

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

August 7, 2008

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, August 7, 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: M.S. Mitchell, Chair; Don Anderson, Vice Chair; David Dennis; David Foster; Bud Hentzen; Hoyt Hillman; Ronald Marnell; and G. Nelson Van Fleet. Darrell Downing; Bill Johnson; John W. McKay, Jr.; Don Sherman, Debra Miller Stevens; and Michael Gisick were absent. Staff members present were: John Schlegel, Director; Donna Goltry, Principal Planner; Bill Longnecker, Senior Planner; Derrick Slocum, Associate Planner; Neil Strahl, Senior Planner; and Maryann Crockett, Recording Secretary.

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1. Approval of July 24, 2008 MAPC meeting minutes.

MOTION: To approve the July 24, 2008 Minutes, as amended.

HILLMAN moved, **VAN FLEET** seconded the motion, and it carried (8-0).

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB 2008-55: Final Portion of Overall Preliminary Plat -- WILLOW CREEK EAST 2ND ADDITION**, located on the south side of Harry and east of Greenwich Road.

NOTE: This final plat is a final portion of the overall preliminary plat of the Willow Creek East Addition. It consists of the remaining portion of the overall preliminary plat approved for the site and represents the second phase of development. The street layout is consistent with the preliminary plat. Reserve B has been expanded and various lot lines have been shifted.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of City water and sanitary sewer (mains and laterals) to serve all lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the drainage plan subject to the need for revisions.
- D. County Surveying notes that flood plain language is needed for Reserve A. County Fire Department and Traffic Engineering have requested left-turn lanes.
- E. The plat proposes complete access control along the Harry street frontage. The final plat tracing shall reference the dedication of access controls in the plat's text.
- F. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.

- G. The Parks and Pathways Plan has indicated that a recreation corridor should be provided along the south line and northwest line of this plat. During preliminary plat review, the Subdivision Committee did not require a public access easement along the south property line. A public access easement within Reserve A was required for a bike path.

The platting text references “contingent easement for public access” becoming effective upon a connecting public easement on abutting property.

- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners’ association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- K. GIS has requested Ella be replaced with a new name. Mt Vernon needs to be labelled as “Mount Vernon”.
- L. 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.
- 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. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- U. 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 staff recommendation.

MARNELL moved, **ANDERSON** seconded the motion, and it carried (8-0).

2-2. SUB 2008-56: One-Step Final Plat -- GODDARD SCHOOL 2ND ADDITION, located on the north side of Kellogg and on the east side of 167th Street West.

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

STAFF COMMENTS:

- A. The applicant shall 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 has approved the applicant's drainage plan. The detention ponds need to be located within drainage easements or reserves.
- D. County Fire Department and Traffic Engineering have requested left turn lanes.
- E. The plat proposes two openings along 167th St. West. Traffic Engineering has approved the access controls, however the complete access control along Kellogg should be extended along the entire south line of the plat. Access controls shall be referenced in the plattor's text.
- F. As depicted on the site plan, a cross-lot access agreement with the property to the north shall be provided.
- G. 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.

- H. The recording information for all pipeline easements shall be indicated on the face of the plat.
- I. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- 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 staff recommendation.

MARNELL moved, ANDERSON seconded the motion, and it carried (8-0).

3. PUBLIC HEARING – VACATION ITEMS

3-1. VAC2008-21: City request to vacate portions of platted reserves.

- OWNER/APPLICANT:** Shadybrook Homeowner Association c/o Norma Safely, President
- LEGAL DESCRIPTION:** Reserves A, Blocks 1 & 2, Shadybrook Farm Addition, Wichita, Sedgwick County, Kansas.
- LOCATION:** Generally located south of Central Avenue, east of 143rd Street East, on the northeast corner of Stagecoach Street and Central Avenue and the northwest corner of Sagebrush Street and Central Avenue (WCC #II)
- REASON FOR REQUEST:** Two entry signs
- CURRENT ZONING:** Subject properties, abutting and adjacent southern, eastern and western properties are zoned SF-5 Single-family Residential ("SF-5"). Adjacent northern properties are zoned.

The applicant is requesting consideration for the vacation of the restriction of uses in the plat's text to allow entry signs in a portion of the platted Reserves A, Blocks 1 and 2, Shadybrook Farm Addition. The proposed solid masonry signs are 9 feet, 10.5 inches tall (highest point) and 24 feet, 4 inches long. The proposed signs will replace signs already located in the reserves. Per the plat's text, the uses that the reserves have been set aside for include open space, drainage easements and utility easements. The plat's text does not allow signage in the reserves, thus if the existing signs are torn down, they could not be replaced unless the plat's text was amended, via the vacation process, to allow signage. There are no platted utility or drainage easements in the reserve. Water is located in the street right-of-ways. A sewer line and manhole appear to be located in a portion of Reserve A, Block 1, but are outside of the area where the proposed signs are to be located. The applicant needs approval, permits and inspection by OCI for the signs. The Shadybrook Farm Addition was recorded with the Register of Deeds November 2, 1972.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City approval to vacate the portion of the platted Reserves A, Blocks 1 & 2, Shadybrook Farm Addition and the uses of that portion of the platted reserves as described in the approved legal description to allow that portion of the platted reserve to allow signs in that portion of the vacated reserve.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in Wichita Eagle and the Derby Reporter of notice of this vacation proceeding one time July 17, 2008 which was at least 20 days prior to this public hearing
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted reserve and the proposed uses allowed in vacated portion of the platted reserve 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 a portion of the platted reserves and the uses allowed in the vacated portion of the platted reserve described in the petition should be approved subject to the following conditions:

- (1) Vacate the approved portion of the platted Reserves A, Blocks 1 & 2, the Shadybrook Farm Addition, subject to comments from Utilities, the Traffic Engineer and Storm Water in regards to location of the proposed entry signs. Provide Staff with a copy of the approved legal of the location of the signs in the reserves, via e-mail on a Word document.
- (2) Vacate the use restrictions as listed in the approved vacated portion of the platted reserves to also allow the additional use of signs as allowed per the zoning district and the sign code.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide any needed utility easements (with original signatures) to cover any utilities within the area of the signs. Provide any needed hold harmless agreements to cover any utilities within the area of the signs. All to be provide to Planning Staff to go with the Vacation Order to City Council, for final action and subsequent recording with the Register of Deeds.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the approved portion of the platted Reserves A, Blocks 1 & 2, the Shadybrook Farm Addition, subject to comments from Utilities, the Traffic Engineer and Storm Water in regards to location of the proposed entry signs. Provide Staff with a copy of the approved legal of the location of the signs in the reserves, via e-mail on a Word document.
- (2) Vacate the use restrictions as listed in the approved vacated portion of the platted Reserves to also allow the additional use of signs as allowed per the zoning district and the sign code.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. Provide any needed utility easements (with original signatures) to cover any utilities within the area of the signs. Provide any needed hold harmless agreements to cover any utilities within the area of the signs. All to be provide to Planning Staff to go with the Vacation Order to City Council, for final action and subsequent recording with the Register of Deeds.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendation.

