

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

July 24, 2008

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, July 24, 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; Darrell Downing; David Foster in @1:33 P.M.; Bud Hentzen; Hoyt Hillman; Bill Johnson; Ronald Marnell; John W. McKay, Jr.; Don Sherman out @3:35 P.M.; Debra Miller Stevens, and G. Nelson Van Fleet. Michael Gisick was absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Jess McNeely, Senior 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 the July 10, 2008 MAPC meeting minutes

MOTION: To approve the July 10, 2008 Minutes.

MCKAY moved, **ANDERSON** seconded the motion, and it carried (12-0).

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB 2008-38: Final Plat -- CUNDIFF ADDITION**, located on the west side of Meridian and north of 101st Street North.

NOTE: This is unplatted property located in the County. It is in an area designated as "Small City 2030 Urban Growth Area" by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Valley Center Area of Influence.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.
- B. In accordance with the Urban Fringe Development standards, since this plat is located within the Valley Center 2030 Urban Growth Area, the subdivider shall contact the City of Valley Center, to determine the financial feasibility of connecting the proposed subdivision to the city water system. If financially feasible, then the subdivision shall be connected to the city's water system in accordance with that city's standards.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. County Engineering has approved the drainage plan.

- E. The plat denotes access control except one opening along Meridian. County Engineering has approved access controls.
- F. The access easement shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- G. Sedgwick County Fire Department advises that the existing access drive needs to meet the requirements of the Sedgwick County Service Drive Code.
- H. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineer (ASACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- 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 staff recommendation.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (12-0).

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- 2-2. SUB 2008-39: Final Plat -- ASHTON CREEK COMMERCIAL PARK ADDITION**, located on the southwest corner of 29th Street North and 119th Street West.

NOTE: This is an unplatted site located within the County adjoining Wichita's city limits and annexation is required. The site has been approved for a zone change (ZON 2007-68) from SF-20 Single-family Residential to MF-18 Multi-family Residential (Lot 10), GO General Office (Lots 1 and 12), LC Limited Commercial (Lots 2-8), NR Neighborhood Retail (Lots 9 and 11). The Ashton Creek Commercial Park Community Unit Plan (CUP2007-67, DP-309) was also approved for this site.

This final plat includes additional land to the south for a proposed drainage pond platted as Reserve A.

STAFF COMMENTS:

- A. Prior to this plat being forwarded to the City Council, the applicant shall apply for annexation to Wichita.
- B. The Water Utilities Department advises that water is available. Individual services will have an in-lieu-of-assessment fees along with the connection fees. Sewer mains and laterals will need to be extended to serve all lots being platted.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. City Engineering has approved the drainage plan.
- E. In accordance with the CUP approval, a guarantee is needed for decal lanes and left turn lanes into the openings with full turning movements.
- F. In accordance with the CUP approval, the plat proposes five openings along 119th St. West including three joint openings. The plat proposes four openings along 29th St. North including two joint openings.
- G. In accordance with the CUP approval, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- H. The joint access openings shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveways within the easement should also be addressed by the text of the instrument.
- I. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.

- J. County Surveying advises that property line dimensions need to be corrected on the west side of lot 2 and on the east side of lot 1.
- K. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. The 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.
- M. 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.)
- N. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- O. 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.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should 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.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. 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.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (12-0).

2-3. SUB 2008-50: One-Step Final Plat -- WEST TOWNE INDUSTRIAL 2ND ADDITION,
located on the east side of Hoover Road and south of Kellogg.

NOTE: This is a replat of Lot 1, West Towne Industrial Addition in addition to unplatted abandoned railroad right-of-way to the north. A zone change request for the north portion of the site to LI, Limited Industrial has been requested.

STAFF COMMENTS:

- A. Wichita Water Utilities Department advises that water and sewer services are available to serve the site.
- 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. A compact disc is requested.
- D. Traffic Engineering has approved the access controls. The plat proposes two openings along Hoover including one joint opening. The final plat tracing shall reference the access controls in the plat's text.
- E. Traffic Engineering has approved the vacation of street right-of-way for Hoover as depicted on the plat.
- F. The joint access opening shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- G. The right-of-way width for Hoover needs denoted.
- H. 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.
- I. 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.
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities 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. 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.
- 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 staff recommendation.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (12-0).

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- 2-4. SUB 2008-51: One-Step Final Plat -- FONTANA 4TH ADDITION**, located north of 29th Street North and on the east side of 119th Street West.

NOTE: This is a replat of portions of the Fontana and Fontana 2nd Additions. Reserve A has been expanded and a revised street layout is proposed for Block 1 west of Reserve A.

STAFF COMMENTS:

- A. City of Wichita Water Utilities Department requests the applicant extends water and sewer (mains and laterals) to serve all lots being platted.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan. A compact disc is needed.

- D. The plat proposes two street openings along 119th St. West. The access controls need to be referenced in the plat's text.
- E. 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.
- F. If any of the intended recreational uses for the reserves includes a swimming pool, "neighborhood swimming pool" shall be specified in the plat's text and a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. If there is a swimming pool to be built, the design for the pool must be submitted to Environmental Services for review prior to issuing a building permit for the pool.
- G. 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.
- H. 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.
- I. The applicant shall submit a covenant that provides four (4) off-street parking spaces per lot that abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- J. County Surveying requests section corner monument descriptions.
- K. GIS has requested "West Lakes" be replaced with "Westlakes". "Chambers Circle" should be "Chambers Cir".
- L. As was required for Fontana Addition, a 58-ft right-of-way width is permitted for Fontana subject to "No Parking" on one side of the street. A restrictive covenant shall be provided addressing this condition.
- M. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- N. The 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.
- O. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone:

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

- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. 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.
- V. 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.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (12-0).

2-5. SUB 2008-52: One-Step Final Plat -- THE VILLAGE AT GREENWICH ADDITION,
located on the northeast corner of Greenwich Road and 21st Street North.

NOTE: This is a replat of the Manhattan Addition in addition to unplatted land to the north. The northern portion of the site was approved for a zone change (ZON 2007-17) from SF-5 Single-family Residential to LC Limited Commercial.

STAFF COMMENTS:

- A. Wichita Water Utilities Department advises that water is available to serve all lots. The applicant needs to extend sewer (mains and laterals) to serve lots 9-12. Lots 1-8 and Lots 13-15 have access to sewer.
- 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.
- D. The plat proposes three openings including one joint opening along Greenwich in addition to the

remaining frontage south of Reserve A being subject to Access Management Standards. Two openings including one joint opening are proposed for 21st St. North. Traffic Engineering has required the opening between Lots 8 and 9 to be right-turns only. The south opening along Lot 9 shall be denoted as a temporary opening which shall be removed upon commercial development.

- E. The joint access openings shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- F. A cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- G. 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.
- H. 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.
- I. A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlay and its special conditions for development on this property.
- J. 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.
- K. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. The 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.
- M. 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.)
- N. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- O. 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.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can

be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- Q. The owner of the subdivision should 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.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. 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.
- U. The Applicant has platted a 35-foot building setback which represents an adjustment of the setbacks imposed by the Development Agreement for this property. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (12-0).

FOSTER in @ 1:33 p.m.

3. PUBLIC HEARING – VACATION ITEMS

3-1. VAC2008-19: City request to vacate a portion of platted complete access control.

OWNER/AGENT: Senior Aerospace Composites, c/o Frank Charles
Meridian Construction LLC, c/o Darrell Leffew (agent)

LEGAL DESCRIPTION: Generally described as allowing one (1) 24-foot drive onto St Paul Avenue along the site's south 90 feet of the east lot line of Lot 2, Block 1, Wichita Builders 3rd Addition, Wichita, Sedgwick County, Kansas (WCC #V)

LOCATION: Generally located west of Meridian Avenue, on the northwest corner of St. Paul and 27th Street South.

REASON FOR REQUEST: Allow a new opening

CURRENT ZONING: The site and abutting and adjacent northern and western properties are zoned LI Limited Industrial ("LI"). Adjacent properties east of the site (across St Paul Avenue) are zoned SF-5 Single-family Residential ("SF-

5”). Abutting southern properties are zoned MF-18 Multi-family residential (“MF-18”).

The applicant has applied for the vacation of a portion of the platted complete access control along the site’s St. Paul frontage to allow a 24-foot drive. The applicant proposes to allow only employees to use the drive to get in and out of the site. The applicant proposes to gate the drive and post it to stop truck deliveries to the site. There is a City owned sand pit located east, across St. Paul, of the site’s southern portion, with Lot 60, Block 34, Orienta Park 2nd Addition (recorded September 20, 1909) containing most of the west side of the sand pit. Lining the proposed drive up with the middle of this lot/sand pit would keep car lights out of any single family residences located east of the site, in reference to night shift work on the site. There are single-family residences (zoned MF-18) located along the south side of the site, but there appears to be no solid screening or landscaping between the LI zoned subject site and these residences; the site appears to be out of compliance with the Unified Zoning Code’s (UZC’s) screening and landscaping requirements. In reference to car lights from night shift work on the site, solid screening and landscaping shall be provided between the site and abutting the single-family residences, who would be in line with employee traffic using the proposed drive. There are no water or sewer lines in the area of the proposed vacation. Comments from Storm Water have not been received and are needed to determine if they have utilities located within the described area of the vacation. The Wichita Builders 3rd Addition was recorded with the Register of Deeds January 9, 1973.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works, the Traffic Engineer, franchised utility representatives and other interested parties, Planning Staff recommends to approve the vacation request with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle and the Derby Reporter, of notice of this vacation proceeding one time July 3, 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 complete access control and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted complete access control described in the petition should be approved with conditions;
- (1) Vacate the complete access control as proposed by the applicant, to allow one (1) 24-foot drive onto St. Paul Avenue , as approved by the Traffic Engineer, which will line up with the middle of Lot 60, Block 34, Orienta Park 2nd Addition/the west side of the City owned sand pit. Provide Planning with a legal description of the vacated access control on a Word document, via e-mail.
 - (2) Post the entrance with a sign stating “for employees only” and directing all deliveries to the site to use the site’s access onto Custer Avenue and Casado Streets. The access shall be gated and locked to be used only by employees during the beginnings and ends of the shifts that work on the site. Provide Planning with a restrictive covenant to be recorded with the Register of Deeds limiting the use of the drive to be used only by employees during the beginnings and ends of the shifts that work on the site. If necessary provide Fire and emergency services with a key to the lock.

