METROPOLITAN AREA PLANNING COMMISSION

MINUTES

August 7, 2003

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, August 7, 2003, 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: Bud Hentzen, Chair; Kerry Coulter, Vice-Chair; James Barfield (in @ 1:56); Ray Warren; Bill Johnson; Morris K. Dunlap; Ronald Marnell; Elizabeth Bishop (in @ 1:38); M.S. Mitchell (in @ 1:33 pm); David Wells (in @ 1:36; out @2:50pm); Frank Garofalo and Bob Hernandez. Ed Sunquist and John W. McKay Jr., were not present. Staff members present were: Dale Miller, Current Plans Supervisor; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; and Rose Simmering, Recording Secretary.

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1. Discussion on Committee assignments by the MAPC Chair.

HENTZEN There will be a new MAPC chair in September. I would like these persons to serve on the two committees we have. Advance Plans Committee as follows: Ron Marnell, Chairman, Frank Garafalo, John McKay, Kerry Coulter, Bud Hentzen, Mitch Mitchell, Morris Dunlap. Subdivision Committee as follows: Bill Johnson, Chariman, Ed Sunquist, David Wells, Ray Warren, Elizabeth Bishop, James Barfield and Bob Hernandez. Thank you all for serving on these committees until the new chair is appointed to MAPC.

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2. Approval of MAPC meeting minutes of July 24, 2003 and approval of corrected language for MAPC minutes dated May 22, 2003, Case number ZON2003-23 (Associated with CUP2003-23 DP265).

MOTION: That the minutes for July 24, 2003 be approved.

DUNLAP moved, **COULTER** seconded the motion, and it carried (7-0-1) **GAROFALO** abstains from approval of MAPC July 24, 2003 minutes.

MOTION: To approve corrected language for MAPC minutes for May 22, 2003.

DUNLAP moved, **COULTER** seconds the motion, and it carried (8-0).

3-1. SUB2003-65 – Final Plat – RIVENDALE ADDITION, located on the north side of 55th Street North and on the west side of Hydraulic Avenue.

A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.

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

C. **City Engineering** needs to comment on the status of the applicant's drainage plan. ***The drainage plan is approved. An off-site drainage easement is needed. A guarantee is required.***

D. **Traffic Engineering** has requested left turn lanes are needed along Hydraulic and for the major entrance on 55th St. South.

E. The plat proposes complete access control along the plat's frontage to perimeter streets. Complete access control shall be platted along Turnpike. ***MAPC has approved the relocation of the Rivendale street opening in alignment with Mona.***

F. **County Surveying** has advised that the benchmark needs an elevation.

G. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.

H. 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.

I. 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.

J. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, 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.

K. The applicant shall submit a covenant that provides for four (4) off-street parking spaces per dwelling unit on each 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.

L. 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.

M. The lots located along the north side of Rivendale should be included in a new block.

N. **GIS** needs to comment on the plat's street names. ***Rivendale shall be revised to Mona. Maywood Ct needs to be labeled.***

O. 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.

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

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

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

S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

T. 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.

U. 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 NPDES 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.

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

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

X. 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. ***Westar Energy has requested additional easements.***

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

MOTION: To approve, subject to staff comments and citing the findings in their report.

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

3-2. SUB2003-45 – Revised One-Step Final Plat – RICKEN ACRES ADDITION, located on the north side of 47th Street South, east of 231st Street West.

A. Since sanitary sewer is unavailable 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 facilities. A memorandum shall be obtained specifying approval.

B. **County Code Enforcement** and **County Engineering** should comment on the acceptability of the proposed alternative sewage system for these lot sizes and the need for a restrictive covenant addressing maintenance. ***The alternative sewage system is approved. A restrictive covenant will be needed.***

C. The site is currently located within the Rural Water District No. 4. The applicant shall contact this water district to determine the ability of this property being platted to connect to their water line and submit a letter to MAPD and **County Code Enforcement** from the water district in that regard.

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

E. **County Engineering** needs to comment on the status of the applicant's drainage plan. ***A drainage plan is needed that addresses terraces and offsite drainage coming into plat from the east.***

F. The applicant shall guarantee the installation of the proposed street to the 36-ft rock suburban street standard.

G. Lots 1, 7, 8 and 14 contain less than the required 2-acre minimum lot size. A zoning adjustment will need to be approved for these lots. This adjustment should be submitted after the MAPC approval.

H. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted to have a wetland determination completed.

I. The Applicant has provided a 70-ft contingent dedication of street right-of-way extending to the east line and west line of the plat in order to provide potential street connections to adjoining properties. ***MAPD recommends that the contingent street dedication to the west be relocated to the north between Lots 5 and 6.***

J. The MAPC signature block needs to reference "John L. Schlegel, Secretary".

K. The **County Fire Department/GIS** needs to comment on the plat's street names. ***The street name shall be revised to "228th St W.***

L. Per Sedgwick County Fire Department, access drives to any structures in access of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade construction work. Such drive to be installed according to fire department specifications: (1)Twenty feet of drivable surface is provided the entire length of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning fire apparatus around. (2) To meet fire department specifications, the surface needs to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed.)

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

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

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

P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

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

R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

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

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

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

GAROFALO On Subdivision Item 3-2 there was one negative vote and I was curious why that was.

WARREN This case came to us before it is a long narrow strip of land, it had one acre lots and this is what we had encouraged and for some reason we had neighborhood protest out there and so they applicant came back with two acre lots which is permitted and I saw no reason for Commissioner Bishop to deny or vote for denial but she did and so that is why there is a vote of opposition.

MOTION: To approve, subject to staff comments and citing the findings in their report.

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

3-3. **SUB2003-83 – One-Step Final Plat – WILSON ESTATES MEDICAL PARK SECOND ADDITION, located on the west side of Webb Road, south of 21st Street North.**

A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.

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

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

D. A covenant shall be submitted regarding Reserve A, platted for private drive purposes, which sets forth ownership and maintenance of the private drive, and future reversionary rights of the reserve to the lots benefiting from the reserve. The plattor's text shall be revised to reference that Lots 1-5 are to be accessed by Reserve A.

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

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

G. The 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.

H. 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.

I. The perimeters of the proposed lots shall match the perimeters of the CUP parcel boundaries. A CUP adjustment will need to be approved prior to MAPC approval of the plat for Lots 4 and 5, Block 1 which corresponds to Parcel 7 of the CUP.

I. On the final plat, the MAPC signature block needs to reference "John L. Schlegel, Secretary".

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

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

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

M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) 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 be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.

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

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

R. 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.

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

MOTION: To approve, subject to staff comments and citing the findings in their report.

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

3-4. SUB2003-80 – One-Step Final Plat – SEDGWICK COUNTY JUVENILE DETENTION CENTER ADDITION, located south of Kellogg, east side of Hydraulic.

A. Municipal services are available to serve the site. **City Engineering** needs to comment on the need for guarantees or easements.

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

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

D. **Traffic Engineering** needs to comment on the access controls. The plat proposes one access opening along the south 40 feet of the Hydraulic frontage. ***Traffic Engineering has approved a shared access opening with the adjacent property to the south.***

E. 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.

F. **Traffic Engineering** has requested 10 feet of additional street right-of-way along Hydraulic. The Access Management Regulations require a 60-ft half-street right-of-way width along urban arterials. ***In lieu of a right-of-way dedication, a 10-ft sidewalk and utility easement has been approved.***

G. **Traffic Engineering** has requested 5 feet of additional right-of-way along Indianapolis and Kansas Ct. ***In lieu of a right-of-way dedication, a 5-ft sidewalk and utility easement has been approved.***

H. A note shall be placed on the final plat, indicating that this Addition is subject to the conditions of the Sedgwick County Juvenile Complex Planned Unit Development (PUD #11).

I. The setback along Kansas Court does not conform with the building setback line which was established by the PUD. ***The applicant will be requesting a PUD adjustment to reduce the setback.***

J. **City Water and Sewer Department** needs to comment on the proposed wall located along the west property line of Lot 2 which is within a 15-ft utility easement. ***City Water and Sewer Department requests that any new wall be constructed outside of the easement.***

K. A PUD Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved PUD and its special conditions for development on this property.

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

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

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

N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

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

P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

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

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

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

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

MOTION: To approve, subject to staff comments and citing the findings in their report.

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

3-5. SUB2003-81 – One-Step Final Plat – DEN ADDITION, located west of Oliver, on the north side of 31st Street North.

A. The applicant shall guarantee the extension of sanitary sewer to serve the lots being platted.

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

C. **City Engineering** needs to comment on the status of the applicant's drainage plan. ***The drainage plan is approved. An off-site drainage agreement will be needed in the event drainage is directed to the north.***

D. **Parks and Recreation Department** needs to comment on the need for relocation of the bike path.

E. If any drainage will be directed onto Kansas Turnpike, a letter shall be provided from KDOT indicating their agreement to accept such drainage.

F. Complete access control has been dedicated along 31st St. South. Access to the site will be through an access easement from the abutting property to the east. Complete access control needs to be dedicated along the Turnpike.

G. The right-of-way width of 31st St needs to be denoted.

H. 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.

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. 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.

K. The recording information indicated for the proposed pipeline easement needs to be indicated on the plat.

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

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

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

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

P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

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

R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner

should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

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

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

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

NEIL STRAHL, Planning staff. The plat was approved last week and issued discussed were access and drainage easements. Complete access control was required from 31st South and an access easement was required from the property to the east.

DUNLAP What is a Protective Overlay #120? What is in that before I vote.

STRAHL The Protective Overlay was approved with the associated zoning, and Bill Longnecker can clarify that for you.

BILL LONGNECKER, Planning staff - Protective Overlay #120 was a list of the uses that would be allowed in Limited Industrial zoning that we sought to restrict on this piece of property because of its proximity to the park. It was parkland prior to it being sold from the City to the applicant. We went over this Protective Overlay with the applicant to make sure that we did not inhibit his ability to run his business off of this property. His business is a mechanical, assembly, manufacturing type of facility.

DUNLAP I appreciate that you have done that, and I appreciate that the applicant has accepted that, but I still don't know what is in the protective overlay. You are asking me to vote to enact a protective overlay which restricts the use of a piece of property, and I don't now what the restrictions are.

LONGNECKER (Shows the letter to Mr. Dunlap.)

DUNLAP I will not vote on something that I will not be able to see in advance prior to the meeting, therefore staff should supply all documents for the request to the MAPC in our packets in the future.

MOTION: To approve, subject to staff comments and citing the findings in their report.

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

3-6. SUB2003-75 – One-Step Final Plat –VIA CHRISTI FAMILY PRACTICE ADDITION, located north of Central, east of Broadway.

A. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being considered by MAPC, the zone change will need to be approved.

B. Municipal services are available to serve the site.

C. A temporary easement by separate instrument should be submitted to cover the existing sewer line to be abandoned unless the sewer line is abandoned before the plat is recorded. A guarantee for the sewer abandonment will also be required.

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

E. **City Engineering** needs to comment on the status of the applicant's drainage plan. ***The drainage plan is approved. Any needed improvements would be required at site development. The storm sewer is limited to the same size of the downstream pipe.***

F. The plat proposes complete access control along Murdock. Distances should be shown for all segments of access control. The final plat shall reference the dedication of access controls in the plattor's text. ***The access controls have been approved.***

G. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. ***Traffic Engineering has required the closure of the northernmost opening along Topeka in addition to the opening along Murdock.***

H. ***The Subdivision Committee has approved the contingent dedication of 12.5-ft additional street right-of-way along Murdock along with a contingent 10-ft sidewalk and utility easement. This contingency would become effective upon the City's need for street improvements.***

I. The MAPC signature block needs to reference "John L. Schlegel, Secretary".

J. A note on the final plat indicates that 0-ft building setbacks are platted. The Zoning Code requires a 20-ft front setback for the GC, General Commercial district. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.

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

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

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

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

O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) 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 NPDES 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. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.

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

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

NEIL STRAHL, Planning staff. There is an associated zoning case, and we need to hold off on the review of the plat until after the zoning case is considered.

NEIL STRAHL, Planning staff. The Subdivision Committee has approved the contingent dedication of 12.5-ft additional street right-of-way along Murdock along with a contingent 10-ft sidewalk and utility easement. This contingency would become effective upon the City's need for street improvements.

SCOTT LOGAN, TRAFFIC ENGINEERING, We have 37 1/2 feet of the right-of-way, and we normally get 60 feet. Right now, regarding the existing condition along Murdock there is a 7-foot right-of-way along the edge where we have trees, sidewalks, and utilities. We need an outright dedication of another 12 1/2 feet in this instance to move that sidewalk back. The trees are about a foot from the curb right now. They are small trees, and we move the utilities back for safety purposes. We also need corner clips at the intersections of Topeka and Emporia to set back our traffic signals. We need a contingent sidewalk and utility easements that do not impact the setback distances for buildings or parking lots; this is just an easement. We feel if there is a need for a right-turn lane or a left-turn lane along Murdock that we will need that right-of-way. We look at right-of-way not in terms of what we need in 5 or 10 years but what we need in 50-60 years. With the Central Rail Corridor, and some of those improvements we are making in this area we don't have a good feeling about what the traffic will be on Murdock, though it is an arterial street.

WARREN Scott, with your 37 1/2 feet of right-of-way now, how much do we have in grassed area that is not included?