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

PUBLIC HEARINGS

ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 PM

- 4. **Case No.: ZON2008-37** - Hoover Road, LLC, Attn: Johnny Stevens (owner); Ruggles and Bohm, P.A., Attn: Tom Ruggles Request City zone change from SF-5 Single-family Residential to LI Limited Industrial on abandoned railroad right-of-way on property described as;

A tract in the Southwest Quarter of Section 26, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas described as beginning at a point on the West line of said Southwest Quarter, said point being the centerline of an abandoned 150 foot wide railroad right-of-way originally known as the A.T.&S.F. Railroad, later to be known as the Central Kansas Railway L.L.C.; thence N 83°34'11" E along said centerline, 12.45 feet to a point identified as milepost 4.53; thence continuing N 83°34'11" E along said centerline, 563 feet; thence S 06°25'49" E being perpendicular to said centerline, 75.00 feet to a point on the South line of said abandoned railroad right-of-way, also being the North line of West Towne Industrial Addition, Wichita, Sedgwick County, Kansas; thence S 83°34'11" W along said common line, 583.91 feet to a point on the West line of said Southwest Quarter; thence N 00°00'15" W along the West line of said Southwest Quarter, 75.48 feet to the point of beginning, EXCEPT the west 60 feet thereof for Hoover Road. Generally located East of Hoover Road, one block south of Kellogg and north of property located at 1330 South Hoover Road.

BACKGROUND: The applicant is requesting a zone change to LI Limited Industrial ("LI:") for a 0.89-acre parcel of land located east of Hoover Road at the terminus of Pueblo Drive, one block south of Kellogg and near the Kellogg/I-235 interchange. The eastern boundary of the tract is the Wichita-Valley Center Flood Control Project (the "Big Ditch").

The subject property is abandoned railroad right-of-way. Upon abandonment, the zoning of land is designated as SF-5 Single-family Residential ("SF-5"). The applicant is requesting the LI zoning to incorporate the tract with the adjoining 7-acre tract for industrial warehouse type of development.

The area to the south is zoned LI and is developed with industrial-type uses, including a truck rental business and Fedex. The Wichita Mid-Continent Airport is located to the southwest on property zoned LI. The property to the northwest is zoned GC General Commercial ("GC") and used for vehicle repair. The property to the north also is zoned GC and is occupied by a restaurant use and a hotel. The property to the east is the Big Ditch and is not zoned. The property is a former railroad right-of-way and has been an access point for the City for maintenance of the Big Ditch.

CASE HISTORY: The property is unplatted. The property was part of the Central Kansas Railway ("CKR"), formerly part of AT&SF railroad. Most of the line was rail banked, with the exception of the segment from Milepost 3.5 to 4.53, roughly from K-42 to Hoover Road. Upon abandonment the CKR quit-claim deeded the property to the City of Wichita. A court judgment subsequently awarded the land to the abutting property owner. The property has served as a gated access for maintenance of the Big Ditch by Public Works and Parks and Recreation.

ADJACENT ZONING AND LAND USE:

NORTH:	GC	Restaurant, hotel, vehicle repair
SOUTH:	LI	Vehicle and equipment sales (truck rental), freight terminal

EAST: not zoned The Big Ditch
WEST: LI Wichita Mid-Continent Airport

PUBLIC SERVICES: The subject property has frontage along Hoover Road, a two-lane collector street with open shoulders that continues northward under Kellogg and connects to Taft Avenue. Public water and sewer service are available on the adjoining property.

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.” This conforms to the zoning requested. The WAMPO Regional Pathway System Plan, adopted by WAMPO September 11, 2007, identifies the Big Ditch as a “primary corridor,” with its closest east-west primary corridor connection at Maple Street. Parks and Pathways: Park and Open Space Master Plan Wichita-Sedgwick County, Kansas (September 1996) also shows the Big Ditch as a proposed greenway path.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within one year, with the plat including dedication of 10-foot maintenance and access easement.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The subject property is abandoned railroad right-of-way. Upon abandonment, the zoning of land is designated as SF-5 Single-family Residential (“SF-5”). The applicant is requesting the LI zoning to incorporate the tract with the adjoining 7-acre tract for industrial warehouse type of development. The area to the south is zoned LI and with industrial-type uses, including a truck rental business and Fedex. The Wichita Mid-Continent Airport is located to the southwest on property zoned LI. The property to the northwest is zoned GC General Commercial (“GC”) and used for vehicle repair. The property to the north also is zoned GC and is occupied by a restaurant use and a hotel. The property to the east is the Big Ditch and is not zoned.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned SF-5 and is vacant. SF-5 zoning is unsuitable for this area due to its proximity to the airport where residential use is discouraged and the character of the surrounding land uses developed with relatively intensive industrial and commercial uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The transition of this transportation corridor to private ownership and development impacts access/maintenance of the Big Ditch by Public Works and Parks and Recreation. Retention of an access easement would help mitigate this impact.
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.” The requested zone change conforms to this designation. The WAMPO Regional Pathway System Plan, adopted by WAMPO September 11, 2007, identifies the Big Ditch as a “primary corridor,” with its closest east-west primary corridor connection at Maple Street. Parks and Pathways: Park and Open Space Master Plan Wichita-Sedgwick County, Kansas (September 1996) also shows the Big Ditch as a proposed greenway path.
5. Impact of the proposed development on community facilities: The use of the tract would impact maintenance of Big Ditch if maintenance access is not assured.

FOSTER asked about the 10 foot access request and if that was to allow maintenance access because the parcel is located in a flood control area.

DONNA GOLTRY, Planning Staff clarified the recommendations on page 3 of the Staff Report. She said there would be a separate dedicated maintenance easement agreement, the boundaries of which would be as agreed to by the applicant and the Storm Water Engineer.

FOSTER asked about the bridge east of the site and losing this area as a potential bike path route through the area.

GOLTRY clarified that this was not rail banked for the purpose of a bike path and that there were better connections to be made for the bike path in that area.

TOM RUGGLES, RUGGLES & BOHM, AGENT FOR THE APPLICANT, said they were in agreement with staff recommendations.

MOTION: To approve subject to staff recommendation, with changes.

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

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5. **Case No.: ZON2008-38** - Barrington Elms LP, Attn: Jo Zakas (owner/applicant) Jo Zakas Request City zone change from "GO" General Office to "LC" Limited Commercial on property described as;

The West 68-feet of Lot 1, Dan Morgen Addition, Wichita, Sedgwick County, Kansas. Generally located East of Oliver on the north side of Central Avenue (5002 East Central Ave.).

BACKGROUND: The applicant is requesting a zone change from GO General Office ("GO") (west 68 feet of Lot 1, Dan Morgen Addition) to LC Limited Commercial ("LC"). The application area contains approximately 0.18 acres with 70 feet of frontage located along Central Avenue, two blocks east of Oliver. The lot is developed with an office building built in the early 1950s, with what appears to be ten off-street parking spaces serving the office use, one more space than what is required by the Unified Zoning Code ("UZC"). The applicant proposes the rezoning to allow for commercial development.

The subject site is located in flood zone AE. The AE flood zone is a flood insurance rate zone that corresponds to the 100-year floodplain that is determined in the Flood Insurance Study by detailed methods. Mandatory flood insurance purchase requirements apply. The waterway that flows through this area, the West Branch of Dry Creek, begins just north of Claude Lambe Park and travels south through the LW Clapp Golf Course before joining Gypsum Creek southeast of Hillside and Pawnee.

Property south of the subject site, across Central Avenue, is zoned B Multi-family Residential ("B"), and is developed with single-family residences, built in the early 1940s. Property east of the site is zoned NR Neighborhood Retail ("NR") and is developed with an office use and small-scale retail uses. Property north of the subject site is zoned SF-5 Single-family Residential ("SF-5") and is developed with single-family residences. West of the subject site the property is zoned B and is developed with a four-plex residence.

