpose of the requested TF-3 zoning is to allow the redevelopment of the subject tract into duplexes, which would introduce duplexes into the neighborhood. Typical concerns expressed by neighbors in regards to duplex development is declining property values of the neighborhood brought on by poor maintenance of what is typically rental housing, i.e., the duplexes. Poor maintenance of rental property is not an absolute, nor is there any guarantee that a single-family residence will be properly maintained by its owner, who may or may not be residing in the single-family residence. At the very least, a remedy for poor maintenance of a property can be addressed through Code Enforcement.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan designates this area as appropriate for “Urban Residential” development. The Urban Residential category includes all housing types found in the municipality, including duplexes. The Comprehensive Plan contains the following objective: encourage residential redevelopment, infill, and higher density residential development that maximize the public investment in existing and planned facilities and services. The objective is intended to be achieved through several strategies, including using zoning as tools to promote mixed-use development, higher density residential environments, and appropriate buffering. The proposed TF-3 zoning would promote redevelopment of the largest residential property (0.85-acres) in the area and replace the oldest single-family residence (1920) with a higher density residential development, duplexes, which maximize the public investment in existing and planned facilities and services.
5. Impact of the proposed development on community facilities: Community facilities should not be adversely impacted due to the minor increase in density.

WILLIAM LONGNECKER, Planning Staff presented the Staff Report. He said DAB IV approved the duplex zoning 4-2.

CHRIS BOHM, RUGGLES AND BOHM, ON BEHALF OF THE APPLICANT, said the developer is eager to develop this lot to the highest standard and its fullest potential. He indicated that there is duplex zoning next door to the lot, B Multi-family Residential zoning to the south and LC Limited Commercial near Seneca. He said they believe this is good use of the area.

DAVE UNRUH, 1401 LOTUS STREET said he lived two blocks down from the location on a cul-de-sac. He commented that the street is pretty quiet and that there are young families with small children in the area. He said he disapproves of the requested duplex zoning because he believes it will bring more traffic into the area, which will be dangerous for the kids. He said this also has the potential to bring down property values.

BILL ARENS, 1307 HASKELL also commented that it is a pretty quiet street. He said he has seven signed petitions, but that some of the people are working and could not come to the meeting to be heard. He said this is a busy street as it is and bringing in duplexes will mean more people and that much more traffic. He said there are young kids that play in the street and they don't need that extra traffic. He said this is a residential area and they don't need traffic coming into the area.

HILLMAN asked **MR. ARENS** if he presented his concerns at the DAB IV meeting.

MR. ARENS responded yes.

HILLMAN commented that DAB IV still voted for approval of the application.

CHRIS BOHM commented that with the 20 homes in the area, excluding the church, that probably equals 10 trips a day and that the two lots will only add 20 more trips to the 200. He said the church probably offsets that on the weekends. He stated that they were planning on putting two duplexes on the Lotus side, keeping the existing single-family residence on the Haskell side and putting a duplex next to it.

FOSTER clarified that there was access to the lot from both the north and south.

BOHM said that was correct.

JOHNSON commented that if the lot is 37,000 square feet, than it is conceivable to have 6 single-family lots at the location.

MILLER said the minimum single-family lot size is 5,000 square feet.

LONGNECKER added that there was also a 50-foot minimum lot width for SF-5 zoning, and that even with a 10% reduction of it by administrative adjustment, there could only be four single-family lots on the site.

JOHNSON clarified that the applicant was going to be put a total of six units, while keeping the single-family residence, which would be three more units than would be permitted with the current zoning.

MOTION: To approve subject to staff recommendation.

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

5. **Case No.: ZON2008-52 and CUP2008-40** – Southfork Investments, LLC, c/o Jay S. Maxwell (owner); Poe & Associates, Inc., c/o Tim Austin (agent) Request City zone change from SF-5 Single-family Residential to GC General Commercial and Creation of DP-315 Funston Addition Community Unit Plan on property described as:

The north 660 feet of the east 404.25 feet of the northeast quarter of Section 21, Township 28 South, Range 1 East, Sedgwick County, Kansas; EXCEPT the south 86 feet of the east 206.25 feet thereof; AND EXCEPT road right-of-way of record;

Along with, the following described land:

Beginning at the northwest corner of Lot 1, Block A, Yellow Freight Addition, to Wichita, Sedgwick County, Kansas; Thence north along the east line of the Victoria Street right-of-way for a distance of 685 feet to the south line of 47th Street South right-of-way; Thence east along said south line of 47th Street South for a distance of 225 feet to a point lying 404.25 feet east of the east line of said northeast quarter; Thence south parallel to said east line of said northeast quarter for a distance of 720 feet to the north line of said Yellow Freight Addition; Thence northwest along the north line of said Yellow Freight Addition for a distance of 223 feet to the point of beginning. Generally located on the southwest corner of 47th Street South and Hydraulic Avenue.

BACKGROUND: The applicant proposes to create a Commercial Community Unit Plan (“CUP”) containing approximately 8.3 acres consisting of five parcels. The property is currently zoned SF-5

Single-family Residential (“SF-5”) and the proposed zone change is for GC General Commercial (“GC”) zoning. The property is located at the southwest corner of 47th Street South and Hydraulic Avenue. Parcel 1 is 1.16 acres in size and is located on the northeast corner of the subject site, right at the intersection of 47th Street South and Hydraulic Avenue. Parcel 2 is 0.71 acres in size and is located just west of Parcel 1, along 47th Street South in the north central part of the proposed CUP. Parcel 3 is 0.92 acres in size and is located west of Parcel 2, along 47th Street South in the northwest part of the proposed CUP. Parcel 4, the largest parcel, is 4.71 acres in size and occupies approximately the southwest half of the subject site. Parcel 5 is 0.75 acres in size and is located south of Parcel 1, along Hydraulic Avenue in the southeast part of the proposed CUP.

The following uses shall be prohibited in all parcels: cemetery; correctional placement residences and night club in the City. Any uses allowed only by Conditional Use shall not be allowed except by CUP amendment. The following uses shall be prohibited within 200 feet of residentially zoned property: service stations, convenience stores with gas islands, restaurants with drive-in or drive-through facilities and vehicle repair. There shall be no overhead doors for auto services or repair uses facing residential districts.

Staff recommends adding the uses of vehicle storage, tavern and drinking establishments and sexually oriented businesses to the list of prohibited uses in all parcels. Staff also recommends that restaurants that serve liquor can be developed and may serve liquor, as long as food is the primary service of the establishment and, restaurants with drive-through windows shall be designed to ensure queuing lanes for drive-through windows will not align vehicle headlights in such a manner as to face residential uses, and exterior audio systems that project sound beyond the boundaries of the CUP are prohibited. Staff would recommend that “residential zoned property” or “residential districts” be replaced with “residential uses” since the majority of the residential uses in the vicinity are not located in residentially zoned property.

Maximum building coverage would be 30 percent of the land area and the maximum building height is 35 feet. Maximum gross floor area would be 35 percent for Parcel 1 and 30 percent for Parcels 2, 3, 4 and 5. Building setbacks are 35 feet on arterial streets, which may be reduced to 20 feet if the front yard area is landscaped, and the setbacks will be 35 feet when abutting or adjacent to residentially zoned property.

All buildings within the CUP shall have consistent exterior building materials with consistent architectural character, form, color and texture. Use of metal as a building exterior is prohibited. Building walls shall be broken up by projections, recesses, changes in roof line and changes in colors, textures and/or materials, relating to interior building functions where feasible. All lights shall be shielded to reflect light downward or direct light away from residential areas. Light poles on Parcels shall be limited to 20 feet in height. All parking lot lighting within the CUP shall share consistent design. Lighting height shall be limited to 15 feet when within 100 feet of residential zoning. Extensive use of backlit canopies and neon or fluorescent tube lighting on buildings is not permitted.

A six foot high masonry wall shall be constructed along Parcel 4 where adjacent to SF-5 zoning. Except that if Parcel 4 is developed with a residential use the wall may be substituted with a wood fence no less than six feet in height. No utilities shall be placed within the 5 foot wall easement. Development of all parcels within the CUP shall comply with the Landscape Ordinance of the City of Wichita, with a shared palette of landscape materials among parcels.