LOGAN Right now we have 3 feet of grass area, and then the sidewalk.

WARREN If he gives 12 1/2 feet for the street, then you are going to increase your position to 50 foot or 100 foot taking both sides 50 foot of either side of the centerline?

LOGAN Ideally, yes that is what we would like.

WARREN Yes, but that generally includes sidewalks, but with a 100 foot of right-of-way you are not talking about easements. We are talking about dedication of land and right-of-way that belongs to the City of 100 foot.

LOGAN We would only need that contingency for a sidewalk and for a utility easement if we widen the street.

BARFIELD Do you have plans to reconstruct the street in the area now?

MITCHELL The contingency is on what improvement? Did you declare a contingency only to reconstruct the sidewalk?

LOGAN The contingency is only based on the need, and that is due to the widening of the street. As Commissioner Warren has indicated, we don't need that contingent 10 feet without the widening improvement.

MITCHELL Would you call it a contingency, and do nothing but put the sidewalk in the 12 1/2 feet you are requesting?

LOGAN We could do that without improvements.

WARREN You are requesting 22 1/2 feet contingent all together, which is 12 1/2 feet for street right-of-way and 10 foot for sidewalk.

HENTZEN Scott, the 22 1/2 feet that you are requesting … so how many square feet are you taking?

LOGAN The taking of the sidewalk easement is not really a taking. The right-of-way would be the taking, but the sidewalk and utility easements are just the use of the property for just a sidewalk. I don't know the square footage.

HENTZEN You are tying up 22 times the length of thing of this man's property. Do you know what the square footage price the appraisers got on that land now?
LOGAN No.

HENTZEN I didn't think you did because you weren't concerned with paying for it.

DUNLAP You mentioned corner clips. Are you talking about the northeast and northwest corners?

LOGAN Yes, both northeast and northwest corners along Murdock.

DUNLAP I don't understand the need for a corner clip when the east street is a north bound one-way street and the west street is a one-way south bound street.

LOGAN To set the signal back from Murdock intersection.

GENE RATH, MKEC Engineering, I don't want to recommend that any additional right-of-way be granted. There are a number of blocks in the City with stuff close to the curbs. The current Transportation Plan is five lanes which is on Murdock today. Via Christi wants to build a doctors office there. The north side would be for patients to park, and the parking on the south side for the staff parking. The north edge of the north parking lot is only 3-4 feet from the property line. I don't think a dedication of 2 1/2 feet up to 40 feet would cause a problem, but 22 1/2 feet is very much of a problem as it would reduce the area for the required landscaping and screening. They are utilizing the entire site for building and landscaping. They are planning on screening the parking lot. I did not know about the corner clip issues. A little bit might not provide a problem, but again I am requesting no additional right-of-way be dedicated or given. Either a contingent or an outright up to 40 would probably be acceptable. Certainly I don't think that it should go up to 60, and I request you don't approve that, and if you go up to 50 feet as the Subdivision Committee discussed, then we request that it be contingent so that they can still build the plan as you see on the plan here.

WARREN Based on your site plan, disregarding the 10 feet that has been suggested for sidewalk, how much would you have to take off of that north end? What would that do to that parking site plan?

RATH The north curve line of the parking lot is about 42 feet or thereabouts from the centerline so it is about 5 feet from the existing right-of-way.

WARREN It would influence the parking layout then if you had to give a 12 foot contingent dedication, and didn't want to encroach upon it?

RATH That is correct. I have not talked to Via Christi. I think the site plan talks about reconstructing the sidewalk on the south side, and moving it back. It is a new sidewalk there as it was build 2 years ago. Maybe ask Via Christi to move the sidewalk on the north side back 2-3 feet, and still provide for landscaping and screening between the sidewalk and the parking lot, and it would still provide 2-3 feet between the sidewalk and the curb.

BISHOP Perhaps you could get together with Mr. Logan and perhaps with Planning and work out a compromise on the landscaping so people will be safer in walking in that area.

RATH Are you suggesting to move the sidewalk farther south on the north side and maybe relax the landscaping requirements? They do plan on doing some sort of ornamental screening fence around the entire parking lot. That is an arterial street and some landscaping will be required.

BISHOP A break in the ornamental fence would be nice for walk-in traffic.

RATH I can't answer that question. I don't know the intent on the fence on the north side. As you can see, there are no driveways proposed. I would suspect a continuous fence.

> **MOTION:** To approve Item 3-6 as the applicant has requested, with no dedication, additional street right-of-ways, sidewalk easement, or corner clip.
>
> **MITCHELL** moved, **WARREN** seconded the motion.

SUBSTITUTE MOTION: To approve Item 3-6 with a contingent dedication of at least 3 or 4 feet, and whatever corner clips can be worked out to provide for the concerns expressed by the Traffic Engineer, and encourage the applicant and Traffic Engineer, and the Planning Department to compromise on the landscape screening requirements.

BISHOP moved, **BARFIELD** seconded the motion.

VOTE: 4-7 fails. **(BARFIELD, GAROFALO, BISHOP, HERNANDEZ** for approval)

ORIGINAL MOTION: Vote 8-3 carries. **(BARFIELD, GAROFALO, AND BISHOP,** opposed**)**

3-7. DED2003-15 – Contingent Dedication of a Sidewalk and Utility Easement, for property located north of Pawnee and west of Hillside.

OWNER/APPLICANT: Howard I. White, Jr., H.I. White Corporation, 1030 Vincent Lane, Wichita, KS 67206

AGENT: Sandy Roberts, 667 Oak Forest Lane, Derby, KS 67037

LEGAL DESCRIPTION: The south 10 feet running parallel to Lot 1, Block G, except the east 11 feet thereof, together with the vacated alley adjacent on the west, Maple Wood Addition, Wichita, Sedgwick County, Kansas.

PURPOSE OF DEDICATION: This Dedication is associated with a conditional use (Case No. CON 2002-05) that was approved, subject to the dedication of a 10-foot contingent sidewalk and utility easement along Pawnee.

STAFF RECOMMENDATION: Accept the Dedication.

MOTION: To approve, subject to staff comments and citing the findings in their report.

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

4-1. VAC2003-35 – Request to Vacate a Portion of a Platted Floodway.

APPLICANT/OWNER: Bachrodt Reality

AGENT: MKEC Engineering Consultants Inc c/o Greg Allison

LEGAL DESCRIPTION: The portion of the platted floodway as recorded on the west 50-feet of Lot 9, Block 2 Mediterranean Plaza Addition, Wichita, Sedgwick County Kansas.

LOCATION: Generally located northwest of the 29th Street North – K-96 interchange, and northeast of the Cypress Street – 29th Street North intersection.

REASON FOR REQUEST: Development of the site

CURRENT ZONING: Subject property and properties to the west, east and north are zoned "LI" Limited Industrial. Property to the south is zoned "GO" General Office.

The applicant is requesting consideration to vacate a portion of the platted floodway located on Lot 9, Block 2, Mediterranean Plaza Addition. The Mediterranean Plaza Addition was recorded in 1988. There is a Lot Slit associated with this vacation request. The Lot split would divide Lot 9 into 3 tracts. There is sewer in the area of the proposed vacation that appears to be a in a 30-foot sanitary sewer easement.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works and other utility representatives, Planning Staff recommends approval to vacate that portion of platted floodway as described in the legal description 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, by publication in the Derby Reporter of notice of this vacation proceeding one time July 17, 2003 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 floodway 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 floodway described in the petition should be approved with conditions;

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

(2) All improvements shall be according to City Standards.

(3) Establish a floodway reserve per the approval of the Public Works Engineer.

(4) Complete the Lot Split of Lot 9, Block 2, Mediterranean Plaza Addition per the City Standards for recording with the Register of Deeds.

(5) Provide a Restrictive Covenant with the Lot Split that establishes ownership of the floodway reserve and the responsibility of maintenance of the reserve.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

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

(2) All improvements shall be according to City Standards.

(3) Establish a floodway reserve per the approval of the Public Works Engineer.

(4) Complete the Lot Split of Lot 9, Block 2, Mediterranean Plaza Addition per the City Standards for recording with the Register of Deeds.

(5) Provide a Restrictive Covenant with the Lot Split that establishes ownership of the floodway reserve and the responsibility of maintenance of the reserve.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WARREN moved, **COULTER** seconded the motion, and it carried (11-0).

4-2. VAC2003-36 – Request to Vacate Access Control.

OWNER/APPLICANT: The Waterfront Commercial Properties, LLC c/o Johnny Stevens

AGENT: MKEC Engineering Consultants c/o Brian Lindebak

LEGAL DESCRIPTION: Platted access control, located on the 13th Street North side of Lot 8, The Waterfront Addition, Wichita, Sedgwick County, Kansas.

Uses of platted Reserve H, located on the southwest corner of Lot 8, Block 1, The Waterfront Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located northeast of the 13th Street North – Webb Road intersection, 1401 Waterfront Parkway.

REASON FOR REQUEST: The applicant proposes relocation of access for improved access and parking lot circulation for Lots 6-8, The Waterfront Addition.

CURRENT ZONING: Subject property and all adjacent or abutting properties are zoned "LI" Limited Industrial

The applicant proposes vacation of the current complete access control along the 13th Street North side of Lot 8, The Waterfront Addition and vacation of Reserve H. The Waterfront Addition was recorded 01-24-2003.

Currently there is 371.76-feet of complete access control along east side of Lot 8's 13th Street North frontage. The west end of Lot 8's 13th Street North frontage has 60-feet of right-in – right-out access onto 13th Street North. The applicant proposes 200-feet of complete access control along the east side of Lot 8's 13th Street North frontage, with the remaining west 231.76-feet of Lot 8's 13th Street North frontage having one opening of right-in – right-out. The size and location of this access within the 231.76-feet has not been specified.

Reserve H was platted for monuments, landscaping, irrigation, and open space. Reserve H is located on the southeast corner of Lot 8 and is confined within the intersection of two 25-foot utility easements.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works and other utility representatives, Planning Staff recommends approval to vacate the platted complete access control, the platted right-in – right-out access and the uses of Reserve H as recorded on Lot 8, Block 1, The Waterfront Addition 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, by publication in the Derby Reporter of notice of this vacation proceeding one time July 17, 2003 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 uses of Reserve H 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 completed access control and the uses of Reserve H described in the petition should be approved with conditions;

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

2. All improvements shall be according to City Standards.

3. Any portion of the 231.76-feet the applicant has currently proposed for right-in – right-out that is not in the Traffic Engineer's approved location, will be dedicated as complete access control by a separate instrument, which will include the proposed 200-feet of complete access control proposed by the applicant. Dedications will be furnished to the Planning Staff and forwarded to WCC for final approval with the Vacation Order.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

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

(2) All improvements shall be according to City Standards.

(3) Any portion of the 231.76-feet the applicant has currently proposed for right-in – right-out that is not in the Traffic Engineer's approved location, will be dedicated as complete access control by a separate instrument, which will include the proposed 200-feet of complete access control proposed by the applicant. Dedications will be furnished to the Planning Staff and forwarded to WCC for final approval with the Vacation Order.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WARREN moved, **COULTER** seconded the motion, and it carried (11-0).

4-3. VAC2003-37 – Request to Vacate a Drainage Easement.

OWNER/APPLICANT: Waterfront Commercial Property LLC c/o Johnny Stevens

AGENT: MKEC Engineering Consultants c/o Brian Lindeback

LEGAL DESCRIPTION: The platted 20-foot drainage easement as recorded on Lot 8, Block 1, The Waterfront Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located northeast of the Webb Road – 13th Street intersection, 1401 Waterfront Parkway.

REASON FOR REQUEST: Relocation of easement.

CURRENT ZONING: Subject property and all abutting and adjacent properties north, west, east and south of the site are zoned "LI" Limited Industrial.

The applicant is requesting that a 20-foot wide platted drainage easement be vacated, to allow development on the site. The platted easement is recorded on Lot 8, Block 1, The Waterfront Addition, 1401 Waterfront Parkway. The Waterfront Addition was recorded 01-24-2003. There is sewer and an easement that intersects the drainage easement.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works and other utility representatives, Planning Staff recommends approval to vacate the platted drainage easement as recorded on Lot 8, Block 1, The Waterfront Addition 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, by publication in the Derby Reporter of notice of this vacation proceeding one time July 17, 2003 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 drainage easement and the public will suffer no loss or inconvenience thereby.

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

B. Therefore, the vacation of the portion of the platted drainage easement described in the petition should be approved with conditions;

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

2. All improvements shall be according to City Standards.

3. Vacate only that portion of the easement as approved by the Public Works Engineer and dedicate additional feet of easement to the north side of the platted easement as approved by the Public Work Engineer, provide the Planning Staff with the original dedication for recording with Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

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

(2) All improvements shall be according to City Standards.

(3) Vacate only that portion of the easement as approved by the Public Works Engineer and dedicate additional feet of easement to the north side of the platted easement as approved by the Public Work Engineer, provide the Planning Staff with the original dedication for recording with Register of Deeds.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WARREN moved, **COULTER** seconded the motion, and it carried (11-0).

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5. **Case No.: CON2003-19** Hoang & Thep Nguyen (owner/applicant) request Conditional Use to permit vehicle sales on property zoned "LC" Limited Commercial on property described as;

Lots 11, 12, 13, 14, 15 and 16, Block F, East University Addition to Wichita, Kansas, Sedgwick County, Kansas. Generally located on the northwest corner of Seneca and Figg.