CASE HISTORY: The subject site was a part of a rezone with the property abutting to the east, in 1985, from B to BB Office zoning (BB was converted to GO zoning in 1996). Since that time the property abutting to the east has been rezoned to NR in 2005, while the subject site has remained GO. The site was platted as part of the Dan Morgen Addition in 1985. The building on the site was built in 1952.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family Residence
SOUTH:	B	Single-family Residence
EAST:	NR	Office
WEST:	B	Four-plex

PUBLIC SERVICES: All public services are available at the subject site. Central Avenue is a four-lane principal arterial with 40,801 Average Daily Traffic (ADTs). Nearby, Oliver Avenue is a four-lane minor arterial with 31,853 ADTs. The subject site currently has an access off of Central Avenue.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies this site as appropriate for local commercial types of use. This category of use encompasses areas that contain concentrations of predominantly commercial, office, and personal service uses that do not have a predominantly regional market draw. The range of uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities.

The Commercial Locational Guidelines of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

RECOMMENDATION: The application area is small for most modern LC uses. To encourage the redevelopment of this site with land uses that will maintain a degree of compatibility with the residential land uses to the north and south, and to establish a new zoning classification on the property that is more in line with the commercial and office land uses to the west and east, as well as recognizes the fact that this site fronts onto a arterial street, staff recommends that the request for LC be denied, but NR be approved. Neighborhood Retail zoning would establish a transition area between the existing non-residential uses in the area and the neighborhood to the north because the NR district limits individual retail uses to a maximum size of 8,000 square feet; restaurants are limited to a maximum size of 2,000 square feet and drive-through service is prohibited. Additionally, the property abutting to the east is zoned NR (ZON2005-00036) and this request could be an extension of that zoning. Other development standards also apply to the NR district, and the NR district would provide for land uses which typically produce fewer vehicular trips than would be generated by LC land uses. Most recently, a rezone to LC with a Protective Overlay (ZON2008-00010) occurred to the southwest of the subject site. That case differed from this request because the other site was adjacent to LC zoning and this site abuts B and NR zoning.

Based upon information available prior to the public hearings, planning staff recommends that the request for LC zoning be DENIED, however, if the Planning Commission feels the request is appropriate, staff would recommend APPROVAL of NR zoning.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property south of the subject site, across Central Avenue, is zoned B, and is developed with a single-family residence, built in the early 1940s. Property east of the site is zoned NR and is developed with an office use and small-scale retail uses. Property north of the subject site is zoned SF-5 and is developed with single-family residences. West of the subject site the property is zoned B and is developed with a four-plex residence.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned GO. The GO district permits a variety of residential and commercial uses, but no retail uses. The site could probably be adapted to uses currently allowed. The site contains 0.18 acres, which is a small area for most retail uses.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of LC zoning would introduce some uses not in character with adjacent existing residential uses. Commercial uses generate more average daily traffic; introduce larger signage and more lighting than is found in typical residential areas putting increased pressure on existing nearby residences.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The subject site is too small to support a large commercial operation within LC zoning. Acquisition of additional property and subsequent rezoning to LC could become a option in the future if this application is approved for LC zoning.
5. Conformance of the requested change to adopted or recognized Plans/Policies: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies this site as appropriate for local commercial types of use. This category of use encompasses areas that contain concentrations of predominantly commercial, office, and personal service uses that do not have a predominately regional market draw. The range of uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. The NR zoning permits uses that are local in nature as opposed to LC zoning.

The Commercial Locational Guidelines of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

6. Impact of the proposed development on community facilities: All services are in place, and any increased demand on community facilities can be handled by current infrastructure.

However, should the Planning Commission find that the proposed rezone to LC Limited Commercial is an appropriate request; planning staff recommends the following Protective Overlay:

1. All uses allowed as permitted uses in the "LC" Limited Commercial zoning district except the following: adult bookstores; pawn shops; funeral home; adult entertainment; convenience stores; hotel or motel; night club; recreation and entertainment, indoor; service station; restaurants with drive-up window service or in-vehicle food service; tavern and drinking establishment; vehicle and equipment sales, outdoor and wireless communication facility;
2. Signage on the site shall be limited to that permitted in the "NR" Neighborhood Retail zone. No signage shall face property zoned or used for residential purposes;
3. Submission and approval of a drainage plan prior to issuance of any building permits.
4. Dedication of access control except for one opening along Central Avenue.
5. The site shall be developed in conformance with code required noise, setback and height standards, zoning screening and buffering and landscaping requirements unless modified by this Protective Overlay;
6. A six to eight-foot high masonry wall shall be constructed along the north property line and a six to eight-foot wooden fence on the west property line;
7. No outdoor storage shall be permitted on the site;
8. Outdoor lighting on the site shall be restricted to 12 feet in height, including the base, and shall be shielded away from residential zoning;

9. Outdoor speakers and sound amplification systems shall not be permitted.

DERRICK SLOCUM, Planning Staff presented the Staff Report. He said DAB I voted to approve Limited Commercial (LC) zoning with a Protective Overlay. He referred to page 4 of the Staff Report. He mentioned several changes that have been made to the alternate recommendation in the staff report that was recommended by the DAB and a typographical error, as follows: restaurants were allowed; however, no drive up windows or vehicle service and the removal of liquor stores and construction sales and service. He also mentioned a change to item #6 which was the addition of a 6-8 masonry wall along the north property line and a 6-8 foot wooden fence along the west property line.

JO ZAKAS, CLIFTON SQUARE, 302 E. CENTRAL said she applied for the zoning at the request of the City because one of the building occupants was a masseuse and that use did not fit in General Office (GO) zoning. She said she is requesting Limited Commercial (LC) zoning so that they can combine with redevelopment to the west on the corner of Central and Oliver. She said the parcel is too small to make any drastic changes without additional frontage on Central. She said her neighbor to the west was afraid taxes will go up with LC zoning and added that he didn't want a fence. She requested that the back of the property (north) stay the way it is. She requested that the provision for a 6-8 foot high wooden fence be moved to paragraph 3 with the drainage plan and be tied into issuance of any building permits. She said a fence could be erected at that time. She said she doesn't plan on making any changes to the property at this time; however, parking facilities might come into consideration in the future. She concluded by requesting that the LC zoning to be granted. She said this was a hardship for her which cost approximately \$1,500 and that she didn't want to have to come back again in 6-8 months.

CHAIRMAN MITCHELL clarified that the applicant wanted the provision for a 6-8 foot wooden fence removed from paragraph 3 and added to paragraph 6 and be made a requirement prior to the issuance of any building permit.

ZAKAS indicated that she also wanted to omit the requirement of a masonry wall of any type from paragraph 6.

HILLMAN indicated he'd agree to those requested changes only if staff agreed.

GOLTRY said the masonry wall was requested because there are residential properties immediately north of the site.

ZAKAS indicated that there was a wooden fence in place at this time.

DENNIS asked if the applicant brought any documentation that the neighbor to the west agrees to no fence.

ZAKAS said no, she had no documentation.

HILLMAN asked what type of fencing was required under Neighborhood Retail (NR).

SLOCUM indicated wooden fencing would be acceptable.

GOLTRY said wooden fencing is a permitted material under NR zoning; there is no special requirement for masonry.

MARNELL asked if masonry walls were a requirement under LC zoning.

GOLTRY commented neither NR nor LC zoning included a requirement for a masonry wall, unless it was part of a Conditional Use Permit (CUP) or Protective Overlay (PO); however, she thought the requirement was added to the proposed PO so it would match a nearby PO.

SLOCUM further clarified that the nearby PO required wooden fencing.