All free standing signs shall be monument style, shall have a recommended maximum height of 15 feet, spaced a minimum of 150 feet apart irrespective of ownership or lease and share similar elements of design; no pole signs shall be permitted. Portable signs, billboards and off-site signs are not permitted. Temporary advertising decoration or banner-type signs, excluding tinsel or pennant streamers or other similar decoration, shall be permitted, but shall be limited to no more than 36 square feet in size to no more than 15 day placements; no more than three such banner or advertising decoration signs are permitted in the CUP at any time. Any advertising decoration or banner sign shall be securely attached to a building, wall or fence. Staff would also recommend that window display signs are limited to 25% of the window area, and flashing signs (except for signs showing only time, temperature and other public

service messages), rotating or moving signs, signs with moving lights or signs which create illusions or movement are not permitted.

The site was the former site of the Funston Elementary School but is now currently vacant except for the two existing single-family residences along Hydraulic that have yet to be removed. The property to the south is zoned LI Limited Industrial (“LI”) and SF-5 and is currently developed with a church, residence and truck terminal. Property to the north is zoned LC and is developed with a retail store and single-family residences. Property to the west is zoned SF-5 and LI and is developed with a church and a truck terminal. Property to the east is zoned LC and is developed with a convenience store and a fraternal organization.

CASE HISTORY: The property is unplatted. The northern half of the property was the former site of the Funston Elementary School.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Retail & Single-family Residences
SOUTH:	LI & SF-5	Truck Terminal & Church
EAST:	LC & SF-5	Fraternal Institution & Convenience Store
WEST:	LI & SF-5	Truck Terminal & Church

PUBLIC SERVICES: There are three streets that abut the north, west and east side of the proposed CUP. 47th Street South runs along the north property line and is designated as a five-lane principal arterial on the 2030 transportation map. Hydraulic Avenue travels along the east property line and is designated as a four-lane minor arterial on the 2030 transportation map, while South Victoria Street runs along the west property line and is currently a two-lane local road. Average east/west daily traffic on 47th Street South at the intersection of 47th Street and Hydraulic is 43,044 trips. Average north/south daily traffic on Hydraulic Avenue at the intersection of 47th Street and Hydraulic is 21,056 trips. Victoria Street does not have any measurements of average daily traffic. All city services are available to the subject site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “employment/industry center” land use category. This category includes areas with uses that constitute centers or concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses includes manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices. The subject site is bordered to the south and west by properties categorized as “employment/industry center” and properties to the east categorized as “local commercial” on the land use guide and many uses that are classified in the “employment/industry center” category can be developed on property zoned GC.

The subject site is located within the area covered by the South Wichita/Haysville Area Plan. According to this plan, the application conforms to the goal of improving the area’s opportunities for additional commercial growth. The objective of the plan is to support new commercial development at key locations and the redevelopment of commercial centers within the Planning Area. The goals and objectives of this plan can be achieved by using two strategies including Strategy 6.B.3 which focuses on supporting commercial development that is oriented to the needs of the Planning Area in conformance with the **siting** standards contained within the adopted Comprehensive Plans of Wichita and Haysville.

Commercial Locational Guideline #1 of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #2** recommends that the location of major commercial uses should be coordinated with mass transit routes, high-density residential, employment and other intensive uses. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and **#4** recommends compact clusters versus extended strip development. The proposed CUP restricts the height of parking lot lighting to 20 feet,

reduced to 15 feet within 100 feet of residential use and reduces the types of uses, restricts overhead doors and drive-through uses located near to residential lots.

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

- A. **APPROVE** the zone change (ZON2008-00052) to GC General Commercial (“GC”) subject to replatting within one year;
- B. **APPROVE** the Funston Addition Community Unit Plan (DP-315), subject to the conditions of the CUP attached hereto and the following conditions:
 1. Add General Provision #4 (D) to state: “As the frontage develops along the arterial roadways, monument type signs shall be spaced a minimum of 150 feet apart, irrespective of how land is leased or sold and share similar elements in design. Flashing signs (except for signs showing only time, temperature and other public service messages), rotating or moving signs, signs with moving lights or signs that create illusions of movement are not permitted. Window display signs are limited to 25% of the window area and all freestanding signs must be monument type and shall have a maximum height of 15 feet.”
 2. Add to General Provision #19 that the use of metal as a building exterior is prohibited.
 3. Add to General Provision #26:
 - a. Vehicle storage, tavern and drinking establishments and sexually oriented businesses are prohibited.
 - b. Restaurants that serve liquor can be developed and may serve liquor, as long as food is the primary service of the establishment.
 - c. Restaurants with drive-through windows shall be designed to ensure queuing lanes for drive-through windows will not align vehicle headlights in such a manner as to face residential uses.
 - d. Exterior audio systems that project sound beyond the boundaries of the CUP are prohibited.
 4. Revise all General Provisions that currently state “residentially zoned property” or “residential districts” to state “residential uses” since the majority of the residential uses in the vicinity are not located in residentially zoned property.
 5. 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.
 6. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 7. 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.
 8. The applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-315) includes special conditions for development on this property.

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

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site was the former site of the Funston Elementary School but is now currently vacant except for the two existing single-family residences along Hydraulic that have yet to be removed. The property to the south is zoned LI and SF-5, and is currently developed with a church, residence and truck terminal. Property to the north is zoned LC and is developed with a retail store and single-family residences. Property to the west is zoned SF-5 and LI, and is developed with a church and a truck terminal. Property to the east is zoned LC and is developed with a convenience store and a fraternal organization.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned SF-5, and could be developed as such. However, the community's long established commercial development pattern has been the placement of retail zoning and commercial uses on property located at the intersections of section line/arterial roads.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The impact of the commercial use on the nearby residential areas will be decreased by use restrictions, additional site restrictions nearer residential development, consistency in design elements such as architectural elements, landscaping, lighting and signage.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "employment/industry center" land use category. This category includes areas with uses that constitute centers or concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses includes manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices. The subject site is bordered to the south and west by properties categorized as "employment/industry center" and properties to the east categorized as "local commercial" on the land use guide and many uses that are classified in the "employment/industry center" category can be developed on property zoned GC.

The subject site is located within the area covered by the South Wichita/Haysville Area Plan. According to this plan, the application conforms to the goal of improving the area's opportunities for additional commercial growth. The objective of the plan is to support new commercial development at key locations and the redevelopment of commercial centers within the Planning Area. The goals and objectives of this plan can be achieved by using two strategies including Strategy 6.B.3 which focuses on supporting commercial development oriented to the needs of the Planning Area in conformance with the sitting standards contained within the adopted Comprehensive Plans of Wichita and Haysville.

5. Impact of the proposed development on community facilities: As proposed, traffic could be expected to increase on 47th Street South and Hydraulic Avenue when this development is fully built out. Limits on the access, with conformance to the Access Management Policy and a possible left-turn center lane and decel lane improvements could help mitigate traffic issues in the future. Extension of other publicly supplied services, such as sewer and water, are currently available to the site.
6. Opposition or support of neighborhood residents: As of October 28, 2008, there have been some phone calls received by staff in regards to the proposed application. Most calls were for additional information while some calls have been in opposition of the request.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

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

-
6. **Case No.: ZON2008-53** – Sawmill Creek, LLC, c/o Doug Long (applicant/owner); Ruggles & Bohm, P.A., c/o Chris Bohm (agent) Request City zone change from SF-5 Single-family Residential to GO General Office on property described as:

The west 200.00 feet of Reserve “A”, Sawmill Creek Addition, Wichita, Sedgwick County, Kansas, AND that part of Reserve “C” described as beginning at the northwest corner thereof; thence S 01°02’36”E, along the west line of said Reserve “C”, 486.00 feet; thence N44°34’33”E, 160.00 feet; thence N24°43’36”E, 197.00 feet to a line 200.00 feet east of and parallel with said west line; thence N01°02’36”W along said line, 123.00 feet to the north line of said Reserve “C”, said north line being a curve to the right having a radius of 132.00 feet, an arc length of 17.31 feet, chord bearing N48°45’28”W, 17.30 feet; thence along said curve 17.31 feet to a point of tangency; thence N45°00’00”W along said north line, 54.74 feet to a point of curvature of a curve to the left having a radius of 68.00 feet, an arc length of 53.41 feet, chord bearing N67°30’00”W, 52.04 feet; thence along said curve 53.41 feet to a point of tangency; thence S90°00’00”W along said north line, 101.51 feet to the point of beginning, Sawmill Creek Addition, Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant requests a zone change from SF-5 Single-Family Residential (“SF-5”) to GO General Office (“GO”) on approximately 3.47-acres. The subject site is located on the north and south sides of Sawmill Road, in portions of Reserves A (5.63-acres) and C (26.54-acres), Sawmill Creek Addition, and east of Rock Road. Both portions of the reserves and the application area have frontage on Rock Road. Reserves A and C are part of a single-family residential subdivision, the Sawmill Creek Addition. Per the platlor’s text, uses in both reserves are restricted to: “signage, gazebos, small park structures, picnic areas/tables with covered structures, irrigation, walls, walks, lighting, landscaping, footbridges, drainage and drainage structures, berms, ponds, lakes and utilities confined to easements.” The platlor’s text also states that “The Reserves shall be owned and maintained by the Home Owner’s Association for the Addition.” The applicant proposes to develop the subject site into offices at this mid-mile location, thus the request for the GO zoning; however office development is not a permitted use in either reserve. To remove the restriction of uses allowed in the reserves; to remove the Home Owner’s Association from ownership and maintenance of these portions of the reserves; and to build uses not permitted on the subject site, the applicant will be required to replat the property. One of the considerations for this application is the fact that drainage is a significant feature of the reserves, but the applicant indicates there is developable ground located outside of the drainage ways that is capable of being developed, if the reserve area was more confined.