Deferred from MAPC July 10, 2003

BACKGROUND: The applicants, Hoang & Thep Nguyen, are requesting consideration and recommendation for a Conditional Use to allow used car sales on property zoned "LC" Limited Commercial. The property (0.48 acres) is described as Lots 11-16, Block F, East University Addition, located on the northwest corner of the Seneca Street - Figg Street intersection. The Unified Zoning Code requires a Conditional Use for vehicle and equipment sales, outside in "LC" zoning. The applicant has submitted a site plan.

The property contains a vacant 1,530 sq.-ft building. The building was used as a gas station with a two bay attached garage and the applicant proposes to use it for an office and a repair – detail shop. There is a concrete parking/service area (in fair shape) where they propose to display the cars and provide parking. There is also a large canopy over what used to be the area where gas pumps were located.

The site plan shows 6 parking spaces to be provided, which is sufficient for this site. There are 12 spaces for display. The site plan shows approximately 24-feet of circulation on the Hydraulic side and 25-feet on the Figg side. There is a potential bottleneck for circulation on the Figg side, where the space between the building and the display area leaves only 15-feet for circulation.

The site currently has 4 existing entrances/exits (entrances); 2 on Figg and 2 on Seneca. The site plan shows the 2 entrances that are closest to the Figg – Seneca intersection as being closed, leaving the two farthest entrances from the intersection open. The site plan shows the closed entrance on Figg to be landscaped. The two proposed openings do not conflict with existing openings on across the street properties. The site has an old light pole/sign (without light fixtures attached) located on the southwest side of the site. The site plan shows it removed.

The site plan shows proposed landscaping and the existing landscaping. The existing landscaping on the north and west sides is enhanced with additional trees. The new, additional landscape areas are along the site's east side. The applicant has applied for credit of landscaping in the Figg ROW, with the condition that the owner of the property maintain it and replace it when necessary. The applicant proposes a new 6-foot wooden fence enclosing an area behind the building, where vehicles waiting for detail work or repair are kept. This area will have to have an approved all weather surface on it. Bay doors open into this area.

Seneca, from McCormack to Harry, is an almost uninterrupted 4½-block strip of commercial zoning, with a few single family-residences/structures (most between McCormick & Stillwell Avenue; 2 out of 7 blocks) mixed in with small older commercial development and vacant property or vacant structures. The most recent developments (and exceptions to the most of the area's development) on Seneca are the Quick Trip convenience store southeast of the site and the Sedgwick County Government complex, several blocks north of the site. Other development along the strip includes a car lot (BZA13-89), various auto repair and parts businesses, restaurants, liquor stores, bars, small retail strips and small offices.

There is single-family residential housing (zoned "LC") immediately north of the site. The properties west of the site are zoned "MF-29" and developed as single family residential. East of the site, across Seneca, there is a vacant business, a vacant lot, a retail business and single family residential. Development south of the site includes an auto repair and parts business, the Quick Trip, a bar and a vacant single-family residence. The auto repair and parts business was given an exception, BZA6-16, to sell cars on part of its site. There was no evidence of cars being sold on this section of this business. Beyond the Seneca strip to the west the area is developed as single-family residential, while to the east the area is zoned "LI" and developed as small industrial sites.

CASE HISTORY: The East University Addition was entered on transfer record in 1886.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC" Limited Commercial	Single-family residential
EAST:	"LC" Limited Commercial	Auto parts, vacant land
	"LI" Limited Industrial	vacant business, single-family residence, warehouse, industrial
SOUTH:	"LC" Limited Commercial	auto repair and parts, vacant residence, convenience store, restaurant, bar, car sales lot
WEST:	"MF-29" Multi-Family Residential	Single-family residential

PUBLIC SERVICES: Seneca is a five-lane arterial street. Figg Street is a residential road. The estimated traffic volume of (ADT) trips per day at the Seneca - Harry intersection is 3,791 ADTs on the west side, 18,814 ADTs on the north side, 6,876 ADTs on the east side and 17,955 ADTs on the south side. Water/sewer and other municipal services are provided to the site. There is no CIP for this section of Seneca.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide, as amended in 2002, of the Wichita – Sedgwick County Comprehensive Plan identifies this property as Commercial. The current zoning of the site is "LC" Limited Commercial. The Unified Zoning Code requires a Conditional Use for vehicle and equipment sales, outside in "LC" Limited Commercial zoning. The Wichita – Sedgwick County Comprehensive Plan, as amended by Resolution 5-02, directs the location of auto sales lots and other types of infrequent purchase or non-neighborhood serving commercial uses to areas (existing or planned) containing similar uses and away from neighborhood commercial areas. This area contains neighborhood commercial and auto sales lots and other types of infrequent purchase or non-neighborhood serving commercial uses in the industrial properties immediately to the east.

The Wichita Residential Area Enhancement Strategy of the Comprehensive Plan identifies this area as a Revitalization Area. A Revitalization Area is an area that is experiencing structural and market decline where private investment and development opportunities need to be encouraged through neighborhood stabilization and rehabilitation. Redevelopment of the site into a car sales lot will bring a vacant property back into use, with conditions attached to it that would improve the property. The long-term revitalization benefit to the area of the Conditional Use to allow a car lot is uncertain. It is not known how long the car sales lot closest to the site has been not used, nor is it known how continuous the car sales lot further south has been used. Neither of these lots meets current development standards for car sales lots and to have the properties in use rather than them being vacant seems preferable. Approval of car sales lots has a tendency to attract more of these request/applications to the area where they are approved.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED, with conditions. The Comprehensive Plan does not indicate that a used car lot would be appropriate for this area, but there are other vehicle sales lots existing in the general vicinity. The MAPC has generally approved car sales lots on sites similar to this one, with conditions for development that would minimize impact on the area. Some members of the MAPC have indicated a desire for Staff to be more flexible in considering vehicle sales request.

1. In addition to uses permitted in the "LC" Limited Commercial district, the site shall be limited to the sales of cars and light trucks. No sale or rental of trailers, vehicles or trucks larger than pick ups.

2. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be permitted without first obtaining "GC" General Commercial zoning.

3. The applicant shall submit a revised site plan for review and approval by the Planning Director, prior to the issuance of a building permit, per City Standards. The site will be developed according to the revised site plan.

4. The applicant shall install and maintain landscaping in accordance with the revised landscape plan submitted with the revised site plan.

5. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-way.

6. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons.

7. There shall be no use of elevated platforms for the display of vehicles. All vehicles for dale or for repair or detail must be on an approved all weather surface.

8. No amplification system shall be permitted.

9. No outside storage of salvaged vehicles or parts shall be permitted in association with this use.

10. The lighting standards of Section IV-B.4 of the Unified Zoning Code shall be complied with. No string-type lighting shall be permitted.

11. The applicant shall erect and maintain solid six-foot screening along the western property lines that is adjacent to residential zoning and the existing residential development.

12. The applicant shall guarantee the closure of the Seneca and Figg entrances that are closest to the intersection and continue the curb and gutter according to City standards. Dedication of access control closing the Seneca and Figg entrances that are closest to the intersection by separate instrument shall be submitted to Staff for recording.

13. Dedicate 15-feet of ROW along Seneca Street. Dedicate 2 1/2-feet of ROW to Figg. Dedicate 3-feet of ROW to the alley.

14. The applicant shall obtain all permits necessary to make the required site and landscaping improvements; all improvements shall be completed within one year of approval of the Conditional Use by the MAPC or governing body, as applicable. No selling of cars shall be allowed until all permits and improvements to the site have been made.

15. 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 area is zoned "LC," "LI" & MF-29". The existing businesses in the neighborhood are local retail in character, except for an existing car sales lot. There is established residential development adjacent to the site on the west sides. A location further east that would be in the warehouse – industrial area would be more appropriate.

2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed with one of the many "LC" permitted uses.

3. Extent to which removal of the restrictions will detrimentally affect nearby property. Outdoor storage and display of vehicles already exist in the area. Approval of this request will most likely open other sites nearby for additional vehicle sales lots and other "heavier" commercial uses.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Unified Zoning Code requires a Conditional Use for vehicle and equipment sales, outside in "LC" Limited Commercial zoning. The Wichita Land Use Guide of the 1999 update to the Wichita – Sedgwick County Comprehensive Plan identifies this property as Commercial. The current zoning of the site is "LC" Limited Commercial. The Wichita – Sedgwick County Comprehensive Plan, as amended by Resolution 5-02, directs the location of auto sales lots and other types of infrequent purchase or non-neighborhood serving commercial uses to areas (existing or planned) containing similar uses and away from neighborhood commercial areas. The proposed car sales lot partially meets these criteria. The nearest operating car sales lot is located 2 blocks south. Another permitted car sales lot is ½ block south, but it is not operating; a car repair and parts business is on this site.

5. Impact on Community Facilities: All public facilities are available. Existing road facilities are adequate.

BILL LONGNECKER, Planning staff. The applicant and the planning staff have agreed to the approval of this Conditional Use with the conditions on page 4 and page 5 of your staff report. The DAB did not approve or deny the car lot, however they did note that putting this property back into a use was an improvement over its current vacant state.

ALLEN HOAG NGUYEN I am here today to request the approval of the Conditional Use of the car lot. We will make the improvements as stated, and keep it up to date on the property. As for the recommendations by the staff, we will comply with those conditions and improve on the property as stated.

BISHOP I will be voting against the motion. The language that was included in the staff recommendation says that MAPD recommends for approval even though the Comprehensive Plan does not indicate that a used car lot would be appropriate for this are, but there are other vehicle sales lots existing in the general vicinity. The MAPC has generally approved car sales lots on sites similar to this one, with conditions for development that would minimize impact on the area. Some members of the MAPC have indicated a desire for Staff to be more flexible in considering vehicle sales request. I believe in essence what this consists of is an amendment to the Comprehensive Plan, and I wanted to get it on the record that this is an amendment I do not concur with.

MOTION: To approve Item 5 subject to conditions and recommendations from staff.

JOHNSON moved, **WELLS** seconded the motion, and it carried (10-1) **BISHOP** opposed.

6a. **Case No.: CUP2003-25 DP3 Amendment #3 (Associated with ZON2003-25)** – Coastal Wichita Retail, LLC, c/o Daniel R. Baker, General Manager (owner); J. Larry Fugate (owner but not applicant); AM Consulting, Inc. c/o Kim Edgington (agent); Landmark Commercial Real Estate, c/o Brad Saville (agent) request Amendment to The Twin Lakes Shopping Center Community Unit Plan;

and

6b. **Case No.: ZON2003-25 (Associated with CUP2003-25 DP3 Amendment #3)** - Coastal Wichita Retail, LLC, c/o Daniel R. Baker, General Manager (owner); J. Larry Fugate (owner but not applicant); AM Consulting, Inc. c/o Kim Edgington (agent); Landmark Commercial Real Estate, c/o Brad Saville (agent) request Zone change from "SF-5" Single-Family Residential, "B" Multi-Family Residential, "LC" Limited Commercial and "GO" General Office to "GC" General Commercial on property described as;

All of Block 1, Lakeview Estates, a replat of Lots 1-4-5 and part of Lots 2 and 3, Lakeview Addition, Wichita, Sedgwick County, Kansas; and all of Lot 1 and part of Lots 2 and 6, Block A, Lakeview Estates 2nd and replat of part of Lots 2 and 3, Lakeview Addition, Wichita, Sedgwick County, Kansas, described as follows: Beginning at the Northeast corner of said Block 1; thence West 766.99 feet; thence South 158.71 feet; thence West 158.71 feet to the West line of said Block 1; thence South along the West line of said Block 1 and said Lot 6, in Block A, 1248.08 feet to a point 100 feet North of the lot corner common to said Lots 5 and 6 in Block A; thence East parallel with the lot line common to said Lots 5 and 6 in Block A, 98 feet; thence North parallel with the West line of said Lot 6 in Block A, 387 feet more or less, to the South line of said Lot 2 in Block A extended West; thence East along said South line extended, 1000 feet, more or less, to a point 375 feet West of the Southeast corner of said Lot 2 in Block A; thence North parallel with the East line of said Lot 2, Block 1, 265.55 feet to the North line of said Lot 2 in Block A; thence West 143.84 feet; thence North along the East line of said Lots 2 and 1 in said Block A, and in said Block 1, 712.36 feet to beginning. Generally located at the southeast corner of 21st Street North and Amidon.

Deferred from MAPC July 10, 2003 and July 24, 2003

BACKGROUND: The applicant proposes to amend DP-3 Twin Lakes Shopping Center Community Unit Plan by dividing the main shopping center into two large parcels (Parcels 2 and 8) and five smaller parcels and to add approximately three acres zoned "SF-5" Single-family Residential that is part of the lake to the south. This three-acre portion of the lake is held in the same ownership as the Twin Lakes Shopping Center. The bulk of the lake is held in separate ownership by the adjoining apartment development, and is not included in the C.U.P.

The applicant eliminated a request to increase the area allowed for drinking establishments.