MARNELL said he would support the requested changes and suggested they be included in the motion.

FOSTER suggested supporting staff's position and recommending Neighborhood Retail zoning which he felt was more consistent with the area and the Comprehensive Plan.

MOTION: To approve subject to staff recommendation, with the deletion of provision #6 from the proposed Protective Overlay and the addition of the wooden fence to provision #3.

ANDERSON moved, **MARNELL** seconded the motion, and it carried (7-1).
FOSTER – No.

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6. **Case No.: CON2008-02** – Mary L. Stark (owner), Minneha Township, c/o Charles Wiggins (applicant), Robert Kaplan (agent) Request County Conditional Use request for a government service on property described as;

A portion of the Northeast Quarter of Section 25, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at the Southwest corner of said Northeast Quarter; thence North along the West line of said Northeast Quarter, 164 feet; thence East parallel with the South line of said Northeast Quarter, 185.5 feet; thence South parallel with the west line of said Northeast Quarter, 81.00 feet; thence South parallel with the West line of said Northeast Quarter, 139 feet to a point on the South line of said Northeast Quarter, 139 feet to a point on the South line of said Northeast Quarter; thence West along the South line of said northeast Quarter, 266.5 feet to the point of beginning. Generally located South of U.S. 54, west of 159th Street East and north of Lincoln (800 South Lakewood Dr.).

BACKGROUND: The applicant is requesting consideration for a Conditional Use to allow "Government Services" for the Minneha Township equipment storage and staging area/facility on property zoned SF-20 Single-family Residential ("SF-20"). The Unified Zoning Code (UZC) defines Government Services as "buildings or facilities owned or operated by a government entity and providing services for the public, excluding utilities and recreational services." The UZC requires a Conditional Use for Government Service in all residential zoning districts.

The approximately one (1) acre site is part of an unplatted 124.8-acre SF-20 zoned tract, located in the county, on the south side of US 54 Highway, on the west side of 159th Street East (the Butler – Sedgwick county line) and on the north side of Lincoln Street. The tract is an agricultural field with a single-family residence and some agricultural accessory buildings, which are located approximately 300 yards southwest of the residence. A creek runs north to south through the tract. The site is located in the southwest corner of the tract, which is where the accessory buildings are located. Access to the site is off of Lincoln from an unimproved private drive. The city limits of Wichita abut the south and west sides of the site. These areas located within the city are developed as numerous single-family residential subdivisions, zoned SF-5 Single-family Residential ("SF-5"). The single-family residences located closest to the site were mostly built in the 1990s. There is an existing hedge row between the proposed site and the abutting single-family residences.

The equipment stored on the site include a dump truck (which also serves as a snow plow) two tractors, a grader, a pick-up truck, a skid loader, a bobcat, trailers, an excavator, a roller, a crack sealer and an air compressor. Materials typically stockpiled on the site include culvert pipe, gravel and top soil. Asphalt for road repair is not stored on the site. There are three fuel tanks located on the west side of a metal

building, which is open on its east side. This building also serves as the office for the facility. Typical hours of operation are 8 AM-6 PM, with the exception being in the winter when snow removal from the township roads could require 24 hour shifts.

CASE HISTORY: The applicant has moved onto the site prior to applying for/obtaining a Conditional Use and was directed to apply for one or move off of the site by Sedgwick County Code Enforcement, which was responding to complaints from the abutting single-family residential neighbors. The application was deferred from its initial public hearing date (February 21, 2008) to allow the applicant to look for another site or address the concerns of the established single-family neighborhood. The applicant subsequently met with the neighbors to address their concerns.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-20	Agricultural field
EAST:	SF-20	Agricultural field, single-family residence
SOUTH:	SF-5	Single-family residences
WEST:	SF-5	Single-family residences

PUBLIC SERVICES: Lincoln is a paved Minneha Township road. This portion of Lincoln has a low water bridge on it, which is posted warning traffic to stay off the bridge during high water from the creek running through the tract the site is located in. Lincoln bends south and becomes Brookhaven Street (township road) just past the intersection of Lincoln with the private drive to the tract and site. 159th Street East appears to be a paved county road. The “2030 Transportation Plan” projects all three roads to be two-lane arterials. There are no traffic counts for this portion of Lincoln. Franchised utilities are available or can be extended to the site. The applicant will install a septic system or lagoon for sewage. A well will provide water to the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” (Guide) of the Comprehensive Plan identifies this property as “urban development mix” and within the 2030 Wichita urban growth area. The urban development mix category encompasses land that will likely be developed within the next 30 years with uses predominately found in the “urban residential use” category of the Guide. There is also the strong likelihood that concentrations and pockets of uses found in the “major institutional” and “local commercial” categories, as well as “regional commercial” and “employment centers,” (if in the proximity of a future Northwest Bypass) could develop in this area. Needless to say these categories ponder the possibility of a wide range of uses, including all housing types, public and civic uses, the smallest to largest retail and manufacturing-warehousing-shipping developments. The 124.8-acre agricultural field the site is located in has direct access onto US 54 and is open to a wide range of development possibilities. The proposed Minneha Township equipment storage and staging area/facility does fit into this wide range of possible uses.

The UZC requires a Conditional Use for Government Service, in all residential zoning districts, plus the NO Neighborhood Office (“NO”), GO General Office (“GO”) and NR Neighborhood Retail (“NR”) non-residential zoning districts. The proposed Minneha Township equipment storage and staging area/facility is located on property zoned SF-20, thus it can be considered for a Conditional Use.

The UZC considers Government Services a “public and civic” use. The “Public/Institutional Location Guidelines of the Comprehensive Plan” states that these uses that serve residential areas should be grouped together along with the neighborhood commercial centers and located near parks or along intersections of greenways/recreational corridors. It also states that they should have convenient access to arterial streets and public transportation. The proposed Minneha Township equipment storage and staging area/facility is located up against urban density single-family residential development on its west and south sides, but is part of a 124.8-acre agricultural field (with one single-family residence and its agricultural accessory buildings) on its north and east sides. Access is onto Lincoln Street, a paved Minneha Township road, which is projected to become a two-lane arterial. Access to Lincoln is from an unimproved private drive, with the site itself located more than a ¼-mile from Lincoln. Traffic to and

from the site will be mostly through open field to the intersection. In this portion of consideration for the application, the site and its proposed use is at best only partially conforming and at worst short of meeting locational criteria; the site's immediate proximity to single-family residences and lack of convenient access to an arterial are negatives.

RECOMMENDATION: The applicant moved onto the site prior to the current application for a Conditional Use. Complaints from the already established (houses built in the 1990s) single-family residential neighborhood to Sedgwick County Code Enforcement caused the township to apply for the Conditional Use. The application was deferred from its initial public hearing date (February 21, 2008) to allow the applicant to look for another site or address the concerns of the established single-family neighborhood. The applicant has stated to staff that they were not able to find another site. The applicant subsequently met with the neighbors to address their concerns. The dialogue with the neighbors and County Code Enforcement seems to have produced some development standards that have been agreed to by both parties. The condition of the private drive to the site must be per County Fire's standard, which would apply to all emergency service vehicles. Based on the information available prior to the public hearing, staff recommends the application be APPROVED, with the following conditions being completed within 6 months of approval by the appropriate governing body.