- (3) Provide solid screening and landscaping with large types of evergreens, a minimum of 5 feet tall at planting and planted at staggered 20-foot intervals, within a 15-foot wide landscape buffer along the site's south lot line where it abuts Lots 17, 18, and 19, Block 2, Wichita Builders 3rd Addition, which would be the lots most affected by the location of the proposed drive. Provide a guarantee to Planning to ensure the screening and landscaping will be installed, prior to the case going to Council for final approval.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (5) All improvements shall be according to City Standards and at the applicant's expense, including any new driveways from private property onto public ROW and closing of any existing drives. Provide Public Works with a guarantee to ensure that those improvements will be made. If the drive is not being immediately constructed, provide drive approach certificate will be recorded with the Register of Deeds. Either the guarantee or the drive approach certificate must be provided to Public Works (guarantee) or Planning (drive approach certificate) prior to the case going to Council for final action.
- (6) 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 complete access control as proposed by the applicant, to allow one (1) 24-foot drive onto St. Paul Avenue , as approved by the Traffic Engineer, which will line up with the middle of Lot 60, Block 34, Orienta Park 2nd Addition/the west side of the City owned sand pit. Provide Planning with a legal description of the vacated access control on a Word document, via e-mail.
- (2) Post the entrance with a sign stating "for employees only" and directing all deliveries to the site to use the site's access onto Custer Avenue and Casado Streets. The access shall be gated and locked to be used only by employees during the beginnings and ends of the shifts that work on the site. Provide Planning with a restrictive covenant to be recorded with the Register of Deeds limiting the use of the drive to be used only by employees during the beginnings and ends of the shifts that work on the site. If necessary provide Fire and emergency services with a key to the lock.
- (3) Provide solid screening and landscaping with large types of evergreens, a minimum of 5 feet tall at planting and planted at staggered 20-foot intervals, within a 15-foot wide landscape buffer along the site's south lot line where it abuts Lots 17, 18, and 19, Block 2, Wichita Builders 3rd Addition, which would be the lots most affected by the location of the proposed drive. Provide a guarantee to Planning to ensure the screening and landscaping will be installed, prior to the case going to Council for final approval.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (5) All improvements shall be according to City Standards and at the applicant's expense, including any new driveways from private property onto public ROW and closing of any existing drives. Provide Public Works with a guarantee to ensure that those improvements will be made. If the drive is not

being immediately constructed, provide drive approach certificate will be recorded with the Register of Deeds. Either the guarantee or the drive approach certificate must be provided to Public Works (guarantee) or Planning (drive approach certificate) prior to the case going to Council for final action.

- (6) 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.

HILLMAN asked when the property would be screened.

LONGNECKER responded that staff received a letter from the applicant indicating that all required landscaping and screening would be completed by the end of August, 2008.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (13-0).

3-2. VAC2008-20: City request to vacate a platted setback.

APPLICANT/OWNER: Wal-Mart (owner) MacDonaldis (agent/applicant)

LEGAL DESCRIPTION: Generally described as the platted 15-foot interior side yard setbacks that runs parallel to Lots 2 and 3, Block 1, the Northgate Commercial Park 1st Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located west of Meridian Avenue, on the north side of 53rd Street North. (WCC #VI)

REASON FOR REQUEST: Boundary shift

CURRENT ZONING: The site and abutting northern and eastern properties are zoned LC Limited Commercial ("LC"). Adjacent southern (across 53rd Street North) properties are zoned GC General Commercial ("GC"). Abutting western properties are zoned SF-5 Single-family Residential ("SF-5").

The applicant proposes to vacate the platted 15-foot interior side yard setbacks that run parallel to the common lot line of Lots 2 and 3, Block 1, the Northgate Commercial Park 1st Addition. A boundary shift between the two described lots will establish a new common lot line; Lot 2 will become larger and Lot 3 smaller. The site is part of CUP DP-299 and the proposed boundary shift will trigger either an adjustment or an amendment to the CUP. There are no utilities, water or sewer in the proposed shifted common lot line. The Northgate Commercial Park 1st Addition was recorded with the Register of Deeds March 9, 2007.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle and the Derby Reporter, of notice of this vacation proceeding one time July 3, 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 interior side yard setbacks 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 interior side yard setbacks described in the petition should be approved with conditions:
- (1) Vacate the platted 15-foot interior side yard setbacks that run parallel to the common lot line of Lots 2 and 3, Block 1, the Northgate Commercial Park 1st Addition. Dedicate by separate instrument 15-foot interior side yard setbacks that will run parallel to the new common lot line of Lots 2 and 3, Block 1, the Northgate Commercial Park 1st Addition, as established by a recorded boundary shift. Provide the original dedication to Planning Staff to be sent with the Vacation Order to the City Council.
 - (2) Complete either an adjustment or an amendment to CUP DP-299 that reflects the proposed boundary shift and consequently the new square footage of the reconfigured lots/parcels. This must be completed prior to the vacation case going to Council for final action.
 - (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
 - (4) All improvements shall be according to City standards and at the applicant's expense.
 - (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the platted 15-foot interior side yard setbacks that run parallel to the common lot line of Lots 2 and 3, Block 1, the Northgate Commercial Park 1st Addition. Dedicate by separate instrument 15-foot interior side yard setbacks that will run parallel to the new common lot line of Lots 2 and 3, Block 1, the Northgate Commercial Park 1st Addition, as established by a recorded boundary shift. Provide the original dedication to Planning Staff to be sent with the Vacation Order to the City Council.
- (2) Complete either an adjustment or an amendment to CUP DP-299 that reflects the proposed boundary shift and consequently the new square footage of the reconfigured lots/parcels. This must be completed prior to the vacation case going to Council for final action.

- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
- (4) All improvements shall be according to City standards and at the applicant's expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **MCKAY** seconded the motion, and it carried (13-0).

PUBLIC HEARINGS
ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 PM

4. **Case No.: ZON2008-33** – Richard Hoskinson (owner); Southfork Investments, Attn: Jay Maxwell (applicant); Ruggles & Bohm, Attn: Terry Smythe (agent) Request City zone change from SF-5 Single family Residential to MF-29 Multi-family Residential on 40.6 acres on property described as;

Parcel 1:

That part of the Northwest Quarter of Section 15, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, lying south and east of Spinnaker Coves-Hoskinson Addition, Wichita, Sedgwick County, Kansas, and lying south and west of the West line of the Wichita-Valley Center Flood Control as condemned in Case A-31849.

Parcel 2:

That part of the East Half of the Southwest Quarter of Section 15, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, lying west of the West line of the Wichita-Valley Center Flood Control as condemned in Case A-31849, and east of a line described as commencing at the Northwest corner of said Southwest Quarter; thence east along the North line of said Southwest Quarter, 1537.6 feet to a place of beginning; thence with an angle to the right of 85°00'30", a distance of 1800 feet; thence southeasterly 862 feet, more or less, to a point 1856.43 feet east of the Southwest corner of said Southwest Quarter, EXCEPT beginning at a point on the South line of the Southwest Quarter of Section 15, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, 30 feet west of the West line of the Wichita-Valley Center Flood Control as condemned in Case A-31849; thence west along said line, a distance of 238.4 feet; thence north 375 feet; thence east 224.8 feet; thence south to the point of beginning, AND EXCEPT that part deeded to the City of Wichita for widening of Central Avenue. Generally located North of Central, west of the Big Ditch.

BACKGROUND: The applicant requests a zone change from SF-5 Single-Family Residential ("SF-5") to MF-29 Multi-Family Residential ("MF-29") on a 40.6 acre unplatted tract located on the north side of West Central Avenue, along the west bank of the Wichita-Valley Center Floodway. The applicant proposes to develop the property with multi-family uses. If 35 percent of the site's gross land area were to be developed at a density of 29 dwelling units per acre, the site could potentially accommodate 412

dwelling units. However, total density will be affected by drainage issues discussed below. Four-hundred twelve units could generate 2,719 average daily trips (6.6 average daily trips per dwelling unit).

Due to the location of the subject site, the whole property is located within a flood zone. In the case of this site, it is located in two different zone categories. The west half of the subject site is considered a floodway in Zone AE, with the majority of the east half of the property being categorized in Zone X which describes property that is protected by a levee. Drainage issues will have to be addressed during the platting process, during which time a drainage study will be required.

A sliver of land running north and south along the east edge of the subject site is currently unzoned. This property was a part of an easement for the Wichita-Valley Center Floodway. The applicant acquired this property through a warranty deed through the City.

Since the abutting property to the north is zoned SF-5, screening and buffer landscaping will be required along the north property line. Screening and buffering may be provided by decorative fencing, evergreen vegetation, or landscaped earth berms. The compatibility setback standards require a minimum 25-foot building setback along the affected property lines. Since the subject property has frontage along an arterial street, a landscaped street yard and parking lot screening will be required along the south property line for any new building construction or parking areas. The street right-of-way and access controls will have to comply with the Subdivision Regulations and may need to be upgraded through dedications during the platting process, which will be a requirement for the rezone and for obtaining any building permits.

The surrounding area is a mix of single and multi-family uses and zoning, along with commercial uses and zoning. The properties to the south, on the south side of Central Avenue, are largely undeveloped with one retail store on properties zoned TF-3 Two-family Residential (“TF-3”) and LC Limited Commercial (“LC”). Property to the north is zoned SF-5 and is developed with single-family residences. To the east of the subject site runs the Wichita-Valley Center Floodway, an approximately 1,500 foot buffer from any single-family residences located to the east. The property to the west is developed with a large, high density, multi-family development and a restaurant, zoned MF-29 (DP-26, Silver Springs Community Unit Plan) and LC respectively.

CASE HISTORY: The property is currently unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	“SF-5”	Single-family Residence
SOUTH:	“LC”	Vacant Commercial Land
	“TF-3”	Vacant Residential Land
EAST:	Wichita-Valley Center Floodway	
WEST:	“LC”	Restaurant
	“MF-29”	Multi-family Development

PUBLIC SERVICES: The site has access to Central Avenue, classified as a 5-lane principal arterial. The traffic counts are 30,963 average daily trips on westbound Central and 27,930 average daily trips on eastbound Central, at the intersection of Central and Ridge. The site currently has a partially completed access drive onto Central, as well as a decel lane and a left turn lane from east bound Central Avenue. Due to its close proximity to the bridge structure, which crosses the floodway, traffic engineering will have the final decision on the amount of movement through this access. Public water and sewer are available.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies approximately 39 acres of this site as appropriate for “Park and Open Space” while the remaining acre is identified as “Local Commercial”. The Park and Open Space category includes parks, open space and various recreational corridors (natural drainage channels, roadways,

easements, abandoned rail lines, etc.) while the Local Commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant 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. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing uses.

This particular request would conform more to the “Urban Residential” category of the Land Use Guide, instead of the “Park and Open Space” designation. The “Urban Residential” category includes all densities of residential development found within the urban municipality. This category of use encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks and special residential accommodations for the elderly (assisted living, congregate care and nursing homes.) Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may be found in this category.

The Comprehensive Plan’s “Residential Locational Guidelines” for medium and high density residential state that such uses should be (1) transitional land uses between commercial and low density uses and may also serve to buffer low-density residential uses from commercial uses, (2) allocated to within walking distances of neighborhood commercial centers, parks, schools and public transportation routes while being in close proximity to concentrations of employment, major thoroughfares and utility trunk lines, (3) directly accessible to arterial or collector streets in order to avoid high traffic volumes in lower density residential neighborhoods, and (4) sited where they will not overload or create congestion in existing and planned facilities/utilities.

This request conforms to the goals and objectives of the residential land use category of the Wichita-Sedgwick County Comprehensive Plan. The goal for residential land use within the plan is to provide for rural, suburban, and urban residential areas, which provide for a variety of housing opportunities. The objective to the goal is to encourage residential redevelopment, infill and higher density residential development that maximizes the public investment in existing and planned facilities and services. One of the strategies used is the use of Community Unit Plans, Planned Development Districts and zoning as tools to promote mixed use development, higher density residential environments and appropriate buffering.