Currently, the majority of the 22-acre tract is zoned "LC" Limited Commercial, including Parcel 1, the main shopping center. Parcel 1 would be divided into the two main parcels (Parcels 2 and 8) and five smaller parcels. The existing Parcel 2 would be relabeled Parcel 3. It is a strip about 100 feet wide along Amidon Street that is zoned "GO" General Office and is a parking lot. The existing Parcel 3 is a buffer strip of "B" Multi-family Residential along Woodrow Avenue that would become part of Parcel 8. A portion of Parcel 1 (37,500 square feet) is already zoned "GC" General Commercial, and would become a part of Parcel 8 also.

The shopping center is on two levels with two main buildings. The upper level has retail stores, restaurants, a drinking establishment, a craft mall, and a theatre. The lower level has offices including a ComCare and a Kansas Division of Motor Vehicles ("DMV") office, a medical office, a private club, and an electronics firm. Also, a large part of the old Sears Department Store is vacant. A wireless communication monopole and a driver testing site for the DMV are located on the southeast part of the site.

Originally the applicant had requested to rezone the entire property "GC" but this request has been modified to rezone only the footprint of the main buildings on Parcel 2 and 8 to "GC" plus a modest expansion of the current parking lot area to "GC" but to allow general commercial uses within the buildings on the lower level only of the two-level shopping center and in the "GC" parking lot area. The parking lot area along Woodrow would be rezoned from "B" to "LC".

The applicant is willing to eliminate many of the "GC" uses from Parcels 2 and 8, and to follow the more stringent screening and buffering requirements for the "LC" district around any outdoor "GC" uses. Portable storage containers would be prohibited.

The uses to be excluded from Parcels 2 and 8 on the lower level are: adult entertainment establishments, correctional placement residences, day reporting centers; auditorium or stadium; animal care, general; kennel, hobby; night club in the city; recreation and entertainment, outdoor; riding academy or stable; tattooing and body piercing; tavern and drinking establishment; vehicle sales except auto rental agencies; vehicle repair, general; asphalt or concrete plant, limited; manufacturing, general; recycling processing center; vehicle storage yard; welding or machine shop. Outdoor display and storage in conjunction with secondhand stores would be prohibited. Upper level— all uses allowable in "LC" zoning except adult entertainment establishments, day reporting centers; correctional placement residences, tattooing and body piercing; night club in the city. Wireless communication facility would be allowed per CUP2000-40.

The new "GC" uses allowed on the lower level would be: kennel, training only; microbrewery; monument sales; printing and publishing, general; vehicle repair, general (body shop) limited to indoor only; warehouse, self-service storage; and manufacturing, limited; research services; warehousing; wholesale or business services.

Four small parcels would be added along 21st Street North and one small parcel along Amidon. Parcel 1 (0.59 acre) is a special circumstance. It is the area currently occupied by Taco Bell along 21st Street North, and is held in separate ownership from the remainder of the C.U.P. The parcel would retain its designation as "Parcel 1" because the owner of this parcel is not an applicant to this amendment. The zoning and development rights of this tract cannot be changed without a request by the owner of the Taco Bell parcel, or by action initiated by the governing body.

Parcel 4 (0.68 acre) is the location of the existing Wendy's on the northeast corner of the C.U.P. Parcels 5 and 6 are vacant except for a kiosk for a photo drop-off in Parcel 6. A 25-foot city water easement bisects Parcels 5 (0.69 acre) and Parcel 6 (0.46 acre) from the northwest corner to southeast corner. This is a major water transmission line and will impact the location of any buildings

on these two parcels, since the buildings must be located outside the easement. One additional small parcel is proposed along Amidon, Parcel 7 (0.45 acres).

Maximum building coverage would remain at 30 percent for old Parcel 1; no gross floor area or FAR requirements are included. Proposed height would remain at 45 feet or four stories for Parcel 1, but be reduced to two stories for the other parcels.

The amendment would replace the minimum existing parking requirement of 1,388 parking spaces currently in effect. It would be replaced with the minimum parking requirements of the Unified Zoning Code. The staff report for Amendment #1 stated that the parking requirements in 1993, based on City Zoning Code requirements applied to the existing uses, was 1,714 parking spaces. The staff report recommended that this requirement be reduced to 1,388 spaces based on the tenant mix, which included drinking establishments that could not be open prior to 6:00 p.m.

The C.U.P. drawing shows 1,017 parking spaces currently exist, which is well below the current requirement of 1,388 spaces and may be below the Unified Zoning Code minimum requirements as well. The DMV now uses a parking area as a test drive site. This removed over 200 parking spaces from the site. Without a detailed parking plan to document the current relationship between parking requirements and tenant mix, it is difficult to estimate the current requirements per code. According to the applicant's agent, the proposed mix of tenants will include uses with lower parking requirements, which will enable the center to meet its parking requirements.

The proposed building setbacks along 21st Street North and Amidon are set at a uniform standard of 35 feet. Currently they vary from 35 feet to 80 feet, and the 80-foot setback is an impediment to developing the parcels near the street.

The C.U.P. adds a provision for architectural consistency for any new buildings on Parcel 2 and prohibits metal as a predominant exterior material on this parcel. The only specific landscaping requirement is a 5-foot strip along Woodrow/20th Street and a 10-foot strip on Amidon. Otherwise landscaping would be per Landscape Ordinance.

Outdoor concerts/bands would be prohibited except for special events permitted by the city.

The character of the surrounding area is commercial to the north and west and residential to the south and east. The property north and west of the site is zoned "LC" Limited Commercial and is developed with smaller shopping centers on the other three corners of the intersection. The property south and east of the site is zoned "B" Multi-Family Residential and "SF-5" Single-Family Residential and is developed with the Twin Lakes Apartments, a recreational lake, and single-family residences in the Cornelison Addition.

CASE HISTORY: The subject property is platted as part of the Lakeview Estates 2nd Addition, which was recorded on February 13, 1964.

This is one of the oldest planned shopping centers in Wichita. The Twin Lakes Shopping Center CUP (DP-3) was as originally approved by the Planning Commission only on July 2, 1964 as a one parcel development zoned "LC", and amended by the Planning Commission only on January 21, 1965 by adding "B" zoned buffer and parking strip along Woodrow. On November 3, 1969, MAPC and on November 18, 1969 the Board of County Commissioners approved another amendment for the construction of the Sears store, and because this was the first approval by the BCC, it has been considered the original date of approval according to a portion of the file records. The case in 1969 reduced the width of the "B" buffer strip along Woodrow to its current size, added the southeast corner of "B" zoning at Woodrow and 20th Street North to provide parking for the multi-screen movie theatre. Z-3106 changed a small tract (37,500 square feet) from "LC" Light Commercial to "C" Commercial uses to permit outdoor display and storage for nursery and garden center use. Some of the property in this case was beyond the C.U.P. boundaries. During this amendment, limitations were established to balance the amount of retail, restaurant and drinking establishment uses with providing adequate parking. Limitations of 12,000 square feet on drinking establishments and 240,000 square feet for retail uses were approved. Amendment #2 was approved November 9, 2000, and allowed a cell tower in the "GC" zoned area.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC"	Shopping center
SOUTH:	"SF-5"; "B"	Twin Lakes Apartments; recreational lake
EAST:	"SF-5"; "B"; "LC"	Twin Lakes Apartments; single-family residences
WEST:	"LC"; "NR"	Shopping center, office development

PUBLIC SERVICES: Access is via Amidon Street, an arterial street, and 21st Street North, an arterial street. Traffic volumes in 2002 were high at the intersection, being 24,296 ADT (average daily trips) for Amidon south of 21st, and being 17,473 for 21st Street North east of Amidon. Projected traffic volumes for 2030 are 25,000 ADTs for Amidon south of 21st Street North, and 23,500 ADTs for 21st Street east of Amidon.

One additional access opening is requested on 21st Street North, and the access on Parcel 3 to Amidon is removed. Also, the applicant asked to remove a closure requirement for an opening on 20th Street North, but staff is requesting it be closed.

While some drive locations do not meet current separation guidelines, the raised median strips added to 21st Street North and Amidon restricts some of the access points to right-in/right-out only. Parcel 4 has a right-in/right-out on 21st Street north that is separated from another drive on 21st by 50 feet and is adjacent to a drive on Woodrow. It is recommended that the drive on 21st nearest Woodrow be closed for safety reasons.

The Traffic Engineer has requested dedication of a sidewalk/utility easement along Amidon in conjunction with a lot split requested for proposed Parcel 7, and has requested that the right-turn decel lane be extended from its current location in proposed Parcel 7 to the northern boundary of the C.U.P. on Amidon.

Residents east of Woodrow and at Twin Lakes Apartments have indicated concern with traffic from the shopping center through the neighborhood. Suggested traffic improvements are to close the 20th Street North opening, restrict right-turn southbound movements out of the access on Woodrow, as well as close the opening on 21st Street North nearest Woodrow Street as previously discussed Suggested traffic improvements are to close the 20th Street North opening, restrict right-turn southbound movements out of the access on Woodrow, and close the opening on 21st Street North nearest Woodrow Street.

Normal municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "commercial" and "high density residential" development.

Commercial Objective III.B encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", **Strategy III.B.2** seeks to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The **Commercial Locational Guideline #3** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

RECOMMENDATION: Twin Lakes has suffered from being an older shopping center in a mature area that no longer has the anchor tenants that made it a premier shopping center in the 1970s. Much of the lower level has been converted to office uses, but a large portion of the former Sears store remains vacant. These factors indicate a need to consider amendments to revitalize the center.

Neighborhood residents have indicated considerable problems with the operation of the existing drinking establishment. Complaints have focused on traffic traveling through the neighborhood unsafely, increased accidents and damage to property along Woodrow, noise, disorderly conduct, and destruction of screening and landscaping along Hoover. Based on these concerns the applicant is not seeking to increase the permitted size of drinking establishments or time limitations.

The revised requests with "LC" outdoor storage and screening requirements, restrictions in permitted uses eliminates many of the more intense "GC" activities from the lower level and parking lot area where the "GC" uses would be permitted.

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. APPROVE the zone change (ZON2003-00025) to "GC" General Commercial for Parcel 8 (except for the area currently zoned "B") and Parcel 2, to be more legally defined by a description of the area enclosed by the building wall of the existing buildings, with this "GC" zoning subject to restrictions of the C.U.P (including limitation of "GC" uses to the lower level only); zone change to "LC" Limited Commercial for the tract zoned "B" Multi-family Residential. *(see attached exhibit that shows proposed boundaries of "GC")*

B. APPROVE DP-3 Amendment #3, subject to the following revisions to the C.U.P. plan submitted for the review:

1. A general provision shall be added to state: "No outdoor display or outdoor work and storage areas shall replace required parking areas." All outdoor work and storage areas and outdoor display shall be developed in conformance with the "LC" outdoor display and work and storage area requirements of the UZC.
2. A general provision shall be added to state: "Trash receptacles, loading docks and loading areas, outdoor work and storage areas, and rooftop mechanical equipment shall be screened from view from Amidon Street, 21st Street North, Woodrow Street, 20th Street North and the residential areas surrounding the lake."
3. Prior to the issuance of any building permits, the applicant shall submit a parking plan documenting compliance with the requirements of the Unified Zoning Code or provision of 1,388 spaces, whichever is less, to be reviewed by the Superintendent of Central Inspection. This plan shall document the square footage of individual uses or occupancy load, based the method of computation used by the Unified Zoning Code. The parking requirements shall not be reduced below the requirements of the Unified Zoning Code or 1,388 spaces, whichever is less.
4. General Provision #1A shall be revised to state "Maximum sign height adjacent to Amidon and 21st Street North shall not exceed 25 feet in height, except for one (1) shared tenant sign on each of Amidon and 21st Street that may be 30 feet in height. Any new or replacement ground signs shall be spaced at least 150 feet from adjoining signs along the Amidon/21st Street frontages, regardless of parcel ownership. The amount of ground signs shall not exceed 0.8 square feet of lineal frontage on 21st Street and Amidon. No ground signage is permitted on Woodrow. Other sign provisions per City of Wichita Sign Code."
5. A guarantee shall be submitted to close the drive on Parcel 4 nearest Woodrow, and General Provision #2 shall be revised to state "Parcel #4- 21st St., one (1) opening".
6. The right-turn lane on Amidon adjacent to Parcel 7 shall be extended to connect with the existing right-turn decel lane to the north, and a ten-foot sidewalk and utility easement shall be dedicated.
7. The drive opening on Parcel 8 south of Parcel 4 on Woodrow shall be modified to restrict right turn movements.
8. The drive opening on 20th Street North shall be closed.
9. General Provision #10 shall be revised to state "Development or redevelopment of Parcels 2-8...".
10. A landscaped street yard on the east property line of Parcel 8, consisting of solid evergreen plant materials or masonry or concrete wall with landscaping per the Landscape Ordinance shall be provided along Woodrow except at points of sight clearance.
11. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.

12. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this amendment by the MAPC or Governing Body, as applicable, 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 character of the surrounding area is commercial to the north and west and residential to the south and east. The property north and west of the site is zoned "LC" Limited Commercial and is developed with smaller shopping centers on the other three corners of the intersection. The existing development is that of an older shopping center with a changing mix of tenants to include less retail and more office uses. Also there has been a recent addition of a large drinking establishment. The property south and east of the site is zoned "B" Multi-Family Residential and "SF-5" Single-Family Residential and is developed with the Twin Lakes Apartments, a recreational lake, and single-family residences in the Cornelison Addition. The Twin Lakes Apartments is a stable multi-family development with many long-time tenants.