1. A 7-foot masonry/concrete wall be placed along the west and south sides of the site and if needed extended along the east side of the abutting Lot 1, Block 6, Springdale East Addition and the north side of the abutting Lot 4, Block 4, Timber Lakes Estates 2rd Addition. The wall shall be placed so that it will not disturb the existing hedge row that runs between the abutting south and west residential properties. The wall will be placed on the applicant's site, with the hedge row being between it and the abutting residences.
2. A 20-foot buffer and a 25-foot compatibility setback will run along the west and south sides of the site. There will be no parking, storage, staging, stockpiling of materials or lights within the setbacks. All lighting must be directed onto the site and away from the abutting residential neighborhoods. Pole lights shall be a maximum of 12-feet tall, including the base.
3. Stockpiling of materials shall not exceed seven (7) feet in height and will be placed a maximum distance from the abutting southern and western single-family residential developments, which is general described as the northeastern portion of the site. Water will be used to keep dust from blowing off of the stockpiles.
4. Parking and storage of vehicles will be on the east side of the tin storage/office building on a gravel surface. Vehicular repair will be done inside a building on a concrete floor.
5. Hours of operation are 8 AM-6 PM, with the exceptions being in the summer (July – August) when hours may begin at 7AM and winter when snow removal from the township roads could require 24 hour shifts.
6. A septic or lagoon sewer system and well will be installed, as permitted and inspected by Sedgwick County, within 6 months of approval of the Conditional Use by the appropriate governing body.
7. The proposed office space must be permitted, built and inspected per Sedgwick County Building Code. All buildings must meet all the provisions of the Sedgwick County Building Code
8. The private drive which provides access to the site must meet all the provisions of the Sedgwick County Road Code for private drives for a non residential use.
9. A revised site plan must be turned in for review and approval by Planning. Development of the site shall be in conformance with the approved Site Plan.
10. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The approximately one (1) acre site is part of an unplatted 124.8-acre SF-20 zoned tract, located in the county, on the south side of US 54 Highway, on the west side of 159th Street East (the Butler – Sedgwick county line) and on the north side of Lincoln Street. The tract is an agricultural field with a single-family residence and some agricultural accessory buildings. The city limits of Wichita abut the south and west sides of the site. These areas located within the city are developed as numerous single-family residential subdivisions, zoned SF-5 Single-family Residential (“SF-5”). The single-family residences located closest to the site were mostly built in the 1990s.
2. The suitability of the subject property for the uses to which it has been restricted: The site could continue to be used as it is, part of a large, 124.8-acre agricultural field with a single-family residence and its agricultural accessory buildings. However the large tract itself, with its proximity to US 54 and the combination of residential and commercial development occurring or planned to occur in the area has more development potential than its current use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The results of the dialogue between the applicant, the single-family residential neighborhood and Sedgwick County are largely reflected in the conditions, which should help minimize the impact of the currently out of compliance Minneha Township equipment storage and staging area/facility.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The “2030 Wichita Functional Land Use Guide” (Guide) of the Comprehensive Plan identifies this property as “urban development mix” and within the 2030 Wichita urban growth area. The urban development mix category encompasses land that will likely be developed within the next 30 years with uses predominately found in the “urban residential use” category of the Guide. There is also the strong likelihood that concentrations and pockets of uses found in the “major institutional” and “local commercial” categories, as well as “regional commercial” and “employment centers,” (if in the proximity of a future Northwest Bypass) could develop in this area. Needless to say these categories ponder the possibility of a wide range of uses, including all housing types, public and civic uses, the smallest to largest retail and manufacturing-warehousing-shipping developments. The 124.8-acre agricultural field the site is located in has direct access onto US 54 and is open to a wide range of development possibilities. The proposed Minneha Township equipment storage and staging area/facility does fit into this wide range of possible uses.

The UZC requires a Conditional Use for Government Service, in all residential zoning districts, plus the NO Neighborhood Office (“NO”), GO General Office (“GO”) and NR Neighborhood Retail (“NR”) non-residential zoning districts. The proposed Minneha Township equipment storage and staging area/facility is located on property zoned SF-20, thus it can be considered for a Conditional Use.

The UZC considers Government Services a “public and civic” use. The “Public/Institutional Location Guidelines of the Comprehensive Plan” states that these uses that serve residential areas should be grouped together along with the neighborhood commercial centers and located near parks or along intersections of greenways/recreational corridors. It also states that they should have convenient access to arterial streets and public transportation. The proposed Minneha Township equipment storage and staging area/facility is located up against urban density single-family residential development on its west and south sides, but is part of a 124.8-acre agricultural field (with one single-family residence and its agricultural accessory buildings) on its north and east sides. Access is onto Lincoln Street, a paved Minneha Township road, which is projected to become a two-lane arterial. Access to Lincoln is from an unimproved private drive, with the site itself located more than a ¼-mile from Lincoln. Traffic to and from the site will be mostly through open field to the intersection. In this portion of consideration for the application, the site and its proposed use is at best only partially conforming and at worst short of meeting locational

criteria; the site's immediate proximity to single-family residences and lack of convenient access to an arterial are negatives.

5. Impact of the proposed development on community facilities: The impact of this development on the community facilities will be no more than they presently are, as the noncompliant facility has been in operation for over two years.

FOSTER announced that he was recusing himself from this item due to a conflict, because he was doing work for the Township and left the bench.

BILL LONGNECKER, Planning Staff presented the Staff Report.

BOB KAPLAN, AGENT FOR THE APPLICANT, commented that this item had been deferred from the February 21, 2008 MAPC meeting. He said he couldn't speak to the previous Township Board and their awareness of zoning issues, but added that **MR. CHARLES WIGGINS** was now Chairman of the Minneha Township Board and that they had done everything that has been asked of them on the property. He referred to the letter from the neighborhood representative, Don Richardson, (also provided as a hand out) and commented that there was no established homeowners association in the area. He said they believe they have satisfied all the concerns of staff, the neighbors and Public Works. He said Townships are severely hampered in finding base facilities because they have no money. He said they collect minimal levies and conduct their meetings in public venues, which make it impossible to use those sites for equipment staging or storage. He said Minneha Township meets at the County Fire Station on 127th Street East and north of Central. He said the tract in question is just less than one acre and that the Township has leased the site for a nominal amount of money. He said they are willing to construct a 7-foot masonry wall, provide compatibility setbacks and restrict the height of materials stored at the site. He requested approval of the Conditional Use request.

HENTZEN referenced the correspondence from Don Richardson regarding the masonry wall and asked if the applicant was bypassing that requirement?

KAPLAN said the area in question was not part of the site and that no, they were not asking to be relieved of the masonry wall requirement.

LONGNECKER said staff was requiring a masonry wall to the west and south because that was what was agreed upon by the applicant and the neighbors. He said the wall would be located where it abuts residential properties on its west and south sides.

HENTZEN said there must be other County yards and asked if these requirements for the Township were different? He also asked if there was a list of Township yards.

LONGNECKER commented that typically the County doesn't move into residential areas, prior to getting the necessary permits. He noted the provisions of the application were agreed upon by the applicant and neighborhood as part of the Conditional Use and were an effort to ensure that both could be good neighbors for each other. He then commented that there was no list of Township maintenance yards.

KAPLAN said construction of the 7-foot masonry wall was expensive but they had agreed to do it and they will.

DON RICHARDON, 15236 CASTLE CIRCLE said he initiated this action because the neighbors were told that a wall would be put up and a number of other things that never happened. He specifically mentioned storage of vehicles and asked if they could be put in the barn every night. He said parking and storage was supposed to occur on the east side of the site and all repairs inside the building. He said he used to be able to look out onto an open meadow but because of the parking and storage has had to put

blinds on his back window because he was embarrassed what company would see out his back window. He asked that the wall on lot four be extended to the corner of the property and not stop in the middle of the lot. He concluded by mentioning concern about the dust, noise, and timing of activities on the site, but added that he felt these issues had been addressed in the staff recommendation.