RECOMMENDATION: This rezone request doesn’t conform to the current designation of the Comprehensive Plan Land Use Guide in regards to this particular site, but does conform to the residential land use category. The site abuts multi-family development to the west and commercial development to the southwest, making this particular rezone request an extension of existing multi-family zoning. This particular request would be sufficiently buffered from single-family residences by the floodway to the east and would have adequate access to a principal arterial. The subject site does abut single-family development to the north, but the compatibility standards and landscaping and screening standards required by the Unified Zoning Code (“UZC”) would mitigate any negative impacts that could occur. Staff’s also recognizes that the applicant will have to address significant drainage challenges, which may significantly limit the site’s ultimate development potential, and which will likely require engineering solutions more thoroughly discussed at the platting stage. Based on the information available prior to the public hearing, staff recommends the application be APPROVED subject to platting within a year and development of the site with a road connection to the north.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is a mix of single and multi-family uses and zoning, along with commercial uses and zoning. The properties to the south, on the south side of Central Avenue, are largely undeveloped with one retail store on

properties zoned TF-3 Two-family Residential (“TF-3”) and LC Limited Commercial (“LC”). Property to the north is zoned SF-5 and is developed with single-family residences. To the east of the subject site runs the Wichita-Valley Center Floodway, an approximately 1,500 foot buffer from any single-family residences to the east. The property to the west is developed with a large, high density, multi-family development and a restaurant, zoned MF-29 (DP-26, Silver Springs Community Unit Plan) and LC respectively.

2. The suitability of the subject property for the uses to which it has been restricted: The site is current undeveloped with SF-5 zoning. The site could be used for a single-family residential development, although the commercial and multi-family residential uses abutting its west side have probably have made this type of development less desirable.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental effects should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance, which should limit noise, lighting, and other activity from adversely impacting the lower intensity residential area to the north.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies approximately 39 acres of this site as appropriate for “Park and Open Space” while the remaining acre is identified as “Local Commercial”. The Park and Open Space category includes parks, open space and various recreational corridors (natural drainage channels, roadways, easements, abandoned rail lines, etc.) while the Local Commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant 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. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing uses.

This particular request would conform more to the “Urban Residential” category of the Land Use Guide. The Urban Residential category includes all densities of residential development found within the urban municipality. This category of use encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks and special residential accommodations for the elderly (assisted living, congregate care and nursing homes.) Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may be found in this category.

5. Impact of the proposed development on community facilities: Development of the site will result in an increase in traffic on Central. Sewer and water services can be extended to the site. Due to the site’s proximity to the floodway, drainage improvements will have to be made.

CHAIRMAN MITCHELL said he needed to step down from the Chair on this item. He added that he might also render an opinion from the audience regarding this case.

VICE CHAIRMAN ANDERSON in the Chair.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

Responding to a question from **DENNIS** regarding the road through the area, **SLOCUM** said that was a platting issue, but that it could also be discussed during the zoning hearing and suggested asking the agent.

TERRY SMYTHE, RUGGLES & BOHM, AGENT FOR APPLICANT commented that this zone request was also connected with Item #8 (CUP2007-44). He said they have met with several groups regarding this proposal including Planning Department Staff, Engineering Department Staff, Park and Recreation Department Staff, and the Spinnaker Cove and County Acres Home Owners Associations. He said based on their meetings with the home owners associations, they would like to modify their zoning request to eliminate the north 110 feet of the property from the application and request Single-family zoning remain adjacent to Spinnaker Cove. He said that will change the density on the north end of the property; however, he added that they will probably request an increase in the height restrictions on the Multi-family portion of the zoning and hoped to have support of the homeowners associations and Park Board for that request. He said a proposed hike/bike path through the area has been “on the books” for decades and that they plan to construct a path from 13th Street southward down to Central through both properties. He said there will be a private/gated drive through both the south and north pieces of property. He said there are a number of reasons they have chosen this approach including capturing a certain market with the private drive and gated community. He said they don’t want a public street through the neighborhood. He said this approach will also alleviate the need to connect the road to the Spinnaker Cove development, whose residents also do not want a public street through their neighborhood. He added that they understand that since there is only one access point in and out of the Spinnaker Cove subdivision, there will be gates for emergency access into both the Country Acres and Spinnaker Cove subdivisions. He said there has also been some discussion concerning the utility right-of-way and location of the hike/bike trail and that right-of-way issues may still need to be resolved. He said the proposed bridge connecting the two properties will also keep the public from accessing County Acres. He added that they would also like to use the bridge for the hike/bike path. He commented that they were trying to limit the visual impact on Lot 63 with introduction of the private bridge and private drives. He also indicated that they would be willing to plant additional trees and landscaping on the lot, above what is required by the landscape code. He said the private streets through the development will generate considerably less traffic; estimated to be about two trips per day, per unit, for independent/senior/assisted living residential units.

SMYTHE concluded by stating that the applicant owns the property on the west side of the ditch, and that they have the title and title insurance provided by First American Title. He concluded by stating that the major concession they made on the north side of the property was in order to be consistent with the Single-family zoning surrounding the area. He also said that they have worked to the best of their ability to meet concerns expressed by the surrounding neighbors. He added that they agree with staff comments.

HILLMAN said the idea of a public hike/bike trail alongside a private bridge with separate access was a little confusing.

MILLER STEVENS also expressed concern as to how the crossing of the hike/bike trail would be handled.

SMYTHE commented that they have not gotten into extremely detailed discussion with the Park Board on the exact location of the proposed hike/bike trail. He said it just made sense to them that the bridge and hike/bike path cross the creek at the same location.

DENNIS commented that this item and Item #8 were two different parcels with different issues. He asked about any access into Country Acres subdivision going to the west and what assurances they could provide the subdivision residents, since the site plan is not firm until it is platted.

SMYTHE commented that the north parcel (Shriner's Addition) has already been platted and that there is only emergency access to the Country Acres subdivision from that area. He said since the access control already exists, it is their intent to keep that access control in effect.

M.S. MITCHELL, 1215 FORREST, commented that he was involved with the Flood Control project from 1949 to 1978, and that he was concerned about the effect of this proposal on that flood control project. He said his main concern was the sliver of land along the southeast side of the parcel located on the west edge of the flood control project. He said this right-of-way area was condemned by Sedgwick County for the flood control project. He said he understands that state law enacted in the time from 1984 to 1986 gave cities the right to dispose of certain lands held in public to private interests, and that is what this application is based on. However, he has not seen that, and does not know if application of that statute is appropriate and applicable in this case. He said flood control right-of-way is unzoned at the present time. He requested that the MAPC not forward this proposal to the City Council for approval until this issue of maintaining flood control areas is settled to his satisfaction or to the satisfaction of the persons in charge of maintenance of this project. He said, as of today, flood control staff he spoke with were not aware of the loss of this right-of-way. He said he does not believe the developer has enough room to build with the lakes that exist there now, and he believes the project would fail without this sliver of land. He concluded by stating that the City and County have hired a consultant to perform an assessment of the flood control project and its effectiveness. He said if it is found that the project fails the standards of today, the Federal Emergency Management Agency (FEMA) may remove the protection provided by the levees from the floodplain maps. He said everything in Wichita that flooded or was susceptible to flooding prior to 1958-59 then will be required to have flood insurance, and that would be a major issue. He said there may be some connection between that study and this change in land use and the MAPC should be concerned about that.

Responding to a question from **MCKAY**, **MITCHELL** said he is concerned about the entire piece of property (not just the small sliver being discussed) because 150 feet of the right-of-way is used for the levee and he doesn't know the effect of this application on that levee.

DIRECTOR SCHLEGEL asked **MITCHELL** if he has raised his concerns with the people who are responsible for the Big Ditch.

MITCHELL responded that the City Flood Control Superintendent was unaware that the property had gone from public to private ownership.

HENTZEN said the ditch runs for miles and miles (**MITCHELL** clarified that the ditch is 18 miles long) and asked if this was the first time there was a problem with someone claiming they own part of the floodway.

MITCHELL commented that there have been numerous requests for parcels to be reverted back to the adjacent property owners over the years; however, he was unaware that any of those have been seriously considered.

There was brief discussion concerning the center of the levee, toe drain system, and seepage escape.

THOMAS FOLEY, 6611 SCHOOL CIRCLE said he was authorized by the Spinnaker Cove Homeowners Association to make a blanket statement for the group. He said they are opposed to Multi-family zoning based on the density and the traffic. He said he is also opposed to the bridge because it will have a significant impact on the privacy of his home. He said there was an assumption when they moved in that the area was for single family residential homes and that was what would back up to his house. He said he didn't sign on for this kind of deal and asked the Commission if there was any way around it. He said development of the south property should be single-family and the density should be compatible with the north property.

SHERMAN clarified that Mr. Foley was opposed to MF-29 zoning on the south end of the property although it was not adjacent to Spinnaker Cove.

FOLEY said yes he was opposed to the MF-29 zoning because the developer is now asking for increased vertical stipulations. He said they would like them to create a plan that would be compatible and similar to the single-family zoning.

TERRY SMYTHE reiterated that the north 110 feet of the property will be single-family homes. He further clarified that his client does own the property; he said they have a deed and title insurance. He said he understands Mr. Mitchell's concerns, but added that there is plenty of time between now and when the item goes to the City Council to resolve the issue. He concluded by mentioning their inclusion of the public hike/bike path, which they will totally fund in the plan, the removal of MF-29 zoning on the north 110 feet of the property, and their assurances on the gated/private drive on the north and south ends of the property. He said they feel the proposed plan is compatible with the area and that they have done more than is usually required on a zoning request.

SMYTHE responded to several questions from **MCKAY** concerning density on the south portion of the property and commented that density will be anywhere from 175 or 200 units.

MARNELL asked about the impact on the project if it is determined that the City made an error in selling the flood control property. He also mentioned that it might be premature to go forward with the zoning case if there is a question about property ownership.

SMYTHE said it will kill the whole project.

TAPE 1, SIDE 2

JOE LANG, CITY ATTORNEY stated that the comment in the agenda report regarding reversionary rights was not correct and added that the City deeded the property to the owner of the rest of the parcel, Mr. Hoskinson. He said it was a presumption that the applicant/owner owned the property legally. He said he did not think property ownership was an appropriate issue for the MAPC to be discussing; they needed to be discussing the zoning issue and if the proposal was an appropriate use of the property/land. He said staff will follow-up on Mr. Mitchell's concerns; however, he did not think that was a reason to delay or deny the zoning request.

JOHNSON asked how the area was presently zoned and, if the zoning was changed, how that would affect the value of the parcel. He commented that it was an unusual case and said he appreciated Mr. Mitchell looking into the issues.

DALE MILLER, PLANNING STAFF stated that there was a clause in the Unified Zoning Code that indicated that any "omitted" land would be deemed to be zoned Single-family Residential or SF-5.

LANG said he could not answer the question concerning property value, since he didn't know the price of the property or if zoning entered into the valuation process.

There was brief discussion concerning property ownership, possible re-purchase of the property by the City, and what would happen if it was deemed that the City made a mistake selling flood control right-of-way.