2. The suitability of the subject property for the uses to which it has been restricted: Most of the site is zoned "LC" with a small pocket of "GC", and can continue to be used as zoned. The "GO" zoning could continue in its current zoning for parking use. While "LC" is an appropriate zoning district for a typical shopping center, the vacancies particularly in the eastern end of the building argue for broadening the C.U.P. to allow some "GC" uses on the lower level.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Allowing an increase in outdoor display and storage could discourage leasing of the property to other uses unless screened to more stringent "LC" standards.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: As modified by applicant and staff recommendations the changes should allow for some redevelopment of the shopping center with a wider variety of uses, and a reduced setback to allow better use of the site nearer the arterial street. Signage, landscaping, site plan review and use limitations would increase the conformance of the C.U.P. development to the commercial guidelines of the Comprehensive Plan.

5. Impact of the proposed development on community facilities: Closing the drive opening where it is adjacent to another drive will reduce a point of conflict. Otherwise, the access is virtually the same as currently in effect. The raised medians already serve to limit some of the driveways to right-in/right-out only, thus reducing traffic conflicts.

BILL LONGNECKER, Planning staff presented the staff report. The staff has recommended approval of this CUP amendment, and the zone change with the conditions listed on pages 6, 7, and 8 of the staff report. This was consider by DAB 6 at their 08-04-2003 meeting. The DAB at that time voted to approve the proposed amendment and the zone change with the exceptions noted on page 7 of the staff report, Items 5, 7, and 8. Also be advised that they went with the applicant's recommendation on those. Staff is noting that there is a plat filed for this CUP, and that these access control items listed on Items 5, 7, and 8 will be addressed during platting. The other item that the applicant is asking for is a change is on page 6, at the bottom of the page, the statement where the applicant wants to expand the GC zoning rather than have it confine to the footprint of the building on the lower level. They want more extensive GC zoning. Staff's understanding is that a metes and bounds description would be required for this, and this something that the applicant is objecting to at this time. It should be noted also, that the DAB did not object to the language of the approval that was stated on the bottom of page 6. The DAB in their recommendation went with the language in the staff report with the exceptions of Items 5, 7, and 8, and those access control issues will be addressed during the platting and the applicant has turned in a plat at this time.

BISHOP The automobile rental business, that would include outside storage within that area for vehicles being utilized by an auto rental?

LONGNECKER Automobile rental is not considered outside storage because vehicles are coming and going, as opposed to vehicles not moving for 72 hours, which is the distinction between storage rather than parking.

AM CONSULTING, KIM EDGINGTON, 142 N. Emporia. We have asked to expand some of the allowed uses so that we can have a better marketing opportunity for this property. We have held a series of neighborhood meetings in the Twin Lakes apartments. We did go the DAB this past Monday, and some of the changes that we requested the DAB agreed with. That was the elimination of 5, 7, and 8 of staff's recommendations. Another Item that Mr. Longnecker referred to that really did not get addressed by the DAB is our request to rezone the entire Parcels 2 and 8 to General Commercial, rather than how staff has requested to provide a metes and bounds description that just is under the building footprint. As Mr. Longnecker said, we are replatting this property, and the plat and the lots are going to the Parcels of the CUP, and we are asking for the sake of simplicity that the boundaries of the zoning also match the lot lines, and the parcel boundaries so that those are all tied together. There is the CUP that is going to overlay this so it does not allow any additional uses, and merely makes for a lot cleaner, simpler way to describe everything. We would ask that you would consider the language be changed so that we are not limited to just those building footprints for the zoning.

The only other item was something that was brought to our attention following the DAB meeting Monday, and that was the restrictions of these "GC" uses to the lower level only. As you will note on the slide here, there is an area that is already zoned "GC" right here, and that encompasses what had been the garage area of the old Sears building. So we are asking that those additional "GC" uses be allowed only on that location there, because in essence, if we are limited to only the lower level we would be taking away uses that are currently allowed, so we are asking that language be changed just slightly so that area that is already zoned GC would be included. This building is 39 percent vacant at this time, so it is struggling.

HENTZEN You want to leave the "GC" where it is as "GC," on the bottom level where that Sears garage was?

EDGINGTON That is upper level actually. The Sears garage bays are on the upper level, and that was our oversight when we put the language in that it said that the "GC" uses would be allowed on the lower level. Only we realized that would exclude those garage bays that are already allowed to have "GC" uses.

HENTZEN You want to leave that as "GC"?

EDGINGTON Yes, sir.

WARREN Do you have a site plan that will show what lot? Where is Lot 2 and Lot 8? It is what is outlined in red?

EDGINGTON Yes sir, that is the boundaries of our ownership.

WARREN So, what you are asking for is GC in that area which is comprised of Lots 2 and Lot 8?

EDGINGTON Right, so that would exclude all of the out Parcels along 21st and along Amidon.

WARREN Show me where Lots 2 and Lot 8 are. I did not know that we had an exclusion. I don't have a copy of the CUP. I am having trouble identifying where Lot 2 and where Lot 8are, when and what is excluded, and what is not part of Lot 2 and Lot 8.

EDGINGTON Approaches MAPC to show map in her possession.

GAROFALO You want GC on all of the mall?

EDGINGTON Right, and then the CUP limits that to LC uses only on the upper level.

GAROFALO So, you are asking GC on the upper and lower levels?

EDGINGTON Yes, because there is no way to differentiate. There is no mechanism to zone different layers, so it has to be down through the overlay of the CUP.

GAROFALO All of the out parcels are excluded?

EDGINGTON Yes, they are LC.

WARREN There are four of them?

GAROFALO Do you know why staff recommended what that recommended on the GC?

EDGINGTON I think that their intent was that they did not want any additional property zoned GC than what would absolutely be necessary, so they had asked for a metes and bounds description of the building footprint. However, we as the applicant, we don't see what benefit that gains given the fact that there is the CUP overlay, and there are provisions incorporated into the overlay that guarantee screening from the property to the south and to the east because the rest of that lake is still zoned SF-5. So we will be required to screen from that property regardless whether our property is LC or GC or what is zoned.

GAROFALO Dale, why was staff recommending what it recommending concerning the GC not all GC?

MILLER We are after the same thing, but we are going at it two different ways. Because of the way that it is currently zoned "LC" now, that was why we approaching it at the angle that we were. The map is "LC" today, and if you change it to "GC" then there is big chunk of "GC" sitting there, but I don't think in the bottom analysis that it makes a whole lot of difference either way you go. Because as Kim pointed out, there is that provision in the CUP language that even though it would show up as "GC", it would be limited to "LC" uses and we were trying to keep the "GC" uses to that lower level.

EDGINGTON We are looking at it from a practical standpoint as far as title work is concerned on the property, as far as ownership information, there are issues with financing that if the zoning and the plat and the parcel boundaries of the CUP all match up it makes for a lot simpler process. It eliminates the confusion as to why some of those boundaries don't match, and in the future it will help.

DUNLAP The Wendy's on the northeast corner of this, and I am looking at the 21st Street driveway, we are not closing one that is existing for that business are we?

EDGINGTON The recommendation in the staff report was that the easternmost driveway to Wendy's be closed. That was something that the DAB recommended against, and something that we have also asked be removed from the recommendations. We are contractually obligated at this point to provide a set number of accesses that Wendy's has, so there would be a definite problem if we tried to go back and change that.

MITCHELL Will the plat reflect the omission of 5, 7 and 8?

EDGINGTON The plat has just now been submitted so that issues will still have to be worked out with Traffic Engineering, and through the platting processes. One traffic item that we have agreed to is the addition of an right turn lane along Amidon, so we are going straighten out the notch, and make that a continuous right-turn lane. So there are still access issues that will need to be handled at the time of platting.

MITCHELL Have you submitted the plat?

EDGINGTON Yes, we have the preliminary.

MITCHELL What does it show?

EDGINGTON The plat shows the accesses as they are today.

BISHOP I think I understand at this point what you are asking for in terms of what area you want to be modified to "GC" but, what I don't understand is why that is coming up at this point. The fact that staff and the applicant were not in agreement about that was evident at the DAB meeting.

EDGINGTON Yes, we did discuss this at the DAB meeting, also on Monday. The reason we deferred this item the first time was so DAB could hear it first before MAPC.

ROSALIE BRADLEY, 1401 Julianne, President of the North Riverside Neighborhood A. We have had a number of meetings with the applicant's representatives. We are not clear on a few things. The old Sears building is being licensed for a drinking establishment, a nightclub, and a restaurant and is a big issue for the neighborhood. We accepted what came to the DAB, which was the zoning for residential next to the street was in place to help protect the houses across the street with screening. If all the zoning goes GC, as I understand it, the "GC" screening is a lot less than it is for "LC" zoning. One of the reasons for the "LC" zoning was the landscape buffer to protect the residential area across the street. The shopping center is connected to the residential areas by walking paths along the lake where a lot of people walk. The apartment complex has keys for the gate and fence along the lake and where the path is. Another issue is the zoning change for the part of the lake from multi-family to GC. How will this affect the screening and its placement, its reference to the lake? The neighborhood did accept the LC zoning on the upper level, but the nightclub was one of the objections we did have when went over through the applicant's list. We also objected to the proposed increasing of the drinking establishment square footage and locating it all in Parcel 8, which is the Sears store. This is too close to the residential area. There are problems every time they are open, and there are calls to 911 at least once per night when they are open. There have been some bad management decisions in the past that have negatively affected the neighborhood as well as the shopping center.

BARFIELD Are you saying that the night club would occupy both levels of the Sears building?

BRADLEY It occupies the upper level right now. The Sears building on the basement level has a lot of the DMV offices in there. When the application first came in, they wanted to increase the drinking square footage to 20,000 and limit it to tract 8, which would be the Sears store.

BARFIELD There is no drinking establishment there now?

BRADLEY The business there now does catering only. There is also Neighbors Bar and Grill.

BARFIELD Doesn't the DMV utilize most of that lower level?

BRADLEY In the old Sears' building. They use the parking to the east and back to the apartment complex on 20th and Woodrow. The driving tests are done behind the shopping center.

BISHOP You heard the discussion about what area would be subject to the zone change, and it appears that there was some discussion at the DAB meeting, but the DAB memo did not reflect that at all. Is there any guidance as to what area was discussed?

BRADLEY We went with what the staff report was, which was the "GC" for the footprint with the limitations of "LC" uses. It is a very confusing report. We did not have the map in final form, so we don't really know exact locations. We have to hope the information ends up on that is correct.

BISHOP So where it says recommend approval of the request with the removal of provisions 5, 7, and 8 to the CUP based on the way the property is as present, am I to read that as meaning the current footprint?

BRADLEY Yes. The traffic issues begin with the location of the club and those driveways onto Woodrow; too many drunk drivers, wrecks, and property damage in the neighborhood. However, the neighborhood chose not to close the access down. The club has a management problem and policing would do a lot to correct the problem and perhaps take away the license for the nightclub which is the problem.

HENTZEN Is this area included in the North Riverside area?

BRADLEY Yes, North Riverside is between the rivers.

GAROFALO I am looking at the report on page 6, one of your biggest concerns is the increase of the size of the drinking establishment?

BRADLEY Just the nightclub issue.

GAROFALO On page 6, it says that the applicant is not seeking to increase the permitted size of drinking establishments or time limitations.

BRADLEY Right now it is over the whole center. Center wide we can accept because that is what we have been living with.

TIM DUGGER, 2959 N. Rock Road #5100. I am the market development manager with the LDF companies, Wendy's franchisee I am mainly here to make sure that we are in the loop on the access issues. We did not even get a copy of the staff

recommendations. Our concerns are that the average Wendy's does two-thirds of its business through drive-through, so access and traffic flow control are extremely important to our store. Mainly I want to be clear on the access issues on 5, 7, and 8. Are they now being postponed to another time, because that is what is going to directly affect us.

MILLER Yes, that is the staff recommendations to defer the access control issues to the plat.

DUGGER So that is not being voted on today? Will there be a platting hearing? I want to make sure that we get the information from the City when things happen out there.

MILLER Neil, in our Department, can get that to you, and include you on the list for information.

PHILIP BLAKE 1632 W. 20. I have lived on that plat of ground before Twin Lakes was developed, 50 + years. I apologize for revisiting Mrs. Bradley's comment about the drinking establishment. I have lost one automobile, and the front of my house to drunken drivers coming in off of Twin Lakes and trying to cross that 90 degree turn at 20th and Woodrow. Another neighbor had an automobile go into her drive, which is on the on the corner, not 30 days ago. Traffic from the bar is a real problem. My concern is that incrementalism will creep in and 30 days, 60 days, 90 days from now they will want again to expand the drinking. Believe me the Tequila Club on the north side of the old Sears building is not an asset to the residential areas.

G KNUTE FRASER, 2422 N. Coolidge, 67204 just north of old Twin Lakes. I have access to the beat officers and they have expressed continued frustration over the activities and the problems they have with the club that is currently in the Twin Lakes and Sears store. We are totally against any increase any drinking establishments, nightclubs or anything to do with that. During the week nothing occurs, you don't see any cars there, until about 11 or 12 AM, then it is packed. They do most of their business between 11 p.m. to 3 a.m., and that is when a lot of the damage occurs, early in the morning. We have cars going up our street 60 and 70 mph coming out of the bar and into our residential area. They just built a new fire station in the area, which is the newest development in the area. We want everything better for the community, like the fire station and improving Twin Lakes, but increasing the nightclub space and the drinking establishments is not going to get it done.