HILLMAN commented that if the wall were built it would block Mr. Richardson's view.

RICHARDSON said that was acceptable to look at a wall as opposed to a construction yard. He added that he understood that some plantings and other landscaping were going to be put in to soften the area.

LONGNECKER explained that the recommendation was to retain the existing hedge, putting it between and outside the wall, which would be located on the applicant's property.

HENTZEN asked if there was a stated list of requirements for Township yards.

LONGNECKER responded not to his knowledge.

CEDAR MERCIER, 15210 CASTLE CIRCLE said she lives just west of Don Richardson. She said her initial complaint was that they currently didn't have the brick masonry wall, but she also mentioned the loud noises, the running machines and exhaust they created. She said the wall would hide a little of that but that it would not be enough to conceal all the noise. She said her husband works the graveyard shift as an Air Traffic Controller at McConnell Air Force Base and he has to sleep during the day. She said they once had an empty field that no one occupied to look at, but it was just an ugly embarrassment and that there was no privacy for the residential area. She said she has three kids and that people she doesn't know are right there by her backyard and it makes her uncomfortable. She said it was her wish that the entire operation be relocated. She said now it is right up against their houses. She said a 7-foot fence was okay, but if you stand back from the fence, it wasn't high enough to block the view of the construction yard.

BRETT WHITE, 15256 CASTLE CIRCLE said he was supportive of the operation with the concrete wall. He also requested that the wall be extended to the edge of his property. He said he would like the drainage issues taken care of before the concrete wall is erected. He mentioned that a Registered Sex Offender had been employed at the location and that he would like to recommend that some type of comprehensive policy be adopted to screen applicants to keep that from happening again. He said he just wanted to ask that, even though he realized it might be beyond the purview of this board. He also mentioned liability issues.

TAPE 1, SIDE 2

HILLMAN clarified that they might be stockpiling materials up to seven feet tall and that **MR. WHITE** had a concern about that and drainage.

WHITE said he had no issues with stock piling materials, but would like to see the drainage issues addressed before the fence is built. He said they have dug a ditch for runoff.

JAMES WILSON, 1224 S. SAGEBRUSH said he lives west and south of the area. He said they are being asked to have a construction yard in their neighborhood. He said the Township has funneled water from the back of the Stark property line and onto the neighborhood. He said he would like to see the drainage issue addressed, hours of operation such as no heavy equipment before 8:00 a.m. or after 5:00 p.m. - Monday through Friday. He said they are talking about heavy equipment with a lot of exhaust, not pickup trucks. He said these issues need to be addressed. He said there is an area of the Stark property with easy access right off of Lincoln and north of the filtration plant. He said the area is used as a burning dump periodically, but that it was a nice location. He concluded by requesting that the operation be moved one quarter to one half mile east to the area off of Lincoln.

KAPLAN said perfection was difficult to achieve but they felt they have done a pretty creditable job. He said they have researched other sites seriously and requested that **MR. WILSON** bring him a deal they can look at. He said **MR. WIGGINS** oversees employees and the operation at no pay. He said the term construction yard was inaccurate and that this was a “staging area” for equipment and materials where materials, equipment, and trucks are stored. He said they have agreed to the masonry wall, and other restrictions to satisfy the neighborhood. He concluded by saying that he has seen other township operations that are not nearly this clean.

CHARLES WIGGINS, 801 N. SPRINGDALE DRIVE, REPRESENTING THE MINNEHA TOWNSHIP said he was asked by Commissioner Unruh in 2007 to run the operation. He said they are modernizing the Township with technology, systems and procedures. He commented that the “sex offender” hiring was prior to his time, and that they currently have written policies in place that require background checks on potential employees. He said they are at this location reluctantly and would rather be somewhere else. He said the Starks were not willing to move the operation to the other side of the property, although they are never intending to develop the property. He said he believes when the property passes to Stark’s children there is potential for Limited Commercial development on the front of the property and residential development in the back of the property. He said they have been on a year-to-year lease but they have insisted upon a five-year contract if this conditional use application is approved. He said obtaining locations for township yards is a problem all over the County and mentioned that some Townships are attempting to share space. He said they have been good neighbors and requested approval of the request.

HILLMAN asked **MR. WIGGINS** to address the issues of equipment and materials on site and drainage.

WIGGINS explained that materials storage on site is on a “limited” permanent basis. He briefly explained that they have been storing top soil to be used at a cemetery at Harry and 143rd Streets and also mentioned that they are fostering a landscape improvement plan which included leveling and reseeded certain Township areas to help with drainage issues. He commented that the recent rain created a lot of problems and that they are also doing culvert and other drainage work in town. He said he took exception to the comment that they created the drainage problem at the site, and said the drainage problem has always been there. He said there is a ridge on the Stark property where one half drains to the north and one half drains to the south. He said the homes in the neighborhood had drainage problems long before the Township located the yard there. He said the drainage comes from around their leased space and is not from their property. He said in his opinion, they have done as much as they can do to improve the situation.

PRESIDENT MITCHELL briefly reviewed the requests made by the public who spoke regarding the application including storing vehicles in the barn (**BOB KAPLAN** said they are agreeable to the request); extending the masonry fence to the end of the lot (**BOB KAPLAN** said they are agreeable to that request); and noise and exhaust abatement.

WIGGINS said they have already addressed the last problem and agreed not to fire up the diesels before 8:00 a.m. In addition, he has given employees direction that there will be no radios or loud noises at the site.

BOB PARNACOTT, COUNTY COUNSELOR, stated for the record that there was still a quorum for the vote on this issue.

MOTION: To approve subject to staff recommendation and conditions agreed to by the applicant and agent at this meeting.

HILLMAN moved, **HENTZEN** seconded the motion, and it carried (7-0-1).
FOSTER – Abstained.

DIRECTOR SCHLEGEL clarified that the approval was subject to the conditions in the staff report in addition to what the applicant and agent agreed to at the podium.

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7. **Case No.: CON2008-33** – Robert and Sherri Gerety (owner); Carla and Michael Hobbs (contract purchaser); Coldwell Banker c/o Tony Utter (agent) Request City Conditional Use for Group Residence, Limited in NO Neighborhood Office zoning on property described as;

All of Lots 1 and 3 and the North 10 feet of Lot 5, Topeka Avenue, Stone’s Addition to the City of Wichita, Kansas, Sedgwick County, Kansas, together with the East Half of the vacated alley adjoining on the West. Generally located on the southwest corner of Topeka Avenue and 10th Street North (1065 North Topeka).

BACKGROUND: The applicant is requesting a Conditional Use for Group Residence, Limited, to operate a group residential center for girls on property zoned NO Neighborhood Office (“NO”) and located west of Topeka Avenue and south of 10th Street North (1065 North Topeka Avenue).

Group Residence is defined in the Unified Zoning Code (“UZC”) as: “a residential facility providing cooking, sleeping and sanitary accommodations for a group of people, not defined as a family, on a weekly or longer basis.” Children’s homes are cited as a typical group residence by the UZC. Group Residence, Limited is further defined as: “occupied by six to 15 persons, including the staff members who reside at the facility.”

This request is seeking to establish a youth residential center for six to eight girls ages 6 to 17 year of age. See attached information from the contract purchaser/operator of the facility. Placement at the residence would be for up to 90 days, with possible 60-day extensions. Two staff members would be onsite at all times.