FOSTER mentioned discussion at the Advanced Plans Committee meeting that day, and how the toe of the levee was an important issue.

MCKAY suggested a motion that the request be approved subject to verification of ownership, right-of-way, toe, etc.

DIRECTOR SCHLEGEL said if the motion was going to be contingent upon certain conditions, that the conditions needed to be clearly articulated.

MCKAY expressed concern that if the flood control property was removed, would there be room enough for the drive to come into the property.

SMYTHE referred to the east property line and said they could hook up with the existing driveway. He said according to the survey, the toe of the berm was not encroached upon. He mentioned the possibility of moving the access point further to the west.

MOTION: To approve subject to staff recommendation with the inclusion of elimination of Multi-family zoning on the north 110 feet of the property.

DOWNING moved, **MARNELL** seconded the motion, and it carried (11-2).
FOSTER and **HILLMAN** – No.

JOHNSON clarified that the motion included elimination of Multi-family zoning on the north 110 feet of the property.

DOWNING said yes, that provision was included in the motion.

FOSTER asked if the motion included the addition of the hike/bike path.

DOWNING said he would not add the hike/path provision to the motion because he felt that could be worked out between the developer and other concerned parties.

MITCHELL returned as chair.

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6. **Case No.: ZON2008-35** – Alison White (owner/applicant); Jim Bell (agent) Request City zone change from SF-5 Single-family Residential to B Multi-family Residential on property described as;

Beginning 377.85 feet South of the Northwest corner of the Northwest Quarter of Northeast Quarter of Section 32, Township 26 South, Range 1 East of the 6th P.M.; thence South 116.575 feet; thence East 425.14 feet; thence North 116.575 feet; thence West 425.14 feet to the point of beginning, formerly described as Lots 60, 62, 64, 66 and 68, on Arkansas Avenue, and Lots 59, 61, 63, 65 and 67, on Jackson Avenue, in Bridgewater Addition to Wichita, Sedgwick County, Kansas. Generally located southeast of the intersection of North Arkansas and 37th Street North (3716 N. Arkansas.)

BACKGROUND: The applicant requests a zone change from SF-5 Single-Family Residential (“SF-5”) to B Multi-Family Residential (“B”) on a 1.05 acre unplatted tract located southeast of the intersection of North Arkansas Avenue and 37th Street North. The applicant proposes to develop the property with a multi-family use.

Since the abutting property to the south is zoned SF-5 and half of the abutting property to the east is zoned TF-3 Two-family Residential (“TF-3”), screening and buffer landscaping will be required along the south east property lines zone TF-3 or more restrictive. Screening and buffering may be provided by decorative fencing, evergreen vegetation, or landscaped earth berms. The compatibility setback standards require a minimum 25-foot building setback along the affected property lines. Since the subject property has frontage along an arterial street, a landscaped street yard and parking lot screening will be required

along the west property line for any new construction of buildings or parking areas. The street right-of-way and access controls will have to comply with the Subdivision Regulations and will need to be upgraded through dedications during the platting process, which will be a requirement for the rezone and to obtain any building permits.

The surrounding area is a mix of single, two and multi-family uses and zoning, along with commercial uses and zoning. The properties to the south are developed with single-family residential uses on properties zoned SF-5. Property to the north is zoned LC Limited Commercial (“LC”) and B and is developed with an apartment building and a dentist office. The property to the east is zoned TF-3 and MF-29 Multi-family Residential (“MF-29”) and is developed with duplexes. The property to the west, across North Arkansas Avenue, is zoned LC and SF-5 and is developed with a convenience store and church.

CASE HISTORY: The property is currently unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	“LC”	Dental Office
	“B”	Apartments
SOUTH:	“SF-5”	Single-family Residences
EAST:	“TF-3” & “MF-29”	Duplexes
WEST:	“SF-5”	Church & Residence
	“LC”	Convenience Store

PUBLIC SERVICES: This site has access to North Arkansas Avenue, a paved, two-lane minor arterial. The subject site is located approximately 200 feet south of the intersection of North Arkansas Avenue and West 37th Street North. 37th Street North is a paved, two-lane minor arterial. The traffic counts at the intersection of Arkansas and 37th are approximately 7,400 Average Daily Trips (“ADT”) for North Arkansas Avenue and approximately 6,200 ADT’s for West 37th Street North. Municipal water and sewer services are currently provided to this site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “Urban Residential”. The Urban Residential category includes all densities of residential development found within the urban municipality. This category of use encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks and special residential accommodations for the elderly (assisted living, congregate care and nursing homes.) Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may be found in this category.

The Comprehensive Plan’s “Residential Locational Guidelines” of for medium and high density residential state that such uses should be (1) transitional land uses between commercial and low density uses and may also serve to buffer low-density residential uses from commercial uses, (2) allocated to within walking distances of neighborhood commercial centers, parks, schools and public transportation routes while being in close proximity to concentrations of employment, major thoroughfares and utility trunk lines, (3) directly accessible to arterial or collector streets in order to avoid high traffic volumes in lower density residential neighborhoods, and (4) sited where they will not overload or create congestion in existing and planned facilities/utilities.

This request conforms to the goals and objectives of the residential land use category of the Wichita-Sedgwick County Comprehensive Plan. The goal for residential land use within the plan is to provide for rural, suburban, and urban residential areas, which provide for a variety of housing opportunities. The objective to the goal is to encourage residential redevelopment, infill and higher density residential development that maximizes the public investment in existing and planned facilities and services. One of

the strategies used is the use of Community Unit Plans, Planned Development Districts and zoning as tools to promote mixed use development, higher density residential environments and appropriate buffering.

The “Wichita Residential Area Enhancement Strategy Map” targets those residential neighborhoods in the City of Wichita needing some level of special enhancement or improvement in order to ensure their future viability in terms of structural integrity, marketability, physical form and community cohesiveness. This neighborhood has been placed into “Conservation” area classification, based upon the extent of improvement and enhancement required. The Conservation category identifies the neighborhood as having residential neighborhoods that are still basically sound (structurally, socially and marketability), but need to be protected from future structural and market value decline. Also, these neighborhoods have an average structure age of at least 30 years and lack some residential amenities/features commonly found in the newer home market-place.

RECOMMENDATION: Based on the information available prior to the public hearing, staff recommends the application 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 surrounding area is a mix of single, two- and multi-family uses and zoning, along with commercial uses and zoning. The properties to the south are developed with single-family residential uses on properties zoned SF-5. Property to the north is zoned LC Limited Commercial (“LC”) and B and is developed with an apartment building and a dentist office. The property to the east is zoned TF-3 Two-family Residential (“TF-3”) and MF-29 Multi-family Residential (“MF-29”) and is developed with duplexes. The property to the west, across North Arkansas Avenue, is zoned LC and SF-5 and is developed with a convenience store and church.
2. The suitability of the subject property for the uses to which it has been restricted: The site is developed with a single-family residence and could continue to be used for single-family residential, although the commercial and nonresidential uses abutting its west side have probably have made this type of development less desirable.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental effects should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance, which should limit noise, lighting, and other activity from adversely impacting the lower intensity residential area to the north.
4. 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 “Urban Residential.” The Urban Residential category includes all densities of residential development found within the urban municipality. This category of use encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks and special residential accommodations for the elderly (assisted living, congregate care and nursing homes.)
5. Impact of the proposed development on community facilities: The impact of this development on the community facilities will be minimal, with the exception of an expected increase in local traffic generated by the proposed multi-family residential development.

CHAIRMAN MITCHELL reported that the applicant has requested a deferral on this case until the October 9, 2008, MAPC Hearing.

Responding to a question concerning taking public comment, **LANG** stated that it would be appropriate to limit the discussion only to those who want to be heard on the item.

MOTION: To allow public comment.

JOHNSON moved, **HILLMAN** seconded the motion, and it carried (12-1).
MARNELL - No.

No staff report was presented on this item.

PAT RANDLEAS, 1211 WEST 35th STREET NORTH said many homes in the area have lots of three-fourths to one acre in size. She said Arkansas was a two-lane road, and that 24 apartment units on one acre of land would be inconsistent with the majority of homes in the neighborhood. She acknowledged that there was an apartment building directly north of this property; however, she said it only has 12 to 16 units and added that it currently does not have the number of parking spaces now required by City Code. She also mentioned that there was no sidewalk along the street for families who live in the area. She again mentioned that the size of the land was entirely too small for multi-units in that area; that this use does not match other homes in area and the density is much greater. She mentioned that approval of an apartment building on this one acre tract may set a precedent. She also mentioned that she did not believe they have the necessary infrastructure in the area, including storm sewers or drainage, to support this type of use. She said taking another property out of green space is going to increase the street flooding problem they already have in the area. She said she objected to the proposal. She also mentioned that the zoning case sign had been placed back in the bushes and was not very visible. She said she thought zone change signs were required to be placed where people can see them.

HILLMAN clarified that there were no sewers along Arkansas.

RANDLEAS said that was correct.

MOTION: To defer until the October 9, 2008 MAPC Hearing.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (13-0).

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7. **Case No.: ZON2008-36** – Auburn Pointe, LLC, Gary Oborny; MKEC Engineering Consultants, Inc., Greg Allison Request Amendment to Protective Overlay PO-130 to eliminate the prohibition on drive-through service, to increase the permitted size of restaurants from 2000 to 5000 square feet in size, and to increase signage from 72 square feet with a 12-foot height limit to 132 square feet with a 16.5-foot height limit.

Lot 1, Block 1 and Reserve A, Auburn Hills Commercial 4th Addition to the City of Wichita, Sedgwick County, Kansas. Generally located south of Maple and 800 feet east of South 135th Street West.