BARFIELD Is this something that has just occurred? The speeding on your streets since the opening of the club or was this a problem before?

FRASER We have always had a little bit of that and some of it comes from the muffler establishment when they are testing their cars there but it has increased since then. I am talking about late at night.

BARFIELD Have these officers identified this traffic coming from the club?

FRASER Yes, I have talked to them and they have said they have had a problem there and everyone of them have said the same thing.

HERNANDEZ Mr. Fraser, at 3-4 a.m. in the morning you have increased traffic and the accidents. Do you know what time the Tequila Club closes?

FRASER I don't know, I am not usually up at that time in the morning. They have been there for about 2 ½ to 3 years. I don't if know there are a lot of people going there between 11 p.m. and 3 a.m. I don't think it is coming from the Twin Lakes apartments where the average age of the people that reside there is probably about 80 years old.

HERNANDEZ According to this, the applicant is not asking for an increase in the permitted size of the drinking establishments or time limitation. Are we looking at approving the zone change or looking at increasing the size of the nightclub?

FRASER My understanding is they already have permission to expand the nightclub into the rest of Sears, which is a gigantic area. They already have the west part, but I don't know what the zoning change would do with that, and I don't know what closing the access would do either. I just want you to be aware that the neighborhood is concerned, and the Police Department is as well, in regards to the club.

EDGINGTON We are not requesting to increase the allowed space for drinking establishments. The CUP sits that limitation at 12,000 square feet, and they can't be open before 6 p.m. We do not have permission to increase into the old Sears building. As far as that club, it is considered a drinking establishment and it is not considered a nightclub. The Zoning Code definition of the nightclub is not at all what we want to have in there. Traffic and management issues are with several clubs in this area, and several different establishments that are contributing to these problems. We are requesting that all access remains as it is, if we can work it out with staff remains to be seen.

The parking requirements in Item B (3): staff had done a very nice job. We cannot use required parking for any outdoor display, therefore ensuring that we are providing adequate parking, and we have done a parking study for this center and found that we have more than adequate parking.

You will note in your staff recommendations under Item B (1), we are required to screen per the requirements of "LC" regardless of what the property is zoned, so we feel that has guaranteed that regardless of what the zoning is. We will be required to have screening and landscaping controls to the south and the east. The screening will not be placed at a property line. The screening will be placed at the location of the outdoor storage.

BARFIELD Is it my understanding that the neighbors don't want the access on 20th Street closed?

EDGINGTON Yes, that is correct. The people in the neighborhood use that access as their means into and out of the shopping center. So it has been a balancing game. In regards to the questions of keeping people from coming out of the drinking

establishment into the neighborhood or closing access to the center, right now that is a big concern of ours because we want to get this off the ground.

BISHOP If the multi-family areas were rezoned to LC is there any intention to build in that parking lot area along the lake?

EDGINGTON No, and there is no ability to because of the building setbacks established along there.

DUNLAP On the southwest corner of the property there used to be a nightclub or a drinking establishment along Amidon.

EDGINGTON That is now a Twin Lakes Dinner Theater club and it is not considered a drinking establishment.

DUNLAP Around on the other side I think I heard that is now only catering.

EDGINGTON That is the reception and banquet hall, and that is not considered a drinking establishment or nightclub. Also there is a small establishment along Amidon called Neighbors, and that is not a drinking establishment either. It is classified as a restaurant based upon their sale of food and beverage.

DUNLAP Have you considered putting a gate on that thing and closing that thing at 6 p.m.?

EDGINGTON A lot of the retail that is there is open after 6 p.m. so we don't want to discourage retail traffic either.

GAROFALO The 12,000 square feet limitation, does that apply just to that one location?

EDGINGTON Right now that 12,000 square feet is over the entire center, and we are asking that it remain over the entire center rather than confine to any particular parcel.

HENTZEN The recovery of Sweetbriar and this proposal to get Twin Lakes back in suitable condition is good.

WARREN In an effort to revitalize this area and encourage better marketing and with the acceptance of a pretty restrictive CUP.

MOTION: To approve Items 6a & 6b subject to staff comments except that we delete items 5, 7, and 8 and that we accept the applicant's position on the area (Parcels 2 and 8) to be rezoned as to being the whole of the area as opposed to being the footprint of the building.

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

BISHOP Currently is there multi-family zoning along Woodrow and along the lake area?

LONGNECKER The zoning for the multi-family is confined to this strip along Woodrow, and it is to small to develop. The single-family zoning is along the lake or in the lake and would be difficult to develop because of its small size and location. At least half of the single family zoning is in the lake.

BISHOP So, we are proposing to change both of those which serves as somewhat of a buffer purpose to "LC".

LONGNECKER Correct.

BISHOP Because it would be changed to "LC" rather than a buffer, it would entail certain kinds of screening requirements?

LONGNECKER The staff report notes the property along Woodrow, Condition #10, will contain a landscaped street yard on the east property line of Parcel 8, consisting of solid evergreen plant materials or masonry or concrete wall with landscaping per the Landscape Ordinance shall be provided along Woodrow, except at the point of sight clearance.

MOTION CARRIED: (11-0).

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7. **Case No.: ZON2003-35** – Greenwich, LLC, c/o General Financial Services Mashnouk (owner), Baughman Company, PA, c/o Terry Smythe (agent) request Sedgwick County zone change from "RR" Rural Residential to "LI" Limited Industrial on property described as;

A tract in the Southeast Quarter of Section 28, Township 26 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at the Southwest corner of said Southeast Quarter; thence N 0 degrees 42'08" W along the West line of said Southeast Quarter, 296.03 feet to a point on a curve having a radius of 470.87 feet; thence southerly, southeasterly and easterly along said curve and through a central angle of 61 degrees 28'38", an arc distance of 505.23 feet, having a chord bearing of S 60 degrees 06'04" E, 481.34 feet to the point of tangency of said curve, said point being 50 feet north of the South line of said Southeast Quarter as measured at right angles; thence South 0 degrees 50'23" E, 50 feet to the South line of said Southeast Quarter; thence S 89 degrees 09'37" W, 414.43 feet to the place of beginning; AND EXCEPT that portion platted as S B S Industrial Addition, Sedgwick County, Kansas. Generally located on the northwest corner of 37th Street North and Greenwich Road

Deferred from MAPC July 24, 2003

BACKGROUND: The applicant is requesting to rezone a 149-acre tract from "RR" Rural Residential to "LI" Limited Industrial for development of industrial/warehousing types of uses. No specific users are identified for the tract.

The property comprises the quarter section of land located to the northwest of the intersection of Greenwich Road and 37th Street North, except for the ten-acre tract on the southwest corner of the quarter section. The property extends nearly one-half mile east to Lindberg Street and one-half mile north of 37th Street North. The upper reach of Dry Creek transects the property from the northwest to the southeast.

The surrounding property is used for agricultural purposes except for the ten-acre tract in the southwest corner of the quarter section that is the Sedgwick County maintenance facility, and the property to the west that is the location of the Colonel James Jabara Airport.

The site is located within Area A of the Wichita-Sedgwick County Airport Hazard Zoning Map. Properties within Area A require an Airport Hazard Zoning Permit Exemption for structures to exceed 25 feet in height. A review of the detailed Airport Hazard Zoning Map indicates that building heights on the subject property will be limited to a range of approximately 30-50 feet, with taller buildings permitted the farther to the east. A strip of land on the western edge of the site is within the building restriction line for Runway 18, and is within the runway protection zone that extends for 750 feet from the edge of Runway 18.

Several large tracts of "LI" zoning are located in the vicinity. This includes the land to the west of Jabara Airport (south of 39th Street North and west of Webb Road) and the property between K-96 and 29th Street North on the east and west (pending plating) sides of Greenwich.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR"	Agricultural
SOUTH:	"RR"; "SF-20"; "LI"	Agricultural, Sedgwick County yard
EAST:	"RR"	Agricultural
WEST:	"LI"	Jabara Airport

PUBLIC SERVICES: The site has access to Greenwich Road, a paved two-lane county arterial, 37th Street North, a paved two-lane county road, and Lindberg Street, a paved two-lane road in the city of Wichita. Annual traffic counts in 2000 were 1,900 vehicles per day (ADTs) on Greenwich, 205 vehicles (unadjusted count) on 37th Street North, and 160 vehicles (unadjusted count) on Lindberg Street. No 2030 traffic projections are available. No county or city C.I.P. projects are scheduled.

The nearest water lines to extend to serve the property are approximately one mile to the west on Webb (20" line) and one and one-half mile to the south at 29th Street North and Greenwich (16" line).

The land is in the Dry Creek Basin, and was shown in the sewer master plan as being served by a new northeast sewer plant. However, the northeast sewer plant was not planned for construction until the distant future. The nearest sewer lines available are one and one-half miles to two miles west and would require force mains to serve this land.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" of the *1999 Update to the Wichita/Sedgwick County Comprehensive Plan,* amended in January 2002, identifies the western half of the property as "industrial". The eastern half of the tract is designated as beyond the 2030 urban service area and is shown as "rural residential".

The Industrial Locational Guidelines of the 1999 Update to the Comprehensive Plan recommend that industrial uses should be located in close proximity to support services and provided good access to major arterials, truck routes, belt highways, utility trunk lines, rail spurs, airports and as extensions of existing industrial uses. Industrial uses also should be located away from existing or planned residential areas, and sited so as not to generate industrial traffic through less intensive land use areas. The Goals, Objectives, and Strategies section of the 1999 Update to the Comprehensive Plan contains the following strategy (V.D2.): "prevent encroachment of incompatible development around airports through the implementation of land use regulations that minimize high concentrations of people in takeoff/landing zones; provide appropriate noise-reducing construction; and prevent excessive building heights, glare, smoke, and other hazards to air traffic."

The Colonel James Jabara Airport Master Plan Update (1998) recommends, "to promote compatible land uses within high noise areas, hazard zones, and accident potential zones in alignment with the runway corridors. The planning agencies should discourage developers from building new residential properties, noise-sensitive community facilities, or land uses for large concentrations of people in non-residential uses which are in alignment with the Airport's existing and proposed runways." (pages 6-9 – 6-10)

RECOMMENDATION: Industrial uses, such as manufacturing, warehousing, wholesaling and business service types of uses are less sensitive to noise. These uses tend to be associated with lower concentrations of people per acre, which is desirable in proximity to airport runways. Often, high caliber industrial parks are viewed as one of the better uses to locate in close proximity to airports. Historically, Wichita's strongest employment base has been the aviation industry and related firms. The availability of industrial land in proximity to the airport could encourage linkages between the airport and the aviation industry.

The land between Webb and Greenwich extending from K-96 northward to 45th Street North is the heart of this airport/industrial district. The two tracts at K-96 and Greenwich were approved with "LI" zoning, but both tracts were subject to protective overlay provisions to restrict uses and require stronger property development standards.

Another way to achieve this caliber of industrial development is the "IP" Industrial Park district. The "IP" Industrial Park zoning classification does not permit residences, hotels, motels, RV parks, taverns, drinking establishments, retail stores, hospitals, nursing homes, schools, churches, correctional facilities, or recreational facilities. Coincidentally, these uses comprise the overwhelming majority of uses prohibited by the Airport Overlay District near McConnell Air Force Base, which indicates that these uses are recognized to have a potentially detrimental impact on airport operations. The "IP" district incorporates stronger property

development standards with 50-foot setbacks along streets, prohibiting of outdoor storage and work areas in front setbacks and screening of storage in other portions of the lot, and maximum height of 60 instead of 80 feet.

Staff recommends that the zoning for the application area follow the precedents set in industrial areas to the south with use restrictions and stronger property development standards. Staff also recommends that special care be taken to further restrict uses in the immediate vicinity of the airport runway protection zones and building restriction areas.

Specific transportation improvements and access controls are not included in the staff report. It is recommended that these issues be addressed at the time of platting.

Additionally, a strip of land abutting Lindberg Street is shown on the Jabara Master Plan as being within the building restriction line, and is within the 750-foot runway protection zone for Runway 18. It is recommended that no buildings or structures be permitted within this zone.

Based on this additional information, planning staff recommends that the request for "LI" Limited Industrial zoning be DENIED and instead that "IP" Industrial Park zoning be APPROVED, subject to platting the property within one year and subject to the following provisions of a Protective Overlay District:

1) That portion of the subject property located within an area that extends 750 feet wide from Runway 18 and identified as the runway protection line and building restriction line shall be restricted to the following uses: agriculture (subject to Sec. III-D.6.b); surface parking lots; outside storage areas subject to limitations of the "IP" district; and airplane runways and taxiways.

2) That portion of the subject property located within an area that is identified the Airport Master Plan (1998) as future acquisition shall be allowed all uses permitted by-right in the "IP" Industrial Park zoning district except: auditorium or stadium; college or university; community assembly; day care, limited and general; library; convenience store; personal care service; personal improvement service; restaurant; vocational school; and asphalt or concrete plant, limited.

3) Transportation improvements and access controls shall be determined at time of platting.