Most of the land in the area located north, west, and east of the site is located within the city limits of Bel Aire. These properties are undeveloped, developing or partially developed single-family residential subdivisions or are vacant tracts of land. The subject site is located within the partially developed SF-5 zoned Sawmill Creek Addition, a single-family residential subdivision. Properties located south of this large single-family residential subdivision, and north of 45th Street North, are located in the City of Wichita. These undeveloped properties are zoned LC and MF-18 Multi-family Residential (“MF-18”).

CASE HISTORY: The site, portions of Reserves A and C, the Sawmill Creek Addition, was recorded with the Register of Deeds January 25, 2001.

ADJACENT ZONING AND LAND USE:

NORTH:	City of Bel Aire	Undeveloped tracts, large tract single-family residential
SOUTH:	SF-5	Reserve, undeveloped and developed single-family residential

EAST:	SF-5	Reserve, undeveloped and developing single-family residential
WEST:	City Bel-Aire	Undeveloped and developing single-family residential

PUBLIC SERVICES: The subject site has access to Sawmill Road on both its south and north sides. Sawmill is a platted residential street, which is not developed. The subject site also has frontage/access onto Rock Road. Rock Road is a paved, two-lane minor arterial at this location. The 2030 Transportation Plan shows no change to any of the above mentioned streets' status. The nearest traffic counts along Rock between 45th and 53rd Streets North range around 2,800 average trips per day. Public water, sewer service and all other utilities are available to serve the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan designates this area as appropriate for "Urban Residential" development. The Urban Residential category includes all housing types found in the municipality. The requested GO zoning permits some uses that are listed in the Urban Residential category as "special residential accommodations for the elderly...assisted living congregate care and nursing homes." The Urban Residential category also list churches, playgrounds, parks and elementary and middle schools as "similar residential uses" found in this category, all which are permitted in the GO zoning district. The GO zoning district also permits uses not listed in the Urban Residential category, such as: cemetery, college or university, community assembly, correctional placement, hospital, automated teller machine (ATM), bed and breakfast inn, broadcast/recording studio, funeral home, hotel/motel, recreational marine facility, medical service, general office, a commercial parking area, and an asphalt or concrete plant.

The "Office Locational Guidelines" of the *Comprehensive Plan* include: (1) being located adjacent to arterial streets; (2) having local, service-oriented offices incorporated within or adjacent to neighborhood and community scale commercial development, and (3) having low-density office use as a transitional land use between residential uses and higher intensity uses. The subject site is located adjacent to an arterial, Rock Road. The subject site could be developed as low density office use, with considerations. The remaining portions of the Reserves A (originally 5.63-acres) and C (originally 26.54-acres) would serve as a buffer between the proposed office use and the rest of the developing single-family residential subdivision. It could be argued that this request is spot zoning, meant to allow the applicant an economic opportunity. A Protective Overlay (PO) could eliminate some of the more intrusive GO uses, while allowing local, service-oriented offices and special residential accommodations for the elderly. A PO could also ensure design compatibility with the developed and developing single-family residential neighborhood. The location of the proposed GO site at mid-mile, with existing or developing single-family residential all around it prevents it from being considered a transitional land use.

RECOMMENDATION: Normally staff would not be supportive of GO zoning at a mid-mile location such as this. However, the applicant indicated the site has developable ground that can be removed from the reserves that would not be suitable for residential use due to its size. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to replating within a year and the following provisions of a Protective Overlay:

1. The property shall be developed with buildings designed and built with materials similar to the existing and developing single-family residential subdivisions in the area, including double-pitched gable or hip style roofs.
2. Maximum building height of 35 feet.
3. Freestanding monument-type sign (as permitted in the GO General Office zoning district, per the sign code) with materials matching the materials of the building and not exceeding 6-foot height. No off-site or portable signs shall be permitted on the subject property. No signs shall be permitted along the rear or side of any building.
4. Light poles shall be of the same color and design and shall have cut-off fixtures which direct light away from any abutting or adjacent properties that are in a residential zoning district. Light poles shall be limited to a maximum height, including the base of the light pole, of 15-feet. Light poles shall not be located within any setbacks.
5. Permitted uses shall be restricted to single family residential, duplex, multi-family residential,

assisted living, group residence, church or place of worship, day care, college or university, library, schools, minor utility, ATM, medical services, and general office.

6. All setbacks shall remain at the current SF-5 Single-family Residential zoning standards.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Most of the land in the areas located north, west, and east of the site is located within the city limits of Bel Aire. These properties are undeveloped, developing or partially developed single-family residential subdivisions or are vacant tracts of land, which appear to be agricultural fields. The subject site is located within the partially developed SF-5 zoned Sawmill Creek Addition, a single-family residential subdivision. Properties located south of this large single-family residential subdivision, and north of 45th Street North, are located in the City of Wichita. These properties are undeveloped LC and MF-18 Multi-family Residential (“MF-18) zoned lands. The site has frontage on Rock Road, which is classified as an arterial road.
2. The suitability of the subject property for the uses to which it has been restricted: Although the site is zoned SF-5, it is a part of Reserves A (5.63-acres) and C (26.54-acres), Sawmill Creek Addition. The reserves are not allowed to be developed as single-family residential. Per the platlor’s text, uses in both reserves are restricted to: “signage, gazebos, small park structures, picnic areas/tables with covered structures, irrigation, walls, walks, lighting, landscaping, footbridges, drainage and drainage structures, berms, ponds, lakes and utilities confined to easements.” The site could continue to be a part of the reserves.
4. Extent to which removal of the restrictions will detrimentally affect nearby property: If allowed to develop as proposed, the Homeowners Association/neighborhood would lose a portion of land reserved primarily for drainage, utilities and landscaped open space. Drainage and utility considerations will be resolved during the replatting of the site. With only 3.47-acres of the original 32.17-acres of the reserves proposed for development, sufficient buffering space remains between the proposed GO zoning and the developing and developed single-family residential neighborhoods, located on the east side of Rock Road. The provisions of the proposed Protective Overlay ensure architectural compatibility with the single-family residential neighborhoods and promote local, service-oriented offices and special residential accommodations for the elderly in the area.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan designates this area as appropriate for “Urban Residential” development. The Urban Residential category includes all housing types found in the municipality. The requested GO zoning permits some uses that are listed in the Urban Residential category as “special residential accommodations for the elderly...assisted living congregate care and nursing homes.” The Urban Residential category also lists churches, playgrounds, parks and elementary and middle schools as “similar residential uses” found in this category, all which are permitted in the GO zoning district. The GO zoning district also permits uses not listed in the Urban Residential category, such as: cemetery, college or university, community assembly, correctional placement, hospital, automated teller machine (ATM), bed and breakfast inn, broadcast/recording studio, funeral home, hotel/motel, recreational marine facility, medical service, general office, a commercial parking area, and an asphalt or concrete plant.