BACKGROUND: The applicant requests an amendment to Protective Overlay 130 (PO-130), to eliminate the prohibition on drive-through service, to increase the permitted size of restaurants from 2,000 to 5,000 square feet in size, and to increase signage from 72 square feet with a 12-foot height limit to 132 square feet with a 16.5-foot height limit. The proposed sign would remain in the current sign location along Maple and west of the strip building on the site; the proposed drive-through coffee shop would be

in the parking lot west of the strip building (see the attached site plan). PO-130 has been amended and adjusted several times, and currently exists as written below:

- (1) 35-foot building setbacks along the site's south, north and east sides.
- (2) Monument sign with a maximum sign face of 72 square-feet and a height of 12 feet. No flashing, rotating, moving signs or portable signs. Window display is limited to 25% of the window area. No signs allowed on the rear or any side facing the residential zoning to the east or the south of the site.
- (3) A plan for a pedestrian walk system linking proposed buildings to the sidewalk along Maple and the sidewalks on the abutting DP-219 AUBURN HILLS C.U.P. shall be submitted for review and approval by the Planning Director.
- (4) Shared internal access and shared access onto Maple Street with DP-219 AUBURN HILLS C.U.P.
- (5) All exterior lighting shall be shielded to prevent light disbursement in a southerly or eastern direction. Lighting shall be similar to lighting provided in the DP-219 AUBURN HILL C.U.P. Lighting elements shall be no higher than 14-foot when within 100-feet abutting residential zoned properties, behind the 35-foot setback along the south and east sides of the property and 20-foot high on the remainder of the site. Extensive use of backlit canopies and neon or fluorescent tube lighting on buildings is not permitted.
- (6) All utilities shall be installed underground.
- (7) Landscaping plan shall show location, type and specifications of all plant material, to be reviewed and approved by the Planning Department. Evergreen trees may be planted along the south and east sides of the property at a spacing of 10 feet. The required front yard landscaping may be reduced by 50% if 50% of the landscaping materials are placed along the west side yard area. Landscaping shall be required prior to the issuance of any occupancy permit.
- (8) A 6-foot masonry wall, constructed of similar materials to the masonry wall on DP-219 AUBURN HILLS C.U.P. shall be provided along the site's east and south sides.
- (9) Screening of trash receptacles is not required for the building on the current approved site plan. Trash receptacle screening shall remain a requirement for any future buildings within the Protective Overlay boundary.
- (10) Rooftop mechanical equipment shall be screened from ground level view per the Code of Wichita.
- (11) A metal east façade is permitted for the building on the current approved site plan. All future buildings shall share uniform architectural character, color, texture and the same predominate exterior building materials.
- (12) A 10-foot landscape easement shall be provided along the south and east sides of the tract. Austrian pine trees 14-feet in height shall be provided at a spacing of 12 feet along the east property line for the building on the current approved site plan. Elsewhere, evergreen trees shall be provided at a spacing of 10 feet.
- (13) Prohibited uses include group residences, correctional placement residences, group homes, multi-family, asphalt and concrete plant, limited.
- (14) Animal Care Limited is the only allowable "LC" Limited Commercial use permitted. All other uses shall conform to that of "NR" Neighborhood Retail Zoning District, excepting the conditions listed above. This property will require an Amendment to this Protective Overlay should the present or future owner's and or their agent(s) request any additional "LC" Limited Commercial Zoning District use(s) not permitted within the "NR" Neighborhood Retail Zoning District". The Amendment shall be a public process requiring notification of surrounding owners and the approval of The Wichita City Council.

The applicant has met with three property owners located to the east of the subject site and reports no opposition to this request. Several other neighbors have called staff opposed to this request, and one neighbor e-mailed staff with opposition to the request (see attached). This site was originally re-zoned in 2003 from SF-5 Single-family Residential ("SF-5") to NR Neighborhood Retail ("NR") with PO-130. The PO has since been administratively adjusted twice (in 2006 and 2007) with the effect of increasing

the sign size from 8-feet tall and 48 square feet to the current 12 feet tall and 72 square feet; reducing landscaping requirements; waiving the architectural requirements to allow for a metal building façade, and waiving the dumpster screening requirement. The property was then rezoned in 2007 from NR to the current LC Limited Commercial (“LC”) with a PO addition that the only LC land use permitted would be Limited Animal Care. It was this PO requirement that left NR land use restrictions in place, prohibiting restaurants over 2000 square feet, and prohibiting drive-through service.

The application area is located between an established single-family residential subdivision located to the east, and a commercial center, DP-219 Auburn Hills CUP, located to the west. Property to the north, across Maple, is zoned SF-5 and developed with single-family residences. Property to the northwest is zoned LC and subject to development restrictions, Protective Overlay #17 that limits uses, building signage and access points. The property to the south is undeveloped and zoned GO General Office (“GO”), and is covered by Protective Overlay #140 that addresses architectural compatibility and density.

CASE HISTORY: The subject site was included in the request for Community Unit Plan DP-219 and associated zoning case Z-3191, a request for a zoning change of AA Single-Family Residential (“AA”) to LC on 17.32-acres located on the southeast corner of Maple Street and 135th Street West. DP-219 and Z-3191 were approved by the Wichita City Council on May 7, 1996, but without the subject site being part of the CUP or zoning change. Development of the Far West Side Commercial Development Policy in 1996 was triggered by the DP-219 and Z-3191 application. The policy placed limits on the size of commercial zoning at various west side arterial street intersections and also contained architectural, signage, access and landscaping controls. The Far West Side Commercial Development Policy has since been eliminated. In 2003, ZON2003-59 changed the property’s zoning from SF-5 NR, subject to PO-130. Platting cases SUB2004-29 and SUB2005-85 were approved and recorded in 2004 and 2005 respectively. Case ZON2006-12 administratively adjusted PO-130 to increase sign size and height, and decrease landscape requirements. Case BZA2007-23 administratively adjusted PO-130 to permit a metal building façade and waive dumpster screening requirements, with an increase in evergreen tree height and decreased distance in tree spacing. Case ZON2007-39 increased the zoning on the site from NR to LC, and amended PO-130 to permit only Limited Animal Care as an LC land use, with all other land uses restricted to NR zoning.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family Residential	Single-family subdivision
SOUTH:	GO	General Office	Undeveloped
EAST:	SF-5	Single-family Residential	Single-family subdivision
WEST:	LC	Limited Commercial	Retail shopping

PUBLIC SERVICES: The site has frontage along Maple Street. Maple is improved with four lanes, a center turn lane and decel lanes at the intersection of Maple and 135th Street West. East of the intersection Maple is classified as a 4-lane arterial. Current average daily trips (ADT) are 3,096 ADTs east of the intersection; with projected traffic volumes for 2030 were estimated at 6,800 ADTs. However, it is predicted that if the northwest bypass were to be constructed, traffic volumes would more likely be in the 9,000 to 10,000 ADT range. No improvements are scheduled on the city or county capital improvements program for Maple. Water and sewer are available.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “Urban Residential.” The Comprehensive Plan Commercial Locational Guidelines state the following: commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion; commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses; commercial uses should locate in compact clusters or nodes versus extended strip developments; and commercially-generated traffic should not feed directly onto local residential streets. The requested sign

size of 132 square feet is within Sign Code restrictions for the LC zone. However, the request exceeds the NR sign limit of 96 square feet.

RECOMMENDATION: Neighborhood opposition of this request appears to be a response to the numerous actions which loosened development controls on this site over time; this current request should have less affect on the residential neighbors to the east than previous changes to PO-130. The proposed sign increase and small coffee drive-through are located west of the existing building, and will not be visible from properties east of the site. The requested increase in restaurant size could produce more trash and accompanying odors; therefore a requirement of solid dumpster screening for restaurants could mitigate these concerns. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to an amended PO-130 as follows:

Item (2) shall be amended to read “Monument sign with a maximum sign face of 132 square-feet and a height of 16.5 feet. No flashing, rotating, moving signs or portable signs. Window display is limited to 25% of the window area. No signs allowed on the rear or any side facing the residential zoning to the east or the south of the site.”

Item (9) shall be amended to read “Screening of trash receptacles is not required for the building on the current approved site plan, except that all trash receptacles used by any restaurant shall be screened with solid screening. Trash receptacle screening shall remain a requirement for any future buildings within the Protective Overlay boundary.”

Item (14) shall be amended to read “Animal Care Limited is the only allowable “LC” Limited Commercial use permitted. Restaurants of up to 5,000 square feet shall be permitted. One drive-through coffee service shall be permitted, subject to circulation plan approval by the Traffic Engineer. All other uses shall conform to that of “NR” Neighborhood Retail Zoning District, excepting the conditions listed above. This property will require an Amendment to this Protective Overlay should the present or future owner’s and or their agent(s) request any additional “LC” Limited Commercial Zoning District use(s) not permitted within the “NR” Neighborhood Retail Zoning District”. The Amendment shall be a public process requiring notification of surrounding owners and the approval of The Wichita City Council.”

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property in the neighborhood is zoned either GO or LC on the four corners of the Maple Street – 135th Street West intersection; all have either a community unit plan overlay or protective overlay on the non-residential zoning. Beyond the intersection, the neighborhood is predominately zoned SF-5, with the exception of some GO zoned property located to the south. The character of the neighborhood is that of a developed and developing suburban residential neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned LC subject to PO-130. PO-130 as it exists without this amendment request is intended to protect the abutting residential areas from any potential negative effects generated by commercial development. The site could continue to be used under the current development controls.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed amendment to PO-130 would increase signage size and height, increase the size of restaurants, and permit a drive-through coffee service. The signage increase could have a negative affect with increased visibility from the residences north of Maple. The increased restaurant size could increase traffic, noise, trash, and odors in the immediate area. The trash and odor negative effect could be mitigated by requiring dumpster screening for restaurants. The addition of drive-through service in the area could increase traffic and noise in the immediate 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 identifies this site as appropriate for “Urban Residential.” The Comprehensive Plan Commercial Locational Guidelines state the following: commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion; commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses; commercial uses should locate in compact clusters or nodes versus extended strip developments; and commercially-generated traffic should not feed directly onto local residential streets.
5. Impact of the proposed development on community facilities: The increased restaurant size and addition of drive-through service could increase traffic counts on this portion of Maple. Maple can absorb increased traffic demand. The proposed uses may not create greater traffic demand than land uses which could be permitted on the site under the current development controls

MCKAY reported a conflict of interest on this item.

JESS MCNEELY, Planning staff presented the staff report.

HENTZEN asked about the dumpster screening requirement on the back of the building and asked if there was room back there to do that?

MCNEELY said most of the dumpsters are located on concrete pads and that there was room to construct some type of screening.

HILLMAN asked if the expansion of the restaurant space from 2,000 to 5,000 square feet would increase the overall square footage of the building or was the expansion within the existing structure.

MCNEELY said the Protective Overlay does not limit the overall building coverage at the site.

MICHAEL MONTEFERRANTE, 300 NORTH MAIN, APPLICANT, said they concur with staff comments on most points. He mentioned the three e-mails provided as handouts, but he stated that the center has been well received by the neighborhood and provides the type of products needed in the area. He said as far as the restaurant situation is concerned, it will be done within the existing structure. He said the planned restaurant will be an upscale non-smoking establishment. He said it is currently not required that trash receptacles have screening, but if that is the staff’s recommendation, then they accept it. He requested that the proposed restaurant be grandfathered in with the existing conditions. He commented that the dumpster tops are painted identical and that the grease container is not visible. He said they want to increase the height of the current pylon sign on Maple so that they have enough room to represent all the building tenants on the sign. He said they also request approval for a drive up restaurant, which will be a Scooters Coffee kiosk, with no bull horns or loudspeakers where coffee is ordered at the window.

DENNIS briefly reviewed the progress and the number of changes to the Protective Overlay that have occurred and stated that the whole purpose of the Neighborhood Retail zoning was to act as a buffer between the neighborhood and development to the west. He also said he drove by the area today and that he took exception to Monteferrante’s comment about the dumpsters matching the rear façade of the building. He asked how many more times they were going to request changes to the Protective Overlay.

MONTEFERRANTE responded that most dumpsters are green corrugation containers and that they will cycle in the new painting requirement. He said the grease trap is contained within the restaurant. He said they will request no more changes to the overlay, and that the Commission won’t see him at a meeting

again on this case. He concluded by stating that he appreciated the MAPC's patience. He said this amendment is being done to accommodate the last couple of building tenants for the center.

MOTION: To approve subject to staff recommendation.

DENNIS moved, **SHERMAN** seconded the motion, and it carried (12-0-1). **MCKAY** - abstained.

8. **Case No.: CUP2008-23** – Wichita Collegiate School (owner); Professional Engineering Consultants, PA c/o Rob Hartman (agent) Request Amendment to DP-166 to permit an LED sign with video and animation capability for the Collegiate School Webb Road entrance.