4) No development shall be permitted until public water and sewer service are available to serve the site.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property to the north, east and northwest is zoned "RR" Rural Residential and is primarily in agricultural use. Land to the southwest is a county maintenance yard, and the land on the west is Colonel James Jabara Airport; both are zoned "LI" Limited Industrial. Land west, southwest, and southeast of Jabara Airport is zoned industrial and developing with manufacturing and commercial uses, or is vacant.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR", and could continue to be used as agricultural land.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The rezoning could hasten the extension of water and sewer services to this vicinity earlier than anticipated. This would push the urbanization past the identified 2030 urban service area boundary.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the *Comprehensive Plan* identifies most of this area as suitable for industrial development. Industrial uses are viewed as complementary uses with airport facilities. The industrial development is intended to compliment the continued expansion of the Jabara Airport and prohibit residential use and other commercial and institutional land uses that attract large concentrations of population to the vicinity of the airport.

5. Impact of the proposed development on community facilities: The development would require extension of water and sewer services. Depending on the types of industrial uses, it will most likely generate the need for widening the roads or adding accel or decel lanes.

DALE MILLER, Planning Staff. Staff is recommending denial of the "LI" as requested, but staff is supporting approval of "IP" Industrial Park zoning. The main difference between the two uses is explained on page 4, in that third paragraph. Essentially, what we are suggesting is that we try and eliminate those kinds of uses that would concentrate people into this area because of the existence of the Jabara Airport, and to try and protect it so that it can maintain itself as a runway and be successful as an airport.

BARFIELD How far is this from the proposed industrial park from Bel Aire?

MILLER I don't know, maybe 1/2 mile.

MITCHELL It appears what you are doing with the western portion of their land is to take it without compensation?

MILLER The City of Wichita has dumped a large amount of money into the Jabara Airport and it is appropriate to try and protect that as a facility. We are not taking all of the uses. The Supreme Court, when they reviewed these cases, have indicated that restricting uses so long as there is an economic opportunity there is an appropriate action of the governmental body, and we are leaving a number of uses available. But, we are trying to be sensitive about the numbers of people that would be in the western third or quarter of the property.

MITCHELL But you do say that the City of Wichita has the intent of purchasing?

MILLER No, I am saying that the 1998 Master Plan indicated that as being appropriate for purchasing, but in talking with the Property Management people today, they say they are not pursuing anything out in that area at this time.

RUSS EWY, BAUGHMAN COMPANY, 315 ELLIS. The applicant is still pursing the "LI" zoning. This property is not in the path of the runway. We are not in the crosswind access, we are an elbow off to the northeast. If you are familiar with some of the uses that occur along Webb Road, you will notice that the "IP" district, which prohibits medical facilities, that there are medical facilities and even hospitals that are located along Webb Road near the airport. Recreational facilities, the IP district would prohibit the development of a golf course for example. The applicant is in the oil and gas industry, and the "IP" would prohibit most of the uses associated with that industry as well so for those three use reasons we still want the "LI" request. As far as the Protective Overlay recommended by staff, again the only provision, and quite frankly this is a mute point that will be handled at the time of platting, but the only staff item in the Protective Overlay that we would be in agreement with would be Item #3 which talks about the improvements to the roadways and the access controls be handled at the time of platting. Item 1, 2, and 4, we don't see the need for. Items 1 and 2 that Dale spoke to earlier, again those are things that the City can handle if and when this property is purchased in the future. Item 4, we feel is illogical in some ways. There is the ability to develop portions of this property independent of public water and sewer service. Again, we feel that would be a prohibition of development that we really don't need on the property.

WARREN You are requesting that we delete Items 1, 2, and 4 ,and you are willing to accept Item 3 along with the original request for zoning as "LI"?

EWY A Protective Overlay would not be needed because Item 3, even though we are in agreement with it, will be handled at the time of platting regardless. We are seeking our original request for "LI" and that we don't feel a PO to address Item 3 is necessary.

MOTION: To approve "LI" zoning and remove the Protective Overlay.

DUNLAP moved, **MITCHELL** seconded the motion, and it carried (10-1) **BISHOP** opposed.

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8. **Case No.: ZON2003-36** – Via Christi Regional Medical Center c/o Bob Levelle request Zone change from "LI" Limited Industrial, "GO" General Office and "B" Multi-Family Residential to "GC" General Commercial on property described as;

That part of J.P. Hiltons Addition, an Addition to Wichita, Sedgwick County, Kansas lying South of Murdock, East of Topeka, North of Pine and West of Emporia Street; more particularly described as follows:
Odd Lots 47 thru 57, inclusive, of said addition TOGETHER WITH; All of odd Lots 43 and 41, of said addition, except that part replatted by Topeka-Pine Addition. TOGETHER WITH; Even 40 thru 56, inclusive, of said addition TOGETHER WITH;
All of Topeka-Pine Addition, an addition to Wichita, Sedgwick County, Kansas. Generally located South of Murdock and east of Topeka

BACKGROUND: The applicant is seeking "GC" General Commercial zoning for Lots 41& 43, Topeka Pines Addition, the north 20-feet of Lot 47, 49 -57 odd and 40-56 even, J.P. Hiltons Addition located south of Murdock and between Emporia Avenue, Topeka Avenue and Pine Street. The lots are currently zoned "LI" Limited Industrial, "GO" General Office & "B" Multi-Family Residential. These lots are part of a site/block that the applicant proposes to develop into a family clinic center.

The site, along with the "GC" property north of the site, has recently been prepared for redevelopment. A parking lot along Murdock is the remaining active use on the site/block.

Across Murdock Avenue and north of the site is the dominant development of the area, the Saint Francis Via Christi Medical complex. The proposed development would follow a similar development pattern established in the area; assorted medical service offices expanding out of the Via Christi complex. West of the site (across Topeka) are older 2 -story single-family residences and a duplex. South of the site are a vacant bakery, a thrift store for bakery goods, the Metro Midtown Alternative High School, vacant properties and older apartments. Developments east of the site include a medical service, a small accessory structure, parking and vacant property.

CASE HISTORY: The date the J.P. Hiltons Addition was recorded is unreadable, but it is similar in appearance to other plats in the area that were recorded in the late 1880's –1890's. The Topeka-Pines Replat Addition was recorded 06-29-1987. A Preliminary Plat of the site/block, which includes the "GC" lots north of the site, has been submitted.

ADJACENT ZONING AND LAND USE:

NORTH:	"GC" General Commercial "LC" Limited Commercial	Medical Services, parking, vacant
SOUTH:	"GC" General Commercial "B" Multi-family "LI" Limited Industrial	Thrift store, apartments, vacant buildings, High School,
WEST:	"GC" General Commercial "B" Multi-family residential "GO" General Office	Residences, duplexes
EAST:	"GC" General Commercial "LC" Limited Commercial	Medical service, accessory building parking, vacant

PUBLIC SERVICES: Murdock Avenue is a five-lane arterial road. Topeka Avenue is a one-way going south two-lane arterial. Emporia Avenue is a one-way going north two-lane arterial. Pine Street is a two-lane local street. The daily traffic counts at the Murdock - Topeka intersection is 5,184 ADT north of the intersection, 3,395 ADT south of the intersection, 12,204 ADT west of the intersection and 12,400 ADT east of the intersection. The Murdock - Emporia ADT counts are similar or lower than the Murdock – Topeka intersection. The 2030 Transportation Plan projects no change for these roads. Public sewer and water services are available.

CONFORMANCE TO PLANS/POLICIES: Commercial location guidelines contained in the 2002 update of the *Wichita-Sedgwick County Comprehensive Plan* indicate that commercial sites should: be located adjacent to arterial streets or major thoroughfares; be coordinated with mass transit routes, high density residential, employment or other intensive uses; have site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential uses; be located in compact clusters or nodes versus extended strip development; and be located in areas of similar development, and where traffic patterns, land uses and utilities can support such development. The *Wichita Land Use Guide* depicts this site as appropriate for commercial uses.

The Wichita Residential Area Enhancement Strategy of the Comprehensive Plan identifies this area as a Revitalization Area. A Revitalization Area is an area that is experiencing structural and market decline where private investment and development opportunities need to be encouraged through neighborhood stabilization and rehabilitation. Redevelopment of the site into medical services does present an opportunity for stabilizing an area that is underdeveloped and in decline. The site is also identified as being in the CORE redevelopment concept plan, which proposes planned redevelopment of the area south of Murdock to just north of Central and from Topeka to Saint Francis Avenue. The proposed zone change and development does not appear to jeopardize the CORE redevelopment opportunities.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, with the condition that the site be replatted within a year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Properties to the south, west and east are zoned "LI" Limited Industrial, "GC" General Commercial, "GO" General Office and "B" Multi-family. Properties to the north and west are zoned "GC" and "LC" Limited Commercial. The area north of the site has experienced some recent medical services development, around the Via Christi Saint Francis complex. The areas south, west and east of the site have older apartments, parking lots, older businesses and some vacant sites. The Metro High School is expanding with new construction on its site.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "B" multi-family, "GO" General Office and "LI" Limited Industrial. The current arrangement of zoning on the site would allow small incompatible uses to be developed next to each other.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The requested zoning change to "GC" is in character with the area, as defined by the Saint Francis Via Christi medical complex. The requested zoning change and the proposed platting of the site/block would allow redevelopment of an underused site/block and be the largest extension of the Via Christi complex/medical services south of Murdock. The proposed zoning would not detrimentally affect nearby property, of which most of it is zoned "B","GC" & "LI" and developed as commercial or older apartments and homes

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested zoning change to "GC" matches the plan's recommendation of commercial uses for this site.

5. Impact of the proposed development on community facilities: Impact will be minimal, although traffic will increase as the site's current underdeveloped and vacant state changes to the proposed development.

BILL LONGNECKER, Planning staff, staff approves, DAB 6 approved.

MOTION: To approve, subject to staff comments and citing the findings in their report.

BARFIELD moved, **GAROFALO** seconded the motion, and it carried (11-0).

9a. **Case No.: CUP2003-38 DP238 Amendment #2 (Associated with ZON2003-37)** – Twenty First Growth, LLC (owner); MKEC c/o Greg Allison (agent) request Amendment to The Twenty First Commercial Community Unit Plan

and

9b. **Case No.: ZON2003-37 (Associated with CUP2003-38 DP238 Amendment #2)** – Twenty First Growth, LLC (owner); MKEC c/o Greg Allison (agent) request Zone change from "MF-18" Multi-Family Residential to "LC" Limited Commercial on property described as;

Lot 1, Block 6, Hawthorne Addition, Wichita, Sedgwick County, Kansas. Generally located North of 21st Street North and east of 127th Street East.

BACKGROUND: The applicant is requesting that Parcel 1 be rezoned from "MF-18" Multi-family Residential to "LC" Limited Commercial. Requested uses are all uses permitted in the "LC" Limited Commercial district except adult entertainment, tattoo parlors, taverns, drinking establishments and night clubs. Parcel 1 is located on the south side of Camden Chase, a residential collector street and on the east side of 127th Street East and north of 21st Street North.

The C.U.P. proposes to setbacks of 35 feet along 127th Street East and Camden Chase, a setback of 30 feet abutting the commercial lot to the south, and a setback of 20 feet with a masonry wall along the east property line abutting a reserve area for Hawthorne Addition. Maximum building coverage and gross floor area are requested as 30 percent. Maximum building height would be 35 feet.

The property directly to the west was rezoned from "SF-5" Single-family Residential to "MF-18", effective June 23, 2003. It is currently undeveloped but platted for multi-family use. Church of the Magdalen is located to the southwest. Single-family residential is located to the northwest, the north and the west of the application area. The area to the south is approved for commercial use but currently is vacant.

Four-Mile Creek flows along the eastern edge of the parcel.

CASE HISTORY: DP-238 Twenty First Commercial C.U.P. was approved March 3, 1999, and amended August 22, 2002. Amendment #1 removed the northern 2.3 acres of Parcel 1 in order to include it in the single-family residential portion of Hawthorne Addition.

The property is platted as Lot 1, Block 6, Hawthorne Addition, recorded December 12, 2002.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-5"	Vacant, agriculture
EAST:	"SF-5"	Vacant, agriculture
SOUTH:	"LC"	Vacant, agriculture
WEST:	"SF-5"; "MF-18"	Church of Magdalen church and school, single-family residential, vacant tract for multi-family

PUBLIC SERVICES: 21st Street is currently an improved two lane arterial street with a short right-turn westbound decel lane. The 2030 Transportation Plan projects 28,446 ADTs and depicts 21st Street as a 5-lane arterial. Year 2000 traffic counts for 21st Street North at this location are 7,858. The County CIP depicts a widening project for some time in the future. Right-of-way acquisition is scheduled for 2006. Currently, 127th Street East is paved as a two-lane asphalt matte road to several hundred feet north of the application area. Traffic is project to be 5,439 ADTs in 2030 for 127th Street East between 13th Street North and 21st Street North.

Camden Chase is a collector street serving the residential tract to the north and west, and abuts the application area. The plat places no limitations on access to Camden Chase. One point of access on 127th Street East was given to Parcel 1, but it is only 100 feet south of the location of Camden Chase. This does not conform to the access management policies for separation of 400 feet for full movement and 200 feet for right-in/right-out only access points. Another point of access is granted to Parcel 2, which abuts Parcel 1 to the south. The two drives would be located only 185 feet apart, and they are offset from the drive across the street to Church of the Magdalen. The multi-family tract to the west has one point of access that is aligned with Camden Chase.