The “Office Locational Guidelines” of the *Comprehensive Plan* include: (1) being located adjacent to arterial streets; (2) having local, service-oriented offices incorporated within or adjacent to neighborhood and community scale commercial development, and (3) having low-density office use as a transitional land use between residential uses and higher intensity uses. The subject site is located adjacent to an arterial, Rock Road. The subject site could be developed as low density office use, with considerations. The remaining portions of the Reserves A

(originally 5.63-acres) and C (originally 26.54-acres) would serve as a buffer between the proposed office use and the rest of the developing single-family residential subdivision. It could be argued that this request is spot zoning, meant to allow the applicant an economic opportunity; however there is potentially developable ground outside of the drainage way that could be suitable for development. The recommended Protective Overlay (PO) eliminates some of the more intrusive GO uses, while allowing local, service-oriented offices and special residential accommodations for the elderly. The PO also ensures design compatibility with the developed and developing single-family residential neighborhood. The location of the proposed GO site at mid-mile, with existing or developing single-family residential all around it prevents it from being considered a transitional land use.

5. Impact of the proposed development on community facilities: Community facilities should not be adversely impacted due to the minor increase in activity.

BILL LONGNECKER, Planning Staff presented the Staff Report. He said DAB II approved the application unanimously with the addition of a provision of a minimum 20-foot setback along the north side of the property, where it abuts the Bel Aire City limits. He commented that so far, no protests have been received on the case.

CHAIRMAN DOWNING clarified that the applicant was in agreement with the additional provision.

BOHM said yes.

CHAIRMAN DOWNING at this time noted that a member of the audience asked to have the case presented, but because they did not say if they were in favor or against the case, the chair declined to have staff present the case.

MOTION: To approve subject to staff recommendation, with the change outlined by staff.

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

-
7. **Case No.: ZON2008-55 and CON2008-53** – Johnson and Anna Tieu (owner); Sapulpa Auto Pool, Attn: Ted Holt (contract purchaser); Ferris Consulting, Attn: Greg Ferris (agent) Request County zone change from IP-A Industrial-Park Airport to LI Limited Industrial with a protective overlay and County Conditional Use for Wrecking/Salvage Yard to allow sales of salvaged vehicles on property described as:

Lot 1, Block A, Glenville East Addition to Sedgwick County, Kansas. Generally located west of Rock Road, one half mile north of 47th Street South.

BACKGROUND: The applicant is requesting a zone change from IP-A Industrial Park-Airport (“IP-A”) to LI Limited Industrial (“LI”) with a protective overlay to limit uses to those permitted by right in IP-A District plus Wrecking/Salvage Yard as permitted in LI District, and as a County Conditional Use for Wrecking/Salvage Yard. The site is nearly 40 acres in size and located on the west side of Rock Road between one-fourth and one-half mile north of 47th Street South.

Wrecking/Salvage Yard is first permitted in the LI District and is permitted only as a Conditional Use. Article III, Section III-D.6.e stipulates that a Wrecking/Salvage Yard cannot be directly abutting an arterial, expressway or freeway, will not adversely affect the character of the neighborhood, and is enclosed by a fence or wall not less than eight feet in height with cracks or openings of not more than five percent.

The Conditional Use would be restricted to the sales of wrecked or salvaged vehicles only and not permit the sales of parts from salvage or conducting of salvage/wrecking operations such as dismantling vehicles onsite. However, the protective overlay does not extend to the property development standards of the IP-A District. It would permit the property to be used according to the property development standards of the LI District, which are less in terms of setbacks, screening and outdoor storage than those of the IP-A District.

Sales of salvaged vehicles falls within the functional land use classification of "Processing Industry," not "Employment/Industry Center." The purpose of the IP-A District is to accommodate research and development, industrial and manufacturing uses that can meet high development and performance standards and are compatible with the operation of an airport and related facilities. According to the purpose of the IP-A District, the appropriate functional classification would be "Employment/Industry Center."

The Conditional Use site plan identifies a 20-foot landscaped strip and a parking area in a 150-foot strip along Rock Road. Also, a 75-foot pipeline easement is located on the east half of this 150-foot strip. A ten-foot landscape buffer is located on the north, south and west property lines, coterminous with a ten-foot platted utility easement. This could create a difficulty in locating the plants within the narrow strip with possible utility conflicts. It should be noted that the required building setback line for the IP-A District would be 15 feet rather than zero feet in LI, an example of where property development standards in IP-A exceed those of LI and exceed the width of the buffer shown on the site plan. An eight-foot solid screening fence would surround the Wrecking/Salvage Yard storage and sales area on all four sides. The site plan does not identify the type of screening fence materials or show the layout of parking spaces within the parking area, and type of surfacing is not indicated.

The property was rezoned from SF-20 Single-Family Residential ("SF-20") and RR Rural Residential ("RR") to IP-A on November 2, 2007, as part of the government-initiated and newly created IP-A zone to channel development within the immediate environs of McConnell Air Force Base to compatible uses. The property also is located within the AFBP-O Air Force Base Protective Overlay, established March 22, 2007, to limit the height of development to 25 feet in proximity to McConnell. Both of these actions were spurred by the Joint Land Use Study conducted to ensure the viability of McConnell as a major presence in the community by prohibiting uses that would be incompatible to the long-term operation of the Air Force Base. A copy of the supporting documentation initiating these zoning code and map amendments is attached. The initiated amendments were adopted by the Sedgwick County Commission at the recommendation of the Planning Commission through numerous public hearings during a year-long process.

McConnell Air Force Base borders the west property line and the west half of the north property line is zoned AFB Air Force Base ("AFB"). The east half of the north property line is zoned IP-A and is pasture and agricultural sales operation (wood cutter), with a horse stable located on the next acreage and the McConnell driving range bordering it. The property east of Rock Road is zoned SF-20 and RR and consists of large-lot suburban development, farmsteads or vacant property. The property to the south is zoned IP-A and is agricultural use. The property is located in the Rock Road corridor between Wichita and Derby.

CASE HISTORY: The property is platted as Glenville East Addition, recorded May 4, 1998. A incomplete application for a previous LI request was filed in 2007 but never completed (ZON2007-00056).

ADJACENT ZONING AND LAND USE:

NORTH:	AFB, IP-A,	McConnell Air Force Base, farmstead with stable, agricultural sales
SOUTH:	IP-A	Agricultural land
EAST:	SF-20, RR	Suburban residential, vacant, agricultural land
WEST:	AFB	McConnell Air Force Base

PUBLIC SERVICES: Access is from Rock Road, a four-lane rural-standard arterial street with open ditches. In 2006, average daily traffic (AADT) was 15,045 vehicles per day. Municipal water and sewer is currently unavailable.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide," 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identifies the site as "employment/industry center." The requested Conditional Use for Wrecking/Salvage Yard, even when restricted with the protective overlay to sales of wrecked or salvaged vehicles, would be considered "Processing Industry" according to the Land Use Guide functional classification and none of the undeveloped area surrounding McConnell Air Force Base is designated for this category." The IP-A District, like the Airport Overlay District, is intended to promote uses that are compatible with Air Force Base operations, as defined by Federal Land Use Compatibility Guidelines. These guidelines attempt to limit uses to those that attract few customers, employees or participants at any given time due to safety concerns related to the operation of the base. While these guidelines do not specifically identify Wrecking/Salvage Yards as an incompatible use, the proposed use of this site for an auto auction is different than a typical wrecking/salvage operation and could attract significant numbers of people at a given time. The intended purpose of the IP-A district was to limit uses to those with high performance and property development standards; the proposed use does not meet these standards. Technically, the site plan includes deficiencies in conflict with the Conditional Use requirement of not directly abutting an arterial since the only designated use of the parking area is as the required parking for the operation of the sales of wrecked vehicles. Finally, the use is inconsistent with the character of the existing and proposed future development of the Rock Road corridor. Today, the Rock Road corridor from McConnell south to the Derby growth area is sparsely developed and most of the development on the east side is large lot suburban residential located directly west of this site, and the driving range for McConnell and agricultural operations on the west side of the Rock Road. The Rock Road corridor in the Derby growth area is rapidly developing with planned shopping centers, including a new development at 63rd Street South and Rock Road, a proposed school site between 63rd and 71st Street South and a large lifestyle shopping center for the one-half mile north of 71st Street South. The establishment of this use could reverse the trend toward a viable shopping corridor and affect the quality of the gateway to Wichita and to Derby. The supplementary use regulations of the UZC specifically state that wrecking and salvage should not be approved if it will adversely affect the character of the neighborhood.