Lot 1, Block 1, Country Walk 2nd Addition, Wichita, Sedgwick County, Kansas. Generally located south of 13th Street North and west of Webb (1221 N. Webb).

BACKGROUND: The applicant proposes to amend DP-166 to permit an LED sign with video and animation capability for the Collegiate School Webb Road entrance. The proposed sign is 12 feet tall, 48 square-feet in size, and is proposed to have animation and video capability (see the attached sign elevation). The CUP currently permits signs consistent with the Sign Code. Within SF-5 Single-family Residential ("SF-5") zoning, institutional uses may request an administrative adjustment for electronic message board signs. However, animated signs are prohibited in residential zoning districts. A CUP amendment can authorize an animated sign, as desired by the applicant.

The applicant's proposed amendment to DP-166 states: *"One electric message sign with video and animation display shall be permitted on Parcel 5 adjacent to Webb Road. Maximum height shall be limited to 12'-0" and maximum sign area shall be 48 sq.ft. The sign shall be located a minimum of 150 feet from the south property line."*

The application area is the high school portion of the Collegiate School. Property north of the site is zoned GO General Office ("GO") and LC Limited Commercial ("LC") and developed with an office building. Property south and west of the site is located within the same Lakepoint CUP, is zoned SF-5, and is developed with single-family residences. East of the site, across Webb Road, is the LI Limited Industrial ("LI") zoned Rathenon property, which is primarily open space.

CASE HISTORY: The property is platted as a portion of Lot 1, Block 1, The Country Walk 2nd Addition, recorded in 1988. The CUP was originally approved in 1987, with no amendments to date.

ADJACENT ZONING AND LAND USE:

NORTH:	LC, GO	Office building
SOUTH:	SF-5	Single-family residential
EAST:	LI	Open Space
WEST:	SF-5	Single-family residential

PUBLIC SERVICES: This portion of Webb Road is a four-lane paved arterial with a 60-foot half-width right-of-way, meeting the Access Management standards. Other normal public services are available.

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 "major institutional."

RECOMMENDATION: Planning staff was contacted by several residential neighbors regarding this request. When most neighbors understood that the sign would be at the Webb Road entrance location, few had concerns. However, two neighbors have sent e-mails opposed to the request (see attached).

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to the following conditions:

1. General Provision 6a. shall be added to DP-166 and state: One electronic message board sign with video and animation display shall be permitted on Parcel 5 adjacent to Webb Road. The sign shall have a maximum height of 12 feet and a maximum sign area of 48 square feet. The sign shall be a minimum of 150 feet from the south property line.
2. 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 application area is the high school portion of the Collegiate School. Property north of the site is zoned GO General Office (“GO”) and LC Limited Commercial (“LC”) and developed with an office building. Property south and west of the site is within the same Lakepoint CUP, is zoned SF-5, and is developed with single-family residences. East of the site, across Webb, is the LI Limited Industrial (“LI”) zoned Ratheon property, which is primarily open space immediately east of the application area.
2. The suitability of the subject property for the uses to which it has been restricted: The area is suitable for the uses permitted under SF-5 zoning and DP-166. The property could be used without the requested CUP amendment.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed electronic message board sign could be visible from residences over 150 feet to the south. Recent Sign Code updates regulate the brightness of electronic message board signs, which should mitigate any visual affect on residential neighbors. There is some concern that these signs could be distracting to drivers and therefore a traffic safety hazard.
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 ”major institutional.”
5. Impact of the proposed development on community facilities: The requested electronic message board sign should have no negative effect on community facilities.

JESS MCNEELY, Planning staff presented the staff report.

TAPE 2, SIDE 1

HILLMAN asked if there were other private and public schools and other educational institutions that have this type of signage in the County.

MCNEELY said yes, although most schools and churches are located in residential zoning, and those signs do not allow video or animation, which this administrative adjustment is requesting. He said some universities do have the video and animation, but they are located in U zoning.

FOSTER asked if limitations could be set on hours of operation.

MCNEELY said hours of operation could be established.

SHERMAN asked about dimmers on LED signs that kick in at night.

MCNEELY said yes, brightness of signs during both day and night is being regulated at this time. He said the unit of measure or “nits” is the standard used to measure brightness when a complaint is received.

ROB HARTMAN, PEC, AGENT FOR THE APPLICANT said the proposed sign has full capabilities for both video and animation. He said they believe the sign fits the site and said they have reduced the size of the sign to 48 square feet and located it 55 feet from Webb Road. He said the Lake Point development is screened from the sign by an 8-foot fence. He mentioned that although the area is mostly Single-family residential, there are industrial uses across the street. He said they are in agreement with staff comments. He concluded by saying that they don’t believe this type of sign lowers anyone land value, is a safety issue or should be compared to the sign for All Star Sports.

MOTION: To approve subject to staff recommendation.

MARNELL moved, **DOWNING** seconded the motion, and it carried (12-0).
JOHNSON – absent for this vote.

DENNIS commented that he was concerned that this may set a precedent with other schools in the area and indicated that the idea has been talked about by USD 259.

MCNEELY responded that it will definitely set some precedence. He said the real difference was the approval of signs with video and animation capability. He said a CUP amendment was used to grant this request; however, he added that with the increased interest in these types of signs, most requests will not be associated with a CUP but will need to go through the variance process.

9. **Case No.: CUP2007-44** – Midian Temple Co., Inc., (Delbert E. Fowler); Ruggles & Bohm (Terry Smythe); LAM Properties (Mike Lies) Request Creation of DP-307 Clear Lake Community Unit Plan on property described as;

Lot 1 and Reserve A, Midian Shrine Hoskinson Addition, Sedgwick County, Kansas. Generally located south and east of the intersection of 13th Street North and Ridge Road.

BACKGROUND: The application area is 24.46 platted acres located 1/8 mile east of Ridge Road, just south of 13th Street North. The site is currently zoned SF-5 Single-family Residential (“SF-5”) with a Conditional Use (CON2003-48) that permits “community assembly,” subject to specific development conditions: development of the site is to follow the adopted site plan; a bulletin board sign up to 48 square feet along an arterial street may be permitted; portable signs are prohibited; architectural compatibility with surrounding neighborhood is required; parking lot light standards are limited to 14 feet and are required to use cut-off luminaries; trash receptacles and HVAC units are to be screened from ground view and lighting of outdoor playing fields is prohibited. The applicant is currently requesting the creation of the Clear Lake Community Unit Plan DP-307, which would permit a variety of residential uses.

As proposed, Clear Lake Community Unit Plan would permit: single-family residential, patio homes, two-family residential, townhomes, assisted living and independent living on two parcels. (Since the request does not include multi-family, no more than two townhomes can be attached, since three attached units are considered multi-family by the zoning code. Assisted living is a defined use in the zoning code;

independent living is not.) Density of the dwelling units would vary depending upon the type of construction. With its current SF-5 zoning, the gross maximum number of units that could potentially be built would be 212 at 8.71 dwelling units per acre. The gross dwelling unit density proposed by the CUP is to be 54 dwelling units for the single-family residential, patio homes, two-family residential and townhomes in both parcels (42 units for Parcel 1 and 12 units for Parcel 2) versus the 144 units initially proposed. The proposed dwelling unit density for Parcel 1 is 2.5 units per acre, while Parcel 2 does propose an independent living complex with around 150 units. The total number of units proposed for Parcel 2 is 162, which equates to 20.8 units per acre. However, the density is determined by the total area of the CUP, not the individual parcels. The total number of units proposed for this development is 204 units (versus the original 212 units) at 8.34 dwelling units per acre, just under the gross maximum allowed for the SF-5 zone district.

Maximum building height is set at 35 feet, which is consistent with the SF-5 height standard. Parking is to be provided per code, and if the street is designed with parking restrictions, a restrictive covenant requiring four (4) spaces per dwelling unit will be submitted at the time of platting.

Access to the site is via a divided median entrance off of 13th Street located on property currently owned by the City of Wichita and managed by the Board of Park Commissioners. The applicant and Park Board have been in talks to trade property in return for an access through the site. The applicant is offering to construct a bike path through the Park Board's land and the subject site, extending from 13th Street to Central Avenue. The agreement between the two parties will be contingent on the outcome of this case. Buildings located on the site are to be served by a nearly ½ mile long street that travels along the west edge of the property, then ends up towards the eastern portion of the property near the extreme southern side of the property. The applicant proposes an "emergency access only" stub, going west to North Hazelwood Lane, and located approximately half way down the primary street within the subdivision. This emergency access will be a gated access for emergency vehicles only, on an all-weather surface to be constructed within a platted emergency access easement to Hazelwood. The applicant is also proposing the possibility of gated access to the site (General Note 10). If the roadway is private then a gated entrance will likely not be an issue. Staff is not aware of any gated public streets in the City of Wichita.

Up to one-fourth of the eastern portion of the site is currently located within the floodway (zone AE) while all of the remainder of the southern half of the site is located in a flood fringe zone that in any given year has a .2 percent chance of flooding. A 150-foot wide utility easement is located along the eastern property line, and may well encompass all of the land encumbered by the floodway. The utility easement is developed with overhead electric lines and poles. As shown on the proposed CUP, the rear of the homes would set just west of the 150-foot Westar utility easement located along the property's eastern boundary. This arrangement places all of the backyards of the dwelling units backing towards the lake within the utility easement.

A 30-foot building setback is shown along 13th Street. Setbacks are to be determined at the time of platting, depending on the land use. In general, front setbacks range from 20 to 25 feet; rear setbacks are set at 20 feet. A 20-foot utility and drainage easement is shown along the western property line.

The site's base zoning of SF-5 permits minimum lot sizes of 5,000 square feet, and permits 8.712 dwelling units per acre. Spinnaker Cove Addition is developed at approximately 1.16 dwelling units per acre while Country Acres Addition is developed at approximately 3.01 dwelling units per acre.

Property to the west is zoned SF-5 Single-family Residential ("SF-5") and is developed with single-family residences, while property to the east, separated from the subject site by a lake, is zoned SF-5 and is also developed with single family residences. Property to the south is zoned MF-29 Multi-family Residential ("MF-29") and is developed as a high density apartment complex, while property to the north is zoned SF-20 Single-family Residential ("SF-20") and is developed with as a public park (Sedgwick County Zoo/Park.)