The property is listed on the National, State and Local Historic Register as a contributing structure to the North Topeka Avenue/10th Street Historic District. The structure is a three story house built in the 1800s, with living room/dining/kitchen on the main level, bedrooms on the second floor and a finished third floor, possibly acceptable as living quarters. The applicant has stated that the structure would be used without any significant modifications. Most recently, it was occupied as a single-family residence. Prior to that, it was converted from multi-family residential use to office use.

A concrete parking area with at least five parking spaces is located on the rear of the lot, which provides off-street parking for the structure. The parking requirements for a group residence are one space per house parent/staff, plus one for each resident who is permitted to drive. This parking area would be sufficient, so long as most of the residents (girls) are too young or not allowed to drive.

The property to the north and northeast is a mix of residential, medical office clinics, and office uses and a community center, on property zoned NO, GO General Office (“GO”) and B Multi-Family (“B”). Via Christi Saint Francis Campus, located on property zoned GO, is to the east. A parking lot and more medical facilities are located to the south and a fast-food restaurant is located to the southwest. A vacant office is located to the west and another fast-food restaurant is located to the northwest. The properties to the south and west are located on property zoned B or LC Limited Commercial (“LC”).

CASE HISTORY: The property is platted as Stone’s Addition, recorded May 7, 1884. BZA 40-83 granted two variances to this property in combination with two structures north of 10th Street North. It eliminated the screening requirement and restricted signage on the 1109 North Topeka (the same sign restrictions were placed on 1103 by a previous variance, BZA6-83). BZA40-83 also reduced parking requirements for the three properties (1065, 1103 and 1109 North Topeka) but only so long as they were

held in the same ownership and kept in general office use. While these variances remain valid, the condition of “same ownership” is no longer met; presumably each use should now meet its own parking needs. An earlier variance, BZA51-82, eliminated the screening requirement between 1065 North Topeka (the application area) and its adjoining B-zoned parking lot. The property is located in the North Topeka Avenue/10th Street Historic District.

ADJACENT ZONING AND LAND USE:

NORTH:	NO, GO, B	Office, residential, medical clinics
SOUTH:	B, NO, LC	Parking lot
EAST:	GO	Via Christi Saint Francis Hospital campus
WEST:	LC	Restaurants, vacant office

PUBLIC SERVICES: The property has access onto 10th Street North, a local street. The property abuts Topeka Avenue but does not have a driveway on this frontage. Topeka Avenue is classified as a collector street. It carries two-way traffic between Murdock and 10th Street North, and has four through lanes and one left-turn center lane. Topeka Avenue splits at 10th Street North, with the two northbound lanes bending and jogging a block eastward to Emporia Avenue. Topeka Avenue becomes a one-way, three lane southbound street north of 10th Street North. In 2007, the traffic volume (Average Daily Traffic) on Topeka between 10th and 13th Street North was 2,124 vehicles per day, and the volumes increased south of 10th to Murdock to 4,953 vehicles per day. All normal utility services serve the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide”, 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identifies the site as “local commercial”. The Midtown Neighborhood Plan, adopted by the City and County in 2004, identifies halfway houses, correctional facilities and group homes (group residence as technically defined in the UZC was considered in the same category as these other uses) as future uses of concern to the neighborhood (see pgs 21, 46 and 64-65). Retaining existing residential uses and encouraging home ownership is also a priority (pg 39). The *Historic Midtown 2020 Future Land Use Concept Map* identifies the property as for “Mixed Use-Multi-Unit/Commercial.” The plan supports commercial use or residential use, but not institutional types of residential housing arrangements like group residences. The historic landmark designation of the property does not regulate land use, but affects the types of changes made to the physical structure to maintain its historic integrity. Alterations would require review by the Historic Preservation Board.

RECOMMENDATION: The proposed use for Group Residential, Limited, conflicts with the neighborhood policies and proposed land use contained in the Midtown Neighborhood Plan. Group Residence is regulated more stringently than all other residential uses except perhaps Assisted Living by the UZC. In terms of intensity based on being allowed by right or by Conditional Use, Group Residence is on par with institutional uses such as Cemetery and Community Assembly, and considered of higher intensity than Group Homes, Limited and General. Group Residence is seen as creating more potential impacts on surrounding properties because of the greater activity level associated with it compared to conventional dwelling units. More people tend to reside in it than conventional dwellings, more people other than residents (staff, visitors, etc.) tend to be coming and going from it, individuals live shorter lengths of time, which leads to a sense of flux of the occupants, more cars tend to be parked at it compared to a conventional dwelling unit, etc. Finally, the historic designation of the property does not eliminate its use as a group residence, but it highlights the importance of maintaining its historic integrity. Although the proposed operator intends to operate the Conditional Use so as to avoid these impacts, the Conditional Use would be based on the site (property) and not a particular owner/operator. It could be transitioned to a different owner/operator in the future. Based on these factors, Staff recommends the application be DENIED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property to the north and northeast is a mix of residential, medical office clinics, and office uses and a community center, on property zoned NO, GO and B. Via Christi Saint Francis Campus, located on property zoned GO, is to the east. A parking lot and more medical facilities are located to the south and a fast-food restaurant is located to the southwest, a vacant office is located to the west and another fast-food restaurant is located to the northwest. These uses are located on property zoned B or LC. The property is located on the edge of one of the oldest neighborhoods in the city, with a number of properties and several historic districts located within the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The site is suited for low intensity types of office use, which is similar to the use of the other structures in the North Topeka Avenue/10th Street Historic District. Most recently, the property was occupied as a single-family dwelling. Before this, it was an office facility. Both previous uses are uses encouraged by the Midtown plan.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Group Residence is seen as creating more potential impacts on surrounding properties because of the greater activity level associated with it compared to conventional dwelling units. More people tend to reside in it than conventional dwellings, more people other than residents (staff, visitors, etc.) tend to be coming and going from it, individuals live shorter lengths of time, which leads to a sense of flux of the occupants, more cars tend to be parked at it compared to a conventional dwelling unit, etc. Allowing a group residence could increase traffic, noise and activity compared with a low intensity office use or conventional residential use.
4. The length of time the subject property has remained vacant as zoned: Most recently, the property was occupied as a single-family dwelling. It has been on the real estate market for a few months. Prior to this occupant, it was a small-scale office facility. Both previous uses are encouraged by the Midtown plan.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide”, 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identifies the site as “local commercial”. The Midtown Neighborhood Plan, adopted by the City and County in 2004, identifies halfway houses, correctional facilities and group homes (group residence as technically defined in the UZC was considered in the same category as these other uses) as future uses of concern to the neighborhood (see pgs 21, 46 and 64-65). Retaining existing residential uses and encouraging home ownership is also a priority (pg 39). The *Historic Midtown 2020 Future Land Use Concept Map* identifies the property as for “Mixed Use-Multi-Unit/Commercial.” The plan supports commercial use or residential use, but not institutional types of residential housing arrangements like group residences. The historic landmark designation of the property does not regulate land use, but affects the types of changes made to the physical structure to maintain its historic integrity. Alterations would require review by the Historic Preservation Board.
6. Impact of the proposed development on community facilities: The site will have minimal impact on traffic.
7. Opposition or support of neighborhood residents: This cannot be fully known prior to the public input, but input from the Midtown Plan tends to point to opposition of the neighborhood, as expressed by the needs analysis at Midtown Community Resource Center Park-It (May 9, 2002) to keep out additional halfway houses, correctional facilities and group homes.

MOTION: To hear item #7 first on the agenda.