RECOMMENDATION: Based upon information available prior to the public hearing, Staff recommends the application be DENIED.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** McConnell Air Force Base borders the west property line and the west half of the north property line is zoned AFB Air Force Base ("AFB"). The east half of the north property line is zoned IP-A and is pasture and agricultural sales operation (wood cutter), with a horse stable located on the next acreage and the McConnell driving range bordering it. The property east of Rock Road is zoned SF-20 and RR and consists of large-lot suburban development, farmsteads or vacant property. The property to the south is zoned IP-A and is agricultural use. The property is located in the Rock Road corridor between Wichita and Derby. Today, the Rock Road corridor from McConnell south to the Derby growth area is sparsely developed and most of the development on the east side is large lot suburban residential located directly west of this site, and the driving range for McConnell and agricultural operations on the west side of the Rock Road. The proposed use is inconsistent with the existing character of the neighborhood.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is suited for its current zoning of IP-A and this is the preferred district to ensure compatibility with McConnell and the future Rock Road corridor development. Both of these actions were spurred by the Joint Land Use Study conducted to ensure the viability of McConnell as a major presence in the community by eliminating uses that would be incompatible to the long-term operation of

the Air Force Base. A copy of the supporting documentation initiating these zoning code and map amendments is attached. The initiated amendments were adopted by the Sedgwick County Commission at the recommendation of the Planning Commission through numerous public hearings during a year-long process.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The change from IP-A to LI with a protective overlay and Conditional Use for a Wrecking/Salvage Yard, even when limited to sales of wrecked salvage vehicles represents a different direction of the Rock Road corridor and could impact the future development pattern to be characterized by more permissive uses with lower performance and property development standards and of greater impact on the gateways to Wichita and Derby as well as to the established residential neighborhood to the east.
4. The length of time the subject property has remained vacant as zoned: The property has been zoned IP-A only one year.
5. The relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The gains to the public include better interface with existing surrounding properties as well as encouraging future development in character compatible with long-term higher quality and complementary uses to both the Air Force Base and the corridor; the relative hardship to the applicant is no different than the other similarly situated properties in this corridor.
6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide," 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identifies the site as "employment/industry center." The requested Conditional Use for Wrecking/Salvage Yard, even when restricted with the protective overlay to sales of wrecked or salvaged vehicles, would be considered "Processing Industry" according the Land Use Guide functional classification and none of the undeveloped area surrounding McConnell Air Force Base is designated for this category." The IP-A District, like the Airport Overlay District, is intended to promote uses that are compatible with Air Force Base operations, as defined by Federal Land Use Compatibility Guidelines. These guidelines attempt to limit uses to those that attract few customers, employees or participants at any given time due to safety concerns related to the operation of the base. While these guidelines do not specifically identify Wrecking/Salvage Yards as an incompatible use, the proposed use of this site for an auto auction is different than a typical wrecking/salvage operation and could attract significant numbers of people at a given time. The intended purpose of the IP-A district was to limit uses to those with high performance and property development standards; the proposed use does not meet these standards. Technically, the site plan includes deficiencies in conflict with the Conditional Use requirement of not directly abutting an arterial since the only designated use of the parking area is as the required parking for the operation of the sales of wrecked vehicles. Finally, the use is inconsistent with the character of the existing and proposed future development of the Rock Road corridor. Today, the Rock Road corridor from McConnell south to the Derby growth area is sparsely developed and most of the development on the east side is large lot suburban residential located directly west of this site, and the driving range for McConnell and agricultural operations on the west side of the Rock Road. The Rock Road corridor in the Derby growth area is rapidly developing with planned shopping centers, including a new development at 63rd Street South and Rock Road, a proposed school site between 63rd and 71st Street South and a large lifestyle shopping center for the one-half mile north of 71st Street South. The establishment of this use could reverse the trend toward a viable shopping corridor and affect the quality of the gateway to Wichita and to Derby. The supplementary use regulations of the UZC specifically state that wrecking and salvage should not be approved if it will adversely affect the character of the neighborhood.
7. Impact of the proposed development on community facilities: The site plan shows two entrances

to Rock Road, and if the development is approved, could potentially be used by large vehicles (tractor trailers hauling vehicles, tow trucks, etc.) exiting and entering on a relatively high speed four-lane undivided arterial. The access points do not align with current drives and the southernmost drive sufficiently close to 44th Street South to conflict with Access Management policy for separation of conflicting drives and roads. Public water and sewer are not available currently.

8. Opposition or support of neighborhood residents: Neighborhood residents have submitted comments in opposition.

HOWEVER, should the Metropolitan Area Planning Commission choose to recommend approval of the requested zone change to LI with a protective overlay and Conditional Use for Wrecking/Salvage Yard, staff would recommend the following additional conditions:

1. The protective overlay shall be revised to clearly indicate that the property is restricted only to those uses and is in conformance with the property development standards of the IP-A District and the operation of a Wrecking/Salvage Yard to store and auction/sell of wrecked/inoperable vehicles that are owned by insurance companies as total insurance losses, an insurance pool.
2. The Conditional Use shall authorize the operation of a Wrecking/Salvage Yard to store and auction/sell of wrecked/inoperable vehicles that are owned by insurance companies as total insurance losses, an insurance pool. There shall be no mechanical or body work done on the vehicles stored on the site. There shall be no dismantling of vehicles on the site, nor shall the storage and sale of vehicle parts on the site be allowed. In no event shall the Conditional Use authorize collecting, dismantling, storing, and/or salvaging of machinery, equipment, appliances, bulky waste, salvage materials, junk, storage or bailing of solid waste, scrap paper, rags, metallic scrap materials or discarded materials; and/or for the sale of parts thereof. An auction of the wrecked/inoperable vehicles that are owned by insurance companies as total insurance losses (an insurance pool) shall be no more frequent than once every two weeks, 10AM to 1PM, year round.
3. All of the conditions of UZC, Art III, Sec III-D.6.e shall be enforced, including the approval of fencing or wall materials. Compatibility setbacks shall be applied to the north, south and west side of the site. No parking/storage of salvaged vehicles is allowed within the setbacks. No parking or storage of vehicles for transport of vehicles (tractor-trailers for hauling vehicles or tow trucks included) shall be allowed within the 150-foot parking area between the property line abutting Rock Road and the screening fence; this area shall be restricted to parking of operable passenger vehicles and light-duty trucks only and the remaining space to be kept in well-maintained landscaped area comprising trees, shrubbery and turf per the approved Landscape Plan. Compatibility noise standards shall apply to the site and those standards will be extended to the south side of the site, where there are existing single-family residences. An approved landscape buffer of evergreens, a minimum of five feet in height shall be planted every 20 feet where the site abuts AFB or residential zoning or uses. All landscaping shall be irrigated and shall be planted and maintained in general conformance with a landscape plan prepared by a Kansas Landscape Architect and approved by the Planning Director prior to issuance of a building permit and/or operations beginning. The access gates are permitted in the concrete wall at the points denoted on the approved site plan. The access points shall be revised to conform to Access Management guidelines.
4. An on-site parking area paved with asphalt or concrete with a paved access drive to Rock Road shall be provided for employee and customer parking. The paved access drive will also be used for the delivery of vehicles for sale or auction. Parking shall be per the UZC and will be shown with the landscape plan.
5. Unpaved areas for the storage of and auction/sell of wrecked/inoperable vehicles that are owned by insurance companies as total insurance losses shall be an approved all-weather surface.

6. A revised site plan addressing the conditions of approval shall be approved by the Planning Director prior to the issuing of any building permit and/or beginning of the operation. The site plan shall meet all property development standards and site development, including compatibility standards, of the UZC for the IP-A district, landscape standards equivalent to the Wichita Landscape Ordinance, signage per the Wichita Sign Code for IP as specified in these conditions.
7. No wrecked/inoperable vehicles shall be visible from ground-level view from Rock Road or abutting properties.
8. Storage of all wrecked/inoperable vehicles shall be in an orderly manner with an exposed perimeter as specified by the County Code Enforcement or successors in responsibility to prevent rodent harborage and breeding.
9. The applicant shall maintain at all times an active program for the eradication and control of rodents.
10. Weeds shall be controlled within the subject property and adjacent to and along the outside perimeter of the screening fence.
11. Any locking devices on entrance gates shall meet Fire Department requirements. Access to and within the site shall be provided by fire lanes per the direction and approval of the Fire Department.
12. Access to the subject property shall be provided for on-going inspections of the site for groundwater and soil contaminants by County Code Enforcement or successors in responsibility, and other applicable governmental agencies. If the inspections determine it to be necessary, the applicant shall be required to install monitoring wells and/or perform soil testing on the property to monitor the quality of groundwater and/or soil, and shall pay the cost of an annual groundwater and/or soil test for contaminants as designated by the County Code Enforcement or successors in responsibility.
13. Notification shall be given to County Code Enforcement or successors in responsibility of any on-site storage of fuels, oils, chemicals, or hazardous wastes or materials. A disposal plan for fuels, oils, chemicals, or hazardous wastes or materials shall be placed on file with County Code Enforcement or successors in responsibility. All manifests for the disposal of fuels, oils, chemicals, or hazardous wastes or materials must be kept on file at the site and available for review by the County Code Enforcement or successors in responsibility.
14. The applicant shall implement a drainage plan approved the County Engineer prior to the commencement of operations that minimizes non-point source contamination of surface and ground water.
15. The applicant shall obtain and maintain all applicable local, state, and federal permits necessary for the operation of a Wrecking/Salvage Yard.
16. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

CHAIRMAN DOWNING indicated that there had been a request to defer this item.