CASE HISTORY: CON2003-48, discussed above, was approved by the City Council on May 4, 2004, and the Midian Shrine Hoskinson Addition was recorded in October 2004. The current case (Clear Lake Community Unit Plan) is a continuation of the amended deferred case, Tranquility Bay Community Unit Plan, which was deferred at the September 20, 2007, MAPC meeting, and then denied at the October 4, 2007 MAPC meeting.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-20 Single-family Residential (“SF-20”)	Sedgwick County Park
SOUTH:	MF-29 Multi-family Residential (“MF-29”)	Apartments
EAST:	SF-5 Single-family Residential (“SF-5”)	Lake, Single-family residences
WEST:	SF-5 Single-family Residential (“SF-5”)	Single-family residences

PUBLIC SERVICES: 13th Street is designated as a five-lane arterial on the 2030 Transportation Plan map. At this location, 13th Street has 60 feet of half street right-of-way, and is developed as a four-lane arterial. Average daily traffic volume on 13th Street east of Ridge Road is 12,704. Access is proposed to enter the site from the northwest, through property that is currently owned by the City of Wichita and managed by the Board of Park Commissioners. The applicant and Park Board have been in talks to trade property in return for an access through the site. “Retirement communities,” on a daily average, generate less than one trip per day per unit while single-family units generate 9.5 average daily trips. Fifty-four single-family units and 150 assisted living units could be expected to generate approximately 663 average daily trips; whereas 144 single-family units could be expected to generate 1,368 trips per day. The applicant is offering to construct a bike path through this property and the subject site, extending from 13th Street to Central Avenue. The agreement between the two parties will be contingent on the outcome of this case. Public sewer and water is available to be extended to the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “Urban Residential.” The Urban Residential category includes all densities of residential development found within the urban municipality. This category of use encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes: single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks and special residential accommodations for the elderly (assisted living, congregate care and nursing homes).

The Comprehensive Plan’s “Residential Locational Guidelines” for medium and high density residential state that such uses should be: (1) transitional land uses between commercial and low density uses and may also serve to buffer low-density residential uses from commercial uses, (2) allocated to areas within walking distances of neighborhood commercial centers, parks, schools and public transportation routes while being in close proximity to concentrations of employment, major thoroughfares and utility trunk lines, (3) directly accessible to arterial or collector streets in order to avoid high traffic volumes in lower density residential neighborhoods, and (4) sited where they will not overload or create congestion in existing and planned facilities/utilities.

This request conforms to the goals and objectives of the residential land use category of the Wichita-Sedgwick County Comprehensive Plan. The goal for residential land use within the plan is to provide for rural, suburban, and urban residential areas, which provide for a variety of housing opportunities. The objective to the goal is to encourage residential redevelopment, infill and higher density residential development that maximizes the public investment in existing and planned facilities and services. One of the strategies used is the use of Community Unit Plans, Planned Development Districts and zoning as tools to promote mixed use development, higher density residential environments and appropriate buffering.

RECOMMENDATION: Staff is generally supportive of applications dealing with vacant passed over land that has public services located nearby. Staff is encouraged by the possibility of a bike path being

constructed and the lower densities than what has been proposed in the past. The new design of the CUP keeps the location of the proposed dwelling units out of the utility easement and up to 110 feet from the shoreline of the lake located on the eastern edge of the subject site. Based upon the information available prior to the public hearing, staff recommends the request be APPROVED subject to re-platting within one year, development of the site with a road connection to the south, and to the conditions contained in the proposed CUP, as may be amended, by the MAPC.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property to the west is zoned SF-5 Single-family Residential (“SF-5”) and is developed with single-family residences, while property to the east, separated from the subject site by a lake, is zoned SF-5 and is also developed with single family residences. Property to the south is zoned MF-29 Multi-family Residential (“MF-29”) and is developed as a high density apartment complex, while property to the north is zoned SF-20 Single-family Residential (“SF-20”) and is developed with as a public park (Sedgwick County Zoo/Park.)
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-5 Single-family Residential, and by zoning permits up to 8.71 units per acre for a total of 212 single-family units. Although there are floodplain issues and other development constraints that likely would reduce the ultimate density of the site. The site could be developed as zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site could potentially allow up to 212 single-family units, which could generate as many as 2,014 average daily trips. As proposed by the application, 663 average daily trips can be expected. The applicant is proposing up to 54 single-family and/or duplex units and up to 150 assisted living units for a total of 204 units. As proposed, the development is essentially self contained in that all non-emergency traffic will be directed north or south and not east of west through existing neighborhoods and streets. The only connection to existing neighborhood streets is an emergency access only drive where Mulberry Place and Hazelwood Lane meet. The lake to the east provides exceptional buffer for the Spinnaker Coves neighborhood. Country Acres Neighborhood will be the most effected in that the Country Acres lots fronting Sandplum Lane will now have a roadway to their rear, and use of the park for a roadway will be a significant change from park and open space use. However, these impacts should not be any greater than those experienced by other typically laid out neighborhoods where houses front other houses or back up to each other. Drainage concerns have been expressed in previous hearings. If approved, drainage issues will have to be addressed at the time of platting.
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 identifies this site as appropriate for “Urban Residential.” The Urban Residential category includes all densities of residential development found within the urban municipality. This category of use encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes: single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). This request conforms to the goals and objectives of the residential land use category of the Wichita-Sedgwick County Comprehensive Plan. The goal for residential land use within the plan is to provide for rural, suburban, and urban residential areas, which provide for a variety of housing opportunities. The objective to the goal is to encourage residential redevelopment, infill and higher density residential development that maximizes the public investment in existing and planned facilities and services. One of the strategies used is the use of Community Unit Plans,

Planned Development Districts and zoning as tools to promote mixed use development, higher density residential environments and appropriate buffering.

5. Length of time the property has been vacant: The property is currently vacant.
6. Impact of the proposed development on community facilities: Public sewer and water services are available and can be extended to the site. Drainage issue will have to be addressed. There may be a need for decel and center-left turn lanes in 13th Street.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

HILLMAN commented that the proposed recreation pathway and utility easement along the west edge of the property looked complicated. He also asked if water and sewer was under the electrical easement, and if there would be overlapping.

SLOCUM commented that he believed the proposed hike/bike path would run east of the housing.

DENNIS asked about access to the City owned parkland located in the southwest corner next to the parcel.

FOSTER asked about the possibility of adding the potential bike path as a condition of approval.

MILLER commented that staff had originally added the bike path as a condition of approval on an earlier proposal concerning this property. He said when that proposal was rejected and denied, staff decided not to add that as a condition this time around.

There was brief discussion as to whether enough time had passed since the last denial on this parcel (one year between applications); however, it was also noted that if there were sufficient changes to the application, only six months was required.

LANG commented that after the MAPC finding that there were sufficient changes from the original application, this case can qualify for a 6 month delay. He suggested that the Commission act on that item first.

MOTION: That there were enough changes to the application that it qualified for a six-month delay

MARNELL moved, **DOWNING** seconded the motion, and it carried (13-0).

SHERMAN out @3:35 P.M.

TERRY SMYTHE, RUGGLES & BOHM, AGENT FOR APPLICANT said that this was part of continuation of an old hearing that met with a resounding thud. He said they have revised the proposed layout, and spent time meeting with staff and the Spinnaker Cove and County Acres Homeowners Associations and the Park Board. He said the proposal was for an independent and assisted senior living center that would generate low level traffic density. He mentioned various aspects of the development including the proposed bridge to the south; the northern piece along 13th Street; and the possibility of a drive occurring on the park property to the west of the Shriner's Addition property so that the north entrance driveway will be further away from the bridge on 13th Street. He mentioned that the Park Board still owns a small piece of property on the southwest end of the parcel, which is landlocked, and he does not believe the Park Board is interested in disposing of it. He said everyone loves the idea of the hike/bike path, the location of which is yet to be determined. He said they would spend more time with the Park Board regarding that issue. He concluded by stating that they are in agreement with staff comments.

MCKAY clarified that this would be a gated community. He also mentioned his concern about ingress/egress for emergency vehicles, adding that since this was a retirement complex, ambulances would probably be a daily occurrence.

SMYTHE said they envision that the gates on both ends of the property will be key coded or accessed with a computer key card. He said emergency services will be provided with the key code or key card. He added that there will be no access to Country Acres from the private drive, other than for emergency services.

DENNIS commented that he liked this proposal better than anything else that has been brought before the Commission for this property. He asked about the possibility of using some of the north parcel for a park.

SMYTHE said they haven't entertained that idea.

DENNIS said he was concerned about how the Park Department would maintain its property and asked if the developer would allow access across the property they own for that purpose.

SMYTHE said they have no problem with allowing City personnel access across their property to maintain the park. He said they understand that most of the land is being mowed and maintained by the homeowners whose property backs up to the park land.

There was brief discussion concerning lake rights at Spinnaker Cove and signs that may have to be posted restricting lake use.

THOMAS FOLEY, 6611 SCHOOL CIRCLE said they generally agreed with the proposal, but they have not seen enough detail on the proposed housing units. He mentioned size and approximate price range that would be compatible with Spinnaker Cove. He mentioned discussion of the lake rules and the proposal that this be a 24-hour gated community. He added that he was not looking forward to hearing an ambulance a day 120 feet from his house. He said they would like to see the bridge eliminated from the proposal and 13th Street used as the sole entrance into the complex. He mentioned how the road was configured and stated that headlights will shine directly into his and his neighbor's houses. He also requested that the turnaround point be eliminated. He further mentioned that they would like to see the hike/bike path as private use for that addition and the north and south properties. He mentioned fishing in Clear Lake and how association dues pay to stock the lake for the exclusive fishing enjoyment of members of the association and asked how those rights could be protected. He concluded by stating that they were also concerned about crime, trash, and unauthorized lake use.

SMYTHE commented that they have met with the Spinnaker Cove Homeowner's Association and thought they had a pretty good understanding. He said this was a general site plan and any issues such as lights shining into Mr. Foley's backyard could be dealt with by screening or landscaping. He said they are committed to taking care of him. He said the hike/bike path is critical for the City and that it cannot be a "private" path. He suggested that signs could be posted along the area to indicate that Clear Lake is a private lake for residential use only. He said estimated cost per unit is approximately \$175,000, depending on what the market will bear and making the units as affordable as possible.

HILLMAN commented that since the pathway was so critical to the City that it be included in the motion. He clarified that the Park Board is contributing land but not actually paying for the pathway.

SMYTHE said they are in preliminary discussion concerning the location of the hike/bike path; how they will finance the project, which he said will cost approximately \$800,000 for one mile. He said they have been looking at the property for some time and feel this is a good proposal.

MOTION: To approve subject to staff recommendation.

DENNIS moved, **DOWNING** seconded the motion, and it carried (12-0).

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- 10. Case No.: CON2008-32** – Richard and Vickie Tade (owners), T-Mobile LLC (applicant), Ferris Consulting, c/o Greg Ferris (agent) Request City Conditional Use request for a wireless communication facility in LC Limited Commercial zoning.

The West 50 feet of Lots 1, 3, 5 and 7, except the North 12 feet of Lot 1 for street, Block 4, Sunny-Side Addition to the City of Wichita, Sedgwick County, Kansas. Generally located south of Kellogg Avenue, midway between Grove Street and Hillside Avenue on the west side of Erie Avenue.