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

DONNA GOLTRY, Planning Staff, commented that the agent was present to request a deferral of the application to the August 21, 2008 MAPC Hearing.

It was noted for the record that no one from the public was present to speak about the application.

ERIC COMER, AGENT FOR THE APPLICANT CARLA HOBBS, said the applicant would like to request a deferral until the August 21, 2008 MAPC Hearing.

MOTION: To defer the item until the August 21, 2008 MAPC Hearing.

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

8. Other Matters/Adjournment

8-1. **Conformity of the 2009-2013 Sedgwick County Capital Improvement Program with the Wichita-Sedgwick County Comprehensive Plan** Presenting Planner: Stephen Banks

Background: On July 24, 2008, the Advance Plans Committee of the Metropolitan Area Planning Department received presentations on the *Proposed 2009-2013 Sedgwick County Capital Improvement Program*. Copies of the proposed County C.I.P. were also distributed to all members of the MAPC for their review prior to a discussion of conformity with the Wichita-Sedgwick County Comprehensive Plan scheduled for the MAPC meeting on August 7, 2008.

Analysis: Section 12-748 of Kansas statutes requires a planning commission to review the capital improvement program (C.I.P.) of its municipality to make a finding as to whether the proposed public improvements, public facilities or public utilities conform to the adopted comprehensive plan. If the planning commission finds that any such proposed public improvement does not conform to the plan, the commission shall submit in writing to the governing body, the manner in which such improvement does not conform.

Staff has reviewed the *Proposed 2009-2013 Sedgwick County C.I.P.* Staff has determined that the public improvements itemized in the *Proposed 2009-2013 Sedgwick County C.I.P.* are in conformity with the adopted Wichita-Sedgwick County Comprehensive Plan. The Advance Plans Committee also passed a unanimous motion at its meeting of July 24th recommending that the MAPC find the *Proposed 2009-2013 Sedgwick County Capital Improvement Plan* to be in conformity with the Wichita-Sedgwick County Comprehensive Plan as amended.

Recommended Action: That the Metropolitan Area Planning Commission find the *Proposed 2009-2013 Sedgwick County Capital Improvement Plan* to be in conformity with the adopted Wichita-Sedgwick County Comprehensive Plan as amended.

STEPHEN BANKS, Senior Planning Staff commented that Kansas State Statutes require review of the Capital Improvement Program (CIP) to insure that it conforms to the Wichita – Sedgwick County Comprehensive Plan. He introduced **PETE GIROUX, SEDGWICK COUNTY FINANCE DEPARTMENT**. **MR. GIROUX** referred to a PowerPoint Presentation of the CIP and briefly explained how the County's CIP was developed. He introduced **STEVE CLAASSEN, DIO-FACILITY MAINTENANCE**, who briefly reviewed project status including previously approved projects, and significant up-coming multi-year projects by year, including the following: ADA compliance, roof replacements, Lake Afton spillway, 800 MHZ radio system digital conversion, Heartland Preparedness Infrastructure, historic courthouse campus renovations, levee repairs, update of the courtroom in the juvenile complex, outdoor warning activation system, expansion of parking at Sedgwick County Park and

replacement of maintenance building, new regional park plan, replacement of shelter at Lake Afton Park, replacement of EMS post, and street improvements along Elm between Water and Main. He said the “watch list” was projects with no hard numbers; however, they will need to be addressed in the future. He said projects on this list included a county-wide space plan, storm water management master plan, drainage improvements, and various projects at Sedgwick County Park.

HILLMAN asked if there was a schedule for sale of the Kansas Coliseum. He also asked if Americans with Disability (ADA) upgrades for the facility were included in the CIP.

CLAASSEN said they were awaiting a report from MSG that will include potential options for the Coliseum. He added that the Coliseum was not included in the CIP Plan.

JIM WEBER, DEPUTY DIRECTOR OF PUBLIC WORKS, briefly reviewed previously approved projects and the overall preventative maintenance plan. He mentioned 199th W., Meridian, Ridge, and added that many projects were also supplemented with Kansas Department of Transportation (KDOT) funding and Local Sales Taxes (LST), 63rd St. bridge on S. Hydraulic, bridge on N.143rd (partially funded with Turnpike Authority and KDOT funds), 135th W., bridge N. 167th W, bridge S. 151st W., 135th, 183rd W., 151st, right-of-way, shoulders, drainage, rejuvenation, bridge deck rehabilitation and guard fence, W. Maize, bridge N. 119th W., 47th S. corridor improvements, 71st S., 183rd W., 135th, 159th E., and 47th S.

TAPE 2, SIDE 1

Responding to a question from **HENTZEN**, **WEBER** indicated he had worked for the county twenty-five years.

HENTZEN said he was very impressed with what **MR. WEBER** was telling them and showing them. He said he also liked that the County was putting money into maintenance of its infrastructure every year. He said he felt they “do a hell of a job down there” in Public Works as far as planning and maintenance. He also asked **MR. WEBER** to pass on his comments to **DAVE SPEARS**.

GIROUX explained that they are working on an ADA Transition Plan which was a high priority and that a consultant was evaluating every facility and identifying issues. In addition, he said they have hired an ADA Coordinator who is also an architect to coordinate all the plans.

GIROUX briefly reviewed the County’s Debt Policy including setting limits on debt issued. He reviewed CIP funding sources by year, which included KDOT, Turnpike Authority and LST funds. He also mentioned the levee accreditation process required by the Federal Emergency Management Agency (FEMA). He reviewed FEMA funding and expenses forecasts by year out to 2013. He also reviewed LST and KDOT funding and expense forecasts out to 2013. He concluded by reviewing previously authorized debt and annual debt financing. In summary he mentioned 2009 immediate needs, and commented that they felt they had a viable plan for next the four years to live within resources.

BANKS commented that Planning Staff reviewed the proposed Wichita-Sedgwick County CIP and found it to be in conformity with the Comprehensive Plan. In addition, he mentioned that the Advanced Plans Committee voted unanimous to recommend that the MAPC find that the proposed PLAN is in conformity with the Wichita-Sedgwick County Comprehensive Plan. He concluded by stating that if any MAPC members felt there were any nonconformities, they needed to be submitted in writing.

MOTION: That the 2009-2013 Sedgwick County Capital Improvement Program Plan was in conformity with the Wichita-Sedgwick County Comprehensive Plan.

MARNELL moved, **HENTZEN** seconded the motion, and it carried (7-1).
ANDERSON – No.

ANDERSON said he had no problem with the County CIP as presented today; however, he had an issue as to whether it was in conformance with the Wichita-Sedgwick Comprehensive Plan since the Commission hadn't seen anything about the Comprehensive Plan presented. He said he had a problem approving something when the Comprehensive Plan wasn't even discussed today. He said he didn't see any relevance and added that he had the same issue with the City's CIP.

HENTZEN said he didn't think either one of them could accurately quote what the Comprehensive Plan was in detail, especially since both the City and County CIPs change from year to year. But, he said he thought that they both had a pretty good idea what the Comprehensive Plan is. He said he didn't see anything in this presentation that was not in compliance with what he thought the Comprehensive Plan was.

ANDERSON said he merely wanted to demonstrate the fallacy by which the MAPC makes a decision on this matter. He said there needs to be some kind of fixed procedure so that the Commission can make an analysis of whether the CIP is in conformance with the Comprehensive Plan.

MARNELL said if it is appropriate **MR. ANDERSON** needs to take his concerns to the State Legislature since this is a requirement for both the City and the County.

The Metropolitan Area Planning Department informally adjourned at 3:30 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)