MOTION: To defer indefinitely.

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

-
8. **Case No.: ZON2008-56 and CON2008-54** – Paul Kelsey and Dr. Johnnie Bruner, DVM/Dennis Schmidt Request City zone change from NO Neighborhood Office to GO General Office and City Conditional Use for Animal Care, Limited on property described as:

Lot 1, Deerglen Office Park Addition, Wichita, Sedgwick County, Kansas. Generally Located north of Central Avenue, 1/10 mile west of 119th Street West.

BACKGROUND: The applicant is seeking approval of a zone change from NO Neighborhood Office (“NO”) to GO General Office (“GO”), and a Conditional Use to permit “animal care, limited” on property located 500 feet west of 119th Street West, north of West Central Avenue. The application area is .78-acre in size and is currently undeveloped. The applicant proposes to build a 6,750 square-foot building on the site, and relocate the Oakcrest Pet Hospital, currently located at 11832 West Central, to this location. The application area has 200 feet of frontage on West Central Avenue.

The applicant’s site plan depicts the proposed clinic as being located in the northwest quadrant of the site with parking located to the south and east. The proposed clinic is shown on the site plan with a 10-foot setback, along the western property line, which conforms to the GO zoning district side-yard setback. Compatibility setbacks do not apply along the western property line since there is a platted reserve (discussed below) with a platted utility easement located immediately west of the application. However, compatibility setback standards are applicable along the northern (rear) property line, where the applicant’s site plan depicts a 22-foot setback, and the eastern property line. The placement of the building on the proposed site plan is consistent with the compatibility setback standard along the eastern side yard. A 200-foot wide lot would have a 25-foot setback requirement. The site plan will need to be revised or the commission will need to grant a waiver of the rear standard.

The site plan depicts 28 parking spaces. The code calls for four spaces per 1,000 square feet of building area. The number of proposed parking spaces meets the minimum number required. Parking is a permitted use with a compatibility setback, making the row of parking located to the east of the clinic in conformance with the code. A single access point to Central is shown in the eastern portion of the site’s street frontage, which is consistent with existing platted access controls.

If located within 150 feet of Central Avenue, trash receptacles, ground level heating and air conditioning units or other outdoor mechanical equipment must be screened. The site plan does not indicate where the trash collection unit is to be located. The zoning code also requires screening, (Sec. IV-B.a and b) between residentially zoned property and non-residential uses. The site plan does not indicate the location or type of screening proposed. Finally, new non-residential construction triggers a requirement for an approved landscape plan, per the landscape ordinance, prior to issuance of building permits.

Land surrounding the site has a variety of zoning, SF-5 Single-family Residential (“SF-5”), NO and LC Limited Commercial (“LC”). The land immediately north and east of the subject site is developed with a church and is zoned SF-5. Land to the south across Central Avenue is zoned NO and LC is vacant, but is owned by the church that is located further south. The property located immediately to the west of the site is zoned SF-5 and is Reserve G of the Buckhead Addition. Reserve G is 25 feet wide at its narrowest point and has a 20-foot platted utility easement. As discussed above, the code exempts properties from compliance with compatibility setback requirements where the lot abuts platted open space.

The *Wichita-Sedgwick County Unified Zoning Code* defines “animal care, limited” as a facility that provides veterinary services for small animals (household pets) for which there are no outside animal runs, and for which boarding facilities may also be provided. “Animal care, limited” is first permitted in the GO district with a Conditional Use, subject to supplemental use regulation c: No noise or odors shall be discernable within the GO and LC districts; treatment shall be limited to dogs, cats and other small animals and all animals shall be harbored indoors.

The GO district permits a single tenant pole or ground sign up to 32 square feet in area with a maximum sign height of 22 feet. No ground sign may be located within 15 feet of an adjacent property. Lighting is limited to indirect or internal white light. Flashing or moving images are prohibited. Building signs are also limited to a maximum of 32 square feet and a height of 30 feet. One building sign per elevation is permitted provided that the sign shall be facing a street or nonresidential zoning or have 150 feet of parking, loading or open space between the sign and residentially zoned land.

CASE HISTORY: On November 18, 1997, the MAPC recommended approval for case number Z-3523 that changed the zoning on the application area from SF-6 Single-family Residential (now “SF-5”) to NO Neighborhood Office. The Deerglen Office Park Addition was recorded on June 26, 1998. The Deerglen Office Park Addition has a platted 35-foot front setback, and a 10-foot utility easement located on the north and east property lines.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5 Single-family Residential; Church
SOUTH: NO Neighborhood Office, LC Limited Commercial; vacant
EAST: SF-5 Single-family Residential; Church
WEST: SF-5 Single-family Residential; platted open space and residences

PUBLIC SERVICES: All typically supplied municipal services are available. Central Avenue is classified as a minor arterial carrying (in 1996) 4,622 average daily trips, and has 50 feet of half-street right-of-way on the north with 60 feet of half-street right-of-way on the south. Central Avenue is scheduled in 2011 to be improved to a two- to five-lane facility.

CONFORMANCE TO PLANS/POLICIES: *The Wichita-Sedgwick County Comprehensive Plan* contains the goal of ensuring that an adequate supply of land is made available to promote successful commercial activity in appropriate areas throughout the county (Land Use-Commercial/Office Goal III). Goal III, Objective B. indicates that future retail and commercial areas are to be developed so that they complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses. Strategy III.B.3 indicates that it is appropriate to reduce the number of access points along arterial streets.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request for GO General Office zoning and a Conditional Use to permit “animal care, limited” be APPROVED, subject to the following conditions:

1. The site is approved only for uses permitted by-right in the GO General Office district and the Conditional Use, “animal care, limited.”
2. A revised site plan shall be submitted prior to city council consideration depicting or explaining the location and type of screening that is to be provided; the location of the trash enclosure and the type of material used to screen the dumpster and location of paved traffic circulation areas.
3. Light standards shall not exceed 15 feet in height including the base or pedestal. Lights shall be directed away from adjacent lots and shall utilize fixtures designed to prevent light trespass to adjoining properties.
4. No building or wall signs may face residentially zoned property. Pole or ground signs shall be monument style design.
5. The applicant shall develop the site in substantial compliance with the adopted site plan, and shall comply with all applicable regulations, including but not limited to Sec. III-D.6.c.
6. If an “animal care, limited” veterinary clinic is not operating on this site within 24 months from approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of approval for this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Surrounding property is a mix of undeveloped property that is zoned NO and LC, and SF-5 zoned property that is developed as open space for a residential subdivision and a church. The application area and the two sites located to the south are the only undeveloped property in an otherwise developed segment of west Central Avenue.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned NO Neighborhood Office. The NO district was designed to accommodate very low intensity office development and other complimentary land uses that are generally appropriate near residential neighborhoods (e.g. day care, churches and medical offices). Potentially, the site could be developed as zoned, however the site has remained vacant as zoned since 1998.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: In 1997, staff supported the request for NO, noting that GO zoning permitted multi-family residential, assisted living, schools and with a conditional use: hotel/motel, animal care, self-storage warehouse or rock crushing. Since that time, the site has remained vacant, and, with this application, he has proposed a specific use subject to specific development conditions which should minimize anticipated effects.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval increases the range of potential uses that could be developed on the site, thereby bringing those services closer to potential clients. Denial presumably would be an economic loss to the property owner.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: Based upon the ownership pattern and the way that various tracts have been developed, this site ended up as a remnant NO zoned tract that has remained undeveloped. In an ideal situation, GO zoning is intended to serve as a buffer between residential and commercial uses. In this instance, the site performs that function by buffering the existing LC zoning located to the south, across Central Avenue, from the residential neighborhood located to the northwest.
6. Impact of the proposed development on community facilities: None identified that cannot be addressed by existing improvements.