BACKGROUND: The applicant, T-Mobile Central, LLC, is seeking a Conditional Use to permit the construction of a 120-foot high, galvanized steel, monopole cell phone tower. The 50-foot (x) 80.5-foot LC Limited Commercial (“LC”) zoned tower site is located on the western 50 feet of Lots 1 (except the north 12 feet for street right-of-way, ROW), 3, 5 and 7, Block 4, Sunny-Side Addition. This is vacant land. The site abuts the south side of the US 54/Kellogg Street road system. The “Amended Wireless Communication Facility Ordinance” (adopted by the WCC 4-08-08 & BoCC 4-9-08), permits new wireless communication facilities 120 feet in height in the LC zoning district as an Administrative Permit, if the site is identified as a “Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map” and it complies with the 1/1 compatibility height standards (Art IV, Sec IV-C, 5b). The site is not identified on the “Facility Map,” thus it is not eligible of an Administrative Permit, but it may be considered for a Conditional Use. It appears to meet the compatibility height standards

The applicant’s RF Engineer has provided (see attached letter #1) a letter that states that the proposed facility is needed to both provide, extend and improve phone service in this section of Wichita. The RF Engineer has also stated that the proposed tower will provide capacity relief for existing T-Mobile Towers in the area. The RF Engineer states that the high volume of use has caused the area to experience failed access, because of a lack of facilities in the general area. The wireless facilities map provided by the applicant shows the existing facilities in the area. There is a tower located northwest of the site at Kansas and 2nd Streets, a T-Mobile facility (the closet facility to the proposed site) located west of the site at Waterman and Ellis, a T-Mobile facility located east of the site around Lincoln and Oliver Streets, and another T-Mobile facility located southeast of the site around Harry Street and Vassar Street. The map does not show the recently approved CON2008-25, 150-foot T-Mobile Tower located southwest of the site in Linwood Park, south of Harry and west of I-135. Other than that the map is in general agreement with the case map generated by City IT. The applicant has provided current and desired coverage maps.

The agent has provided a letter that states that T-Mobile had approached K-DOT and proposed replacing an existing light pole in the US 54/Kellogg Street with a monopole that would allow them to attach their lights, but were rebuffed. The agent has also stated that T-Mobile had contacted the high rise condominium structure at the corner of Douglas Avenue and Rutan Street, but was told that they did not lease space to wireless carriers. The “Wireless Communication Plan” encourages contact with such public and private agencies as K-DOT, KTA and KG&E in regards to location on light standards, sign structures and electric support structures for new wireless communication facilities. It also encourages location on multi-story buildings.

The site plan shows the general area where the tower will be located it shows a 6-8-foot wooden fence around a 40-foot (x) 85-foot site, the area where T-Mobile is going to locate its equipment (“T-Mobile Lease Area), proposed landscaping, and a proposed 15-foot access and utility easement onto Erie Avenue. It does not indicate if the easement has any type of all weather surface on it. The site plan shows no light poles, ground lighting, power poles, cabinets, equipment or buildings located within the fenced-in area.

The area around the site is developed as a mostly single-family residential neighborhood, tucked behind small local retail, some vacant land, a dance studio, a small office warehouse and a school. The nonresidential uses (built 1959, 1960 and 2004) are zoned LC and abut the US 54/Kellogg Street frontage street, which marks the north end of the area. There are several large light poles in the US 54/Kellogg ROW. The school (built 1917) is part of a PUD Planned Unit Development (“PUD”). The residential neighborhood (built mostly in the 1920s, but also in the 1930s and 1940s, with the oldest being built in 1885 and the newest in 2004) is zoned mostly TF-3 Duplex Residential (“TF-3”), with a few residences located in B Multi-family Residential (“B”), PUD and LC zoning.

The proposed tower and associated communication frequencies and wattages must meet standards determined by the Federal Aviation Administration (FAA) to pose no hazard to air navigation or interfere with other radio/communication frequencies. The applicant has not provided an analysis of airspace in the area, which must be provided to staff prior to building permits being issued. The applicant has not provided any proposed lighting of the tower, except to say it will not have strobes. Tower lighting must meet the FAA requirements for aircraft warning. The proposed galvanized surface of the tower will blend into the sky more readily than a red or white paint, which meets the intent of the “Design Guidelines” of the “Wireless Communication Master Plan.” The proposed tower must allow co-location for three (3) other providers. The applicant has not indicated if the tower will have a triangular “top hat” antenna array. The UZC recommends antennas mounted flush to the support structure over triangular “top hat” antenna arrays, however it also recognizes that the triangular “top hat” antenna’s signal travels further than the flush mounted antennas, therefore reducing the number of needed towers.

CASE HISTORY: The Sunnyside Addition was filed with the Register of Deeds December 14, 1886. The platted alley, abutting the west side of the site, has been vacated.

ADJACENT ZONING AND LAND USE:

NORTH:	TF-3	US 54/Kellogg Street and frontage road, single-family residences
SOUTH:	LC, TF-3	single-family residences
EAST:	LC, TF-3	Vacant lots, duplex, single –family residences, local retail
WEST:	LC, TF-3	Office warehouse, single-family residences, City owned right-of-way

PUBLIC SERVICES: No municipally supplied public services are required. The applicant will extend electrical and phone service to the site. The site has access (and proposes access) to Erie Avenue, a paved two-lane residential street. It also abuts the south side of the US 54/Kellogg Street paved, two-lane frontage road. The US 54/Kellogg Street ROW is classified as a Freeway and Urban Expressway. The 2030 Transportation Plan shows no change to the current status of these streets.

CONFORMANCE TO PLANS/POLICIES: Per the amended Wireless Communication Facility Ordinance (adopted by the WCC 4-08-08 & BoCC 4-9-08) and its “Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map”, the site is not identified on is not eligible of an Administrative Permit, but it may be considered for a Conditional Use.

The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan requires a Conditional Use for new undisguised ground mounted facilities 120 feet in height in the LC zoning district and requires that they comply with the compatibility setback standards; the site appears to meet those setback standards. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area as much as possible. The tower site will be abutting US 54/Kellogg which has several tall light pole towers located in its ROW, which means the proposed tower will not be entirely out of character with the existing light poles being already established. The tower will also extend and improve phone service in this section of Wichita. The site is located within 105, 150 and 160 feet of three single-family

residences, the closest is owned by the applicant and all are zoned LC; 2) Minimize the height, mass, or proportion. The tower is similar in height, mass and proportion to other T-Mobile towers in the area; 3) Minimize the silhouette; monopoles are favored over lattice type structures for up to 150-feet and antennas mounted flush to the support structure over triangular “top hat” antenna arrays. The 120-foot tower is a monopole, but if it uses a triangular “top hat” antenna arrays, the Plan recognizes that the triangular “top hat” antenna’s signal travels further than the flush mounted antennas, therefore reducing the number of needed towers; 4) Use colors, textures, and materials that blend in with the existing environment. The monopole tower will have a galvanized surface, which will blend into the sky more readily than red or white paint; 5) Conceal or disguise as a flagpole, clock tower, or church steeple. The tower does not meet this criteria, but the applicant did contact K-DOT to inquire about replacing an existing light tower with the proposed communication tower and allow lights to be placed on it to illuminate US 54/Kellogg; 6) Be placed in areas where trees and/or buildings obscure some or all of the facility. There are existing mature trees in the immediate neighborhood around the site, plus the proposed landscaping and solid fencing will help to “hide” the site; 7) Be placed on walls or roofs of buildings. The application attempted to do this via contacting the manager of the high rise condominium structure at the corner of Douglas Avenue and Rutan Street, but was told that they did not lease space to wireless carriers; 8) Be screened through landscaping, walls, and/or fencing. Proposed landscaping and solid fencing will help to “hide” the site; and 9) Painting towers red and white instead of using strobe lighting. The applicant has stated that there will be no strobes and that it will be a galvanized steel finish. NOTE: Since the time the Wireless Communication Master Plan was first adopted, the FAA changed their regulations to require daytime strobe lighting; whereas, when the plan was adopted, the FAA allowed painted towers red and white instead of using strobe lighting.

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. Entry into residential areas is typically the final part of the business plan of most personal wireless providers. The facilities’ maps generated by the applicant and City IT/GIS services show the existing facilities in the area, some of which are in residential areas, thus the proposed site is not introducing a new use to the large area.

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

- A. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a “monopole” design that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall not exceed 120 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) wireless service providers.
- E. The tower shall conform to FAA regulations in regards to analysis of airspace in the area, which includes conformation that the height of the tower is not a hazard to air navigation (including the need or not for lighting) and that the tower does not interfere with other radio/communication frequencies. The applicant shall submit a current copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.
- F. The 0.08-acre tower site shall be developed in general conformance with the approved revised site and landscape plan. These plans must show dimension control, parking, all light poles, lights, power poles, cabinets, equipment or buildings within the fenced in site or in the immediate area if it is to be used by the site. The site plan must identify the utility access easement as being current or proposed. If it is proposed it must be recorded. If a surface is needed for the drive/access easement, it must be approved by the Zoning Administrator. All improvements and construction of the facility/tower shall be completed within a year and before the facility becomes operational.

- G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. Provide the Storm Water Engineer with any required plans for review and approval of the site.
- H. 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 character of the surrounding area is a mostly single-family residential neighborhood, tucked behind small local retail, some vacant land, a dance studio, a small office warehouse and a school. The nonresidential uses (built 1959, 1960 and 2004) are zoned LC and abut the US 54/Kellogg Street frontage street, which marks the north end of the area. There are several large light poles in the US 54/Kellogg ROW. The school (built 1917) is part of a PUD Planned Unit Development ("PUD"). The residential neighborhood (built mostly in the 1920s, but also in the 1930s and 1940s, with the oldest being built in 1885 and the newest in 2004) is zoned mostly TF-3 Duplex Residential ("TF-3"), with a few residences located in B Multi-family Residential ("B"), PUD and LC zoning.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC and is currently vacant. It could be developed as small retail, office or residential. The US 54/Kellogg frontage road provides limited access for retail, while at the same time makes it a possible site for a small multi-family development. Its close (separated by frontage road) proximity to US 54/Kellogg makes it less desirable for single-family residential. A Conditional Use may be granted to permit a wireless communication facility in the LC zoning district, while conforming to the guidelines of the Wireless Communication Plan as much as possible. The proposed facility conforms to most of the plan's guidelines.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental effects on the single-family neighborhoods and businesses in the area should be minimized to a degree by the Conditional Use standards of the Unified Zoning Code, which should limit noise, lighting, and other activity from adversely impacting these properties, the closest being within (discounting the applicant's property with a residence on it) 150 feet of the site. The Wireless Plan does recognize that entry into residential areas is the final part of the business plan of most personal wireless service providers to replace wired phone service in customer's homes. The coverage map provided by the applicant shows the increased coverage and service to these homes in the area.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility appears to conform to the Location Guidelines of the Wireless Communication Master Plan since there appears to be no other towers or tall structures in the vicinity of the site which can accommodate the communication needs of the applicant. It is always possible that other facilities may be presented as alternative/co-location sites during the public hearing, in which case the applicant will need to address those claims/opportunities for possible co-location. The proposed wireless communication facility mostly conforms to the Design Guidelines of the Wireless Communication Master Plan by minimizing the height, mass, proportion, and silhouette of the facility through its monopole design; by utilizing an unobtrusive color with a matte finish to minimize glare; and by being placed along US 54 Kellogg ROW, where there are several tall light towers located in the ROW. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned TF-3 or more restrictive. The site appears to meet that standard.

- 5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed tower is not a hazard to air navigation (including the need or not for lighting) and that the tower does not interfere with other radio/communication frequencies. .

BILL LONGNECKER, Planning staff presented the staff report.

MOTION: To approve subject to staff recommendation.

HENTZEN moved, **HILLMAN** seconded the motion, and it carried (13-0).

The Metropolitan Area Planning Department informally adjourned at 3:50 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)