DALE MILLER, Planning Staff presented the Staff Report.

FOSTER asked if the 10-foot setback on the west side was adequate buffering.

MILLER said it meets the minimum standards.

JOHNNIE BRUNER, APPLICANT, said he owns and operates the veterinarian practice in question. He said they currently lease a 1,230-square foot facility which they have outgrown. He said there really is no property available in this area and they would like to expand to a bigger facility to provide better patient care.

CARL SOLDATOV, 706 N. CEDAR PARK, indicated where he lives on the map. He said he had a few concerns about the proposal including the possibility of noise with barking dogs. He said even though the pets would be indoors, if it is a steel building that isn't well insulated for sound, that won't do much good. He asked if regulations required that there be sound proofing. In addition, he asked about regulations to insure that the animals don't escape.

JOHNNIE BRUNER said there will be a large fence around the building and mentioned that dog's are not allowed outside without being on a leash. He commented that in the 9 ½ years he has operated at his

current location, which doesn't have a fence, they have never lost a pet. He said he also hasn't heard a lot of noise and added that the walls will be insulated and that it will not be a steel building.

MOTION: To approve subject to staff recommendation.

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

-
9. **Case No.: CON2008-52** - Adam and Nicole Pracht (owner); Leroy Brown (applicant) Request County Conditional Use for a dog kennel in RR Rural Residential on property described as:

A tract of land in the East Half of the Southwest Quarter of Section 10, Township 28 South, Range 3 West of the 6th P.M., Sedgwick County, Kansas, described as commencing at the Southeast corner of said Southwest Quarter, thence along the south line of said Southwest Quarter on an assumed bearing of North 90 degrees 00'00" West a distance of 1114.25 feet to a point of beginning; thence North 01 degrees 02'47" West 341.89 feet; thence West 90 degrees 00'00" 146.66 feet; thence South 0 degrees 51'00" East 49.45 feet; thence West 90 degrees 00'00" 53.31 feet; thence South 01 degrees 02'47" East 292.44 feet; thence East 90 degrees 00'00" 200.00 feet to the point of beginning.

TOGETHER WITH

A tract of land in the West Half of the Southwest Quarter of Section 10, Township 28 South, Range 3 West of the 6th P.M., Sedgwick County, Kansas, described as commencing at the Southwest corner of said Southwest Quarter; thence along the South line of said Southwest Quarter on an assumed bearing of North 90 degrees 00'00" East a distance of 794.02 feet to a point of beginning; thence North 01 degrees 02'47" East 292.44 feet; thence East 90 degrees 00'00" 520.22 feet; thence South 01 degrees 02'47" East 292.44 feet; thence West 90 degrees 00'00" 520.22 feet to the point of beginning. Generally located north of MacArthur and east of 263rd Street West (26000 W. MacArthur).

BACKGROUND: The applicant is requesting a Conditional Use to allow a boarding and training kennel for dogs on property located on the north side of MacArthur and east of 263rd Street West. The property is zoned RR Rural Residential ("RR") zoning. The site is an unplatted 5-acre tract that is surrounded by properties also zoned RR. Much of the area surrounding the application area is in agricultural fields/production. The nearest residence lies more than 1,000-feet southeast of the proposed kennel site, and another neighboring residence lies over 3,000-feet northeast of the proposed kennel site. Residences on large tracts are common in the vicinity of the intersection of MacArthur and 263rd Street.

The intent of the operation is to house and train Medical Assist Service Dogs for soldiers coming home from Iraq with Post Traumatic Stress Disorder, and the civilian population with other medical needs. They will sell these dogs to the general public; however, they will not be housing/boarding dogs for general public use.

The application area is currently developed with a primary single-family residence and a garage. The applicant proposes to build 12 individual, 10x10x6-foot portable, kennels for 10 to 12 dogs. In the future, it is planned to have permanent kennels that will be served by its own septic system. There will be fencing around the kennels and instead of dog runs there will be exercise areas which will be separately fenced off from the kennels. The owner plans to live on-site.

The site is located in the "zoning area of influence" ("ZAOI") for Garden Plain. The Garden Plain Planning Commission is scheduled to hear this request on October 29, 2008.

CASE HISTORY: The property is an unplatted tract.

ADJACENT ZONING AND LAND USE:

NORTH:	“RR” Rural Residential	Agriculture
EAST:	“RR” Rural Residential	Recreation Park/Wildlife Reserve
SOUTH:	“RR” Rural Residential	Agriculture
WEST:	“RR” Rural Residential	Agricultural

PUBLIC SERVICES: MacArthur Road and 263rd Street West are both classified as paved 2-lane rural major collectors. The nearest intersection is to the west, at 263rd Street West and MacArthur Avenue, however, there are no traffic counts at this intersection or on either of these roads near this location. There are currently no projections of future traffic volumes at the intersection into 2030. The *2030 Transportation Plan* does not designate any changes on this road in the future and there are no Capital Improvement Projects shown through 2012. There is no sewer to this site; it is currently served by a septic system. The site is in Rural Water District 4 but is currently served by a well.

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan identifies this property as being outside the 2030 growth area. The *Wichita-Sedgwick County Unified Zoning Code* (UZC) lists “Kennel, Boarding/Breeding/Training” as a Conditional Use in the “RR” district, subject to supplemental use regulations k. The UZC definition of “Kennel, Boarding/Breeding/Training” is “...premises housing over ten adult dogs.” The UZC supplementary k conditions for this Conditional Use are attached to this report, they include a required separation of at least 200 feet from any outdoor kennel facilities to any neighboring residences, and required screening of kennel facilities located within 600 feet of any adjoining property line.

RECOMMENDATION: Dog kennels of a ‘reasonable size’ are appropriate for rural areas of the County and, with certain restrictions, can be compatible with nearby residences and agricultural operations. Based on the information available prior to the public hearing, staff recommends the application be APPROVED subject to the following conditions:

- (1) The Conditional Use shall comply with section III.D.6.k of the Wichita-Sedgwick County Unified Zoning Code, and applicable federal, state, and local requirements.
- (2) The property shall be developed and maintained in accordance with a revised site plan approved by the Planning Director, showing lighting, landscaping, setbacks, easements and all buildings in conformance with the UZC.
- (3) The kennel operator shall have on file proof of rabies vaccinations by a licensed veterinarian and proof of identification and ownership for all dogs five months and older.
- (4) Cleaning of the boarding kennel facility shall be performed as often as necessary to maintain sanitary conditions, and a “suitable method” of eliminating excess water from animal housing facilities shall be provided as determined by the Sedgwick County Department of Environmental Resources. Interior surface materials shall be constructed of non-porous materials that are impervious to moisture.
- (5) Sufficient quantities of food and water shall be provided to keep the dogs in good physical condition. The animals shall be fed at least once daily and provided clean water at all times. Food and water containers shall be located to minimize contamination and shall be cleaned as often as necessary to maintain sanitary conditions.
- (6) All waste materials shall be disposed of in such a manner as to minimize odors and disease hazards. The boarding kennel shall be maintained in a sanitary manner as required by applicable codes (e.g. Chapter 14 of the Sedgwick County Code).
- (7) The animals confined in the boarding kennel shall be maintained in good physical condition, free

of infectious diseases and parasites.

- (8) The number of adult dogs and puppies authorized to be boarded shall not exceed 12 at any one time.
- (9) The applicant shall obtain all applicable permits including, but not limited to building, health and zoning.
- (10) The boarding facility shall be open to the unannounced inspection by Sedgwick County of Code Enforcement personnel during reasonable daylight hours to insure continued compliance with the above requirements.
- (11) If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the surrounding area: The site is an unplatted 5- acre tract zoned RR Rural Residential (“RR”) with all the surrounding properties also zoned RR. Much of the area surrounding the application area is in agricultural fields. The nearest residence lies more than 1,000-feet southeast of the proposed kennel site, and another neighboring residence lies over 3,000-feet northeast of the proposed kennel site. Large tract ownership is common in this part of the county.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned “RR” Rural Residential, which primarily permits large lot residential uses. The site could continue to be used as a residence without the Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Potential noise, odors, and traffic generated by the requested Conditional Use could negatively affect nearby residents. The listed conditions should work to minimize any negative effects and allow the use to expire if development and maintenance of the Conditional Use are violated.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Comprehensive Plan identifies this property as being outside the 2030 growth area. The *Wichita-Sedgwick County Unified Zoning Code* (UZC) lists “Kennel, Boarding/Breeding/Training” as a Conditional Use in the “RR” district. The UZC definition of “Kennel, Boarding/Breeding/Training” is “...premises housing over ten adult dogs.” The UZC supplementary conditions for this Conditional Use are attached to this report, they include a required separation of at least 200 feet from any outdoor kennel facilities to any neighboring residences, and required screening of kennel facilities located within 600 feet of any adjoining property line.
5. Impact of the proposed development on community facilities: While the housing and training facility that has requested the Conditional Use may sell dogs to the general public, the main mission of this operation is to train and house special assist service dogs. The kennel is not open to the general public to board dogs and the amount of traffic to the operation would be no different than traffic to and from the house, therefore, approval should not impact community facilities to any significant degree.

DERRICK SLOCUM, Planning Staff presented the staff report.

MOTION: To approve subject to staff recommendation.

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

FOSTER recused himself from this item and left the bench.

- 10. Case No.: DER2008-08** Request The city of Maize seeks unilateral Annexation of various Tracts of Land located adjacent to the City of Maize - Resolution No. 443-08.

Generally located adjacent to the City of Maize.

DAVE BARBER, Planning Staff presented the staff report.

MITCHELL asked if a “services plan” was available for review.

BARBER said no service plan was sent for review; however, the resolution states that the service plan is available for review at the City of Maize office.

MOTION: To find that the unilateral annexation is consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

HILLMAN moved, **VAN FLEET** seconded the motion, and it carried (7-2-1).
MILLER-STEVENS and **MITCHELL** – No. **FOSTER** abstained.

FOSTER back on the bench.

- 11. Case No.: DER2008-07** - Request Review of Metropolitan Area Planning Commission policy statements, numbers 1-20.

Generally located N/A

In early 2008, the MAPC reviewed the MAPC’s inventory of Policy Statements. The Policy Statements formalize certain practices used by the MAPC and/or staff in administering the jurisdiction’s land use regulations (e.g. posting of signs 13 days prior to the MAPC meeting or procedure to extend the deadline to complete platting in order to perfect a zoning approval). At the end of the review session, the commission directed that the Advance Plans Committee review the policies and make recommendations on which ones should be retained. Listed below are the March 27, 2008, recommendations made by the Advance Plans Committee’s that were approved by a vote of 6-0.

METROPOLITAN AREA PLANNING COMMISSION POLICY STATEMENTS

The subject of each policy statement is identified below with the adoption date. The full statement for each policy is attached.

Policy Statement No. 1 (DELETE)

Requests for a change in zoning district classification (except conditional use and community unit plans) shall not include reference to proposed uses. (Adopted: MAPC, August 1, 1965)

It is staff’s opinion this policy should be rescinded now that the code provides for Protective Overlays.

Policy Statement No. 2 (DELETE)

Cul-de-sacs and dead-end streets shall be designated as courts and shall bear the name of the street from which they emanate. (Adopted: MAPC, June 16, 1966)

This policy has been incorporated into the Subdivision Regulations at 7-201(T), and is no longer necessary.

Policy No. 3 (DELETE)

Policy No. 3 is a table of comparability for city zoning districts in effect in between 1967 and 1982; listing the district from the most restrictive to the least restrictive. This policy also contains the provision

that allows applicants to substitute requests for the same application area without additional notice requirements so long as the amended request is more restrictive than the original request. (Adopted: MAPC, 1967-1982)

The table of intensity can be rescinded as a similar table was incorporated into the adopted Unified Zoning Code. The substitution of requests should be incorporated into the Unified Zoning Code so that this policy could be rescinded.

Policy No. 4

Policy No. 4 established the notification procedures for vacation cases. (Adopted: MAPC, July 1, 1969)
The standards established by this policy are in use today, and this policy should be retained.

Policy No. 5

Policy No. 5 established the procedure for obtaining an extension of time allowed to complete a plat when platting is a condition of rezoning. (Adopted: MAPC, May 13, 1971; CC, June 1, 1971; BoCC, June 9, 1971)

The standards established by this policy are in use today, and this policy should be retained.

Policy No. 6, dealing with zoning on 55th Street South and South Seneca was not adopted.

Policy No. 7

Policy No. 7 established the time limit on completing vacation cases. (Adopted: MAPC, November 13, 1975; CC, December 16, 1975; BoCC December 31, 1975)

The standards established by this policy are in use today, and this policy should be retained.

Policy No. 8

Policy No. 8 established the process by which zoning cases that did not have a time for completion of conditions established at the time of zoning approval and which remain open for over three years can be denied and closed. (Adopted: MAPC, February 2, 1978)

The standards established by this policy are in use today, and this policy should be retained.

Policy No. 9 (DELETE)

Policy No. 9 states that deferral of zone change requests are to be done seven days prior to the scheduled meeting. Deferral request are to be in writing and are subject to a deferral fee. (Adopted: MAPC, September 28, 1978)

Staff does not currently require seven days notification; however staff requires requests for deferral to be in writing and charges a deferral fee.

Policy No. 10

Policy No. 10 established the use of the Kansas State Supreme Court's seven "Golden rules" plus local criteria as the basis for the MAPCs findings for zone cases. (Adopted: MAPC, April 12, 1979; CC, May 5, 1979)

This policy is being followed, and should be retained.

Policy No. 11

Policy No. 11 established the five minutes per speaker limitation at the public hearing. (Adopted: MAPC, August 2, 1979)

In the 1990s the current practice of 10 minutes of speaking time for the applicant and five minutes for other interested parties was instituted.

Policy No. 12 (DELETE)

Policy No. 12 established the requirement that all properties within the Echo Hills Drainage Basin shall be required, at the time of platting, to provide for the detention of surface drainage in excess of the peak undeveloped 100 year storm runoff from properties. (Adopted: MAPC, January 17, 1980; CC, February 12, 1980; BoCC February 27, 1980)

This area is nearly all developed, and detention requirements are now established on a case by case basis with each plat. This policy could be rescinded.

Policy No. 13 (DELETE)

Policy No. 13 established the MAPC's position regarding "back out parking in residential areas." (Adopted: MAPC, November 13, 1986)

This policy can be rescinded as it has been incorporated into the Subdivision Regulations.

Policy No. 14 (DELETE)

Policy No. 14 established criteria where new manufactured and mobile homes are best located. (Adopted: MAPC, January 18, 1990)

Policy Statements 15, 16, 17 and 18, to staff's knowledge, does not exist.

Policy No. 19 (DELETE)

Beginning in 1960 through January 1991, Policy No. 19 identified various street segments or intersections, and then indicated what zoning the commission felt was appropriate for those street segments or intersections. (Adopted at various times by both the MAPC and the CC)

This policy can be rescinded as it had been replaced with the adoption of the 1993 comprehensive plan, as amended, and the plan's location guidelines and the land use map depicting recommended future land uses. (Due to the large number of pages describing this policy, only an example page has been supplied with this report.)

Policy No. 20

Policy No. 20 is the instructions for the posting of zoning signs that are still in place today, and should remain in place. (Adopted: MAPC, July 14, 1983 and May 3, 1984 and CC, August 3, 1983 and May 29, 1984)

Again, by a vote of 6-0, the Advance Plans Committee recommended that Policy Statements 1, 2, 3, 9, 12, 13, 14 and 19 be deleted.

DALE MILLER, Planning Staff presented the staff report.

FOSTER asked about the precedent of deleting policies.

MILLER commented that the deferral policy is covered in the fees ordinance, so this is really duplication. He also mentioned that Planning Staff does not require people to notify them 7 days in advance if they want to defer an item.

HILLMAN asked how much flexibility staff has on deferral items.

MILLER commented that an item was deferred today and staff found out about the request yesterday afternoon. He said Planning is a very "customer oriented" department.

MARNELL commented that the Advance Plans Committee went through these items extensively, reviewing why each item was deleted. He said he was in favor of adopting the policy statements as presented.

MOTION: To approve subject to staff recommendation.

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

The Metropolitan Area Planning Department informally adjourned at 1:08 p.m.

State of Kansas)
Sedgwick County) ^{ss}

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

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

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

(SEAL)