Public water is available. Sewer service will have to be extended either through the city's main plant or to the Four-Mile Creek plant.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the *1999 Update to the Comprehensive Plan* identifies the parcel as appropriate for "medium density residential". Land Use-Residential Objective A encourages higher density residential and Strategy II.A.1 seeks to C.U.P.s to promote mixed use development, higher density residential environments and appropriate buffering. The current "MF-18" zoning, as part of a C.U.P., supports this strategy. Land Use –Residential Objective B is to minimize detrimental impacts of higher intensity land uses located near residential development. This is echoed by Land Use-Commercial/Office Objective B that seeks for future retail/commercial areas to minimize detrimental impacts to other adjacent land uses, with Strategy III.B1 to position new strip commercial in areas shown on the Land Use Guide for expansion. In the Locational Guidelines component of the Comprehensive Plan, medium/high density residential is to be located near arterials and collectors, which conforms to the location of Parcel 1. Local service-oriented offices are encouraged near neighborhood and community-scale commercial development and low-density office can be a transitional use between residential and higher intensity uses. The locational guidelines for retail/commercial uses are supposed to have design features to minimize impacts on residential areas.

Parcel 1 fits the plan recommendations for either multi-family use or office use. The location of the full range of commercial uses is less closely aligned with recommended plans and policies.

RECOMMENDATION: Based upon the information available prior to the public hearing, staff recommends the request for "LC" Limited Commercial for all of Parcel 1 be DENIED because it represents a greater intensification of use, a four-fold increase in traffic, and eliminates the current multi-family buffer between the 16 acres of "LC" zoning the to south the balance of the quarter section slated for low density residential use. Instead it is recommended that a more modest change to "LC" for the southern 120 feet of Parcel 1 and "GO" General Office for the balance of Parcel 1 be APPROVED subject to the following conditions:

A. APPROVE Amendment #1 to the Community Unit Plan (DP-238), subject to the following conditions:

1. Create a new parcel boundary between Parcel 1 and Parcel 2 to reflect the "LC"/"GO" zoning split.

2. Parcel description for Parcel 1 shall be modified to state: Uses for that portion of – All uses permitted in the "GO" General Office district.

3. Access shall be adjusted to allow no access on Parcel 1 unless the access point on the northern edge of Parcel 2 is replaced by an access opening on Parcel 1 aligned with the drive opening on the property to the west.

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

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

6. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.

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

Should MAPC choose to approve the zone change to "LC" for the entire Parcel 1, it is recommended that the C.U.P. uses for Parcel 1 be further restricted to those uses permitted by-right and that all auto-related uses (vehicle repair, limited; car wash; service station, convenience store, etc.), and overhead doors facing residential zoning be prohibited. Retail uses would be restricted to no single use greater than 8,000 square feet, and restaurants would be subject to the restrictions of Article III-D.6.t., which limits their size to 2,000 square feet and prohibits drive-thru lanes.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property directly to the west was rezoned from "SF-5" Single-family Residential to "MF-18", effective June 23, 2003. It is currently undeveloped but platted for multi-family use. Church of the Magdalen is located to the southwest. Single-family residential is located to the northwest, the north and the west of the application area. The area to the south is approved for commercial use but currently is vacant.

2. The suitability of the subject property for the uses to which it has been restricted: The site is approved for "MF-18" uses and could be developed accordingly. This is the same use approved for the property on the west side of 127th Street North.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The use of an additional 6.92 acres for retail/commercial development would push the boundary of higher intensity retail activity further from the arterial intersection node. Modifying the request to allow office type uses, which are less intensive than general retail uses, would mitigate this.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The recommended "GO" uses represents a slight intensification from the present Comprehensive Plan recommendation of medium density, but it still can serve as locational buffer between the "LC" uses to the south and the low density residential to the north, northwest, and east.

5. Length of time the land has been vacant as currently zoned: Less than one year has elapsed since the property was platted.

6. Impact of the proposed development on community facilities: The conversion of 6.92 acres from multi-family to office would generate about two times as much traffic.

MOTION: To approve, subject to staff comments and citing the findings in their report.

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

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10. **Case No.: CON2003-26** – Larry and Sharon Hiebert (owners); Terry Hiebert (applicant); Ferris Consulting c/o Greg Ferris (agent) request Sedgwick County Conditional Use to permit outdoor recreation and entertainment (corn field maze) on property zoned "RR" Rural Residential on property described as;

Beginning 212 feet West and 540 feet North of the Southeast corner of the South Half of the West Half of the Southeast Quarter of Section 21, Township 25 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas for a place of beginning; thence West 500 feet; thence North 400 feet; thence East 500 feet; thence South 400 feet to the point of beginning. Generally located North of 93rd Street North and west of Hydraulic

BACKGROUND: The applicant is requesting a Conditional Use to allow a "corn field maze" on a 4.59-acre unplatted tract zoned "RR" Rural Residential and located north of 93rd Street North and west of Hydraulic. The applicant proposes to cut a maze through a field of corn and open it to the public to walk through the maze as a form of recreation and entertainment. The applicant's proposed terms of operation and site plan are attached.

A "corn field maze" is considered an outdoor recreation and entertainment use under the Unified Zoning Code (UZC). The UZC defines outdoor recreation and entertainment as a privately-owned establishment offering recreation, entertainment or games of skill to the general public or members wherein a portion of the activity takes place in the open. A Conditional Use is required for outdoor recreation and entertainment in the "RR" Rural Residential zoning district. The UZC indicates that a Conditional Use for outdoor recreation and entertainment shall be limited to a use that the Planning Commission has determined will not produce undue noise or attract large numbers of spectators.

Section III-D.6.o. of the UZC (attached) indicates that a Conditional Use for outdoor recreation and entertainment shall comply with six standards. The Conditional Use request does not conform with two of the six standards. First, the subject property is not contiguous to an arterial street or expressway. Second, the applicant proposes that the driveway and parking area be gravel rather than concrete or asphalt. The applicant requests that both of these standards be waived. UZC standards for a Conditional Use can only be waived by the Board of County Commissioners upon receiving a favorable recommendation from the Planning Commission.

The character of the surrounding area is rural. All properties surrounding the subject property are zoned "RR" Rural Residential are used for agriculture or are developed with large-lot rural home sites.

CASE HISTORY: The subject property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR"	Agriculture
SOUTH:	"RR"	Agriculture
EAST:	"RR"	Single-family residence
WEST:	"RR"	Agriculture

PUBLIC SERVICES: Access to the subject property is from 93rd Street North, an unimproved township road. The subject property is located within a rural water district service area. Public sewer service is not currently available to serve the subject property.

CONFORMANCE TO PLANS/POLICIES: The Sedgwick County Development Guide of the Comprehensive Plan designates this area as a Small City Growth Area; however, the subject property is located outside the Zoning Area of Influence of any city. The policies of the UZC allow outdoor recreation and entertainment as a Conditional Use if the proposed use is located on an arterial street, complies with lighting and noise standards, has paved access and parking, has reasonable operating hours, and is properly maintained. The proposed use does not conform with the policies of the UZC because it is not located on an arterial street and an unpaved access drive and parking area is proposed.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request be DENIED.

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

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is rural. All properties surrounding the subject property are zoned "RR" Rural Residential are used for agriculture or are developed with large-lot rural home sites. An outdoor recreation and entertainment business is inconsistent with the zoning, uses, and character of the neighborhood.

2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "RR" Rural Residential and is presently used for agriculture and a single-family residence. The subject property is apparently suitable for the agricultural and residential uses to which it has been restricted.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Outdoor recreation and entertainment use of the subject property has the potential to create detrimental affects on nearby property resulting from an increase in noise, traffic, trash, etc. being generated by the subject property.

4. Conformance of the requested change to adopted or recognized Plans/Policies: The Unified Zoning Code makes contains specific policies pertaining to outdoor entertainment in the "RR" Rural Residential zoning district. The Conditional Use request does not conform with these policies.

5. Impact of the proposed development on community facilities: Increased traffic from the proposed outdoor recreation and entertainment will have a detrimental impact on the maintenance of the unimproved township road fronting the subject property.

If, after closing the public hearing, the Planning Commission finds that the Conditional Use for outdoor recreation and entertainment should be approved, the Planning Commission motion to approve will need to include findings of fact regarding the UZC Review Criteria that support approval and planning staff recommends that approval should be subject to the following conditions:

1. The Conditional Use shall be restricted to a privately-owned area for a corn field maze. No other outdoor entertainment and recreation activities shall be authorized by the Conditional Use.

2. All requirements of Section III.D.6.o. of the Unified Zoning Code shall be met, except as modified by the conditions of the Conditional Use.

3. Operations shall be limited to September 15 to November 30 each year. Daily operations shall be limited to daylight hours.

4. The access drive and parking area shall be surfaced with an all weather surface approved by the Sedgwick County Fire and Public Works Departments. The access drive shall be a minimum of 24 feet wide. The parking area shall provide a minimum of 10 parking spaces and shall provide a turn-around area for emergency vehicles as approved by the Sedgwick County Fire Department. No parking shall be permitted on the access drive, turn-around area, or any area not improved with an all weather surface. The access drive and parking area shall be maintained in good condition and free of all debris, weeds, trash, and obstructions.

5. A maximum number of 40 people shall be allowed on the site at one time.

6. A minimum of two chemical portable toilets shall be provided. The applicant shall maintain an ongoing maintenance contract for removal of waste from the portable toilets and the disposal of waste shall be in accordance with Sedgwick County sanitation codes.

7. The sale of concessions shall be incidental to the outdoor entertainment and recreation use and shall be in conformance with applicable health regulations. The sale of alcoholic beverages is prohibited.

8. A directional sign shall be permitted at the 93rd Street North entrance to the access drive. The sign shall be a maximum of six square feet in size and six feet in height. No temporary banners are permitted.

9. Approval of the Conditional Use constitutes a waiver of the standard requiring a location contiguous to an arterial or expressway.

10. Prior to the commencement of operations, the applicant shall receive approval of a revised site plan by the Planning Director. The revised site plan shall be submitted for approval no later than 60 days following approval of the Conditional Use. The revised site plan shall reflect all conditions of approval and shall conform to all requirements of the "Site Plan Guidelines for Conditional Use Application."

11. The site shall be developed and operated in general conformance with the approved site plan. All improvements shall be completed prior to the commencement of operations.

12. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.

13. 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 the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

SCOTT KNEBEL, Planning staff presented staff report.

GREG FERRIS, FERRIS CONSULTING, I got into this process a little late. Since the time, Mr. Hiebert filed his application and site plan information with the Planning Department. We made some modifications to the site plan and clarifications to the educational intent of the request. We believe that obviously that this is a rural setting. The applicant owns the entire 40 acres. The applicant has also visited with each of the properties along 93rd, and with the exception of the two parcels that are in Park City, his neighbors are supportive of the request. Mr. Hiebert is trying to promote agriculture and get folks out into the rural area and use this as an educational tool. Obviously, you wouldn't have a cornfield maze that was not in a rural setting. It wouldn't make any sense. His family has owned this land for a long period of time. He would like to keep the rural setting and be able to enjoy that. As a member of the 4H club, he wants to promote that and get youth groups and school tours to come out and take an opportunity to enjoy and mix with education. We have asked for a waiver of the parking, because as soon as you pave this, it is no longer rural. What we are asking for in conformance with staff's recommendation. We would have a gravel drive which is very common in rural areas. Most of the folks had no problem with the request, and the two that did sent letters that talked about a couple of things I would like to address today. One said there will be about 2,000 cars a month. He misunderstood what we had said. We believe the entire period that this will be open will generate about 2,000 cars over a 2 to 2-1/2 month period. Mr. Hiebert ask that he be allowed to have about 90 people visiting in case there were a couple of buses that wanted to come. That would be about the number it takes for two buses to visit the property. The road carries farm implements and other large trucks, so the busses would not have any major impact on this roadway. I think the number of cars is overstated, as what we are trying to focus on is youth groups who would come out in a van or bus. We know this is a rural setting. We appreciate that, and we want to keep it that way. He has the opportunity to subdivide this in five acre lots and that would no longer keep that rural setting.

We would ask that you approve the Conditional Use, and we would like the exceptions that we have noted. The reason being the first condition the staff has set the firm date of September 15th. September 15th may be on a Monday, and we would have like to be able capture the weekend before that, so if you set it as the second weekend in September, that is pretty close. We don't think that is a big issue. We are agreeing to do this during daylight hours. We request the hours of operation be modified to thirty minutes after sundown except for the last ten days of October. We would like to expand these days to 9:00 p.m. during the week and 10:00 p.m. on weekends because it is during the Halloween season. We are requesting the maximum number of people allowed be changed to 90. This will accommodate two buses.

BARFIELD Show me the two properties that sent letters in.

FERRIS (pointing to the map) They are these properties right here.

TRICIA WAGGONER, CITY ARCHAEOLOGIST, 1534 E BEAUMONT, PARK CITY my only concern is do you know if this is currently plowed field?

FERRIS It is planted.

KEITH MOSS, 9635 N Hydraulic, We are opposed to this idea for several reasons: traffic loads, safety, property value, trash. When you get people up and down that area you end up finding trash there. A lot of children ride their bikes. Families walk their dogs. This is a highly bushy area with trees. Those that live there know to drive slowly. With additional traffic coming and not knowing the area, we're concerned about safety. One of the other concerns is what's going to be done with it the rest of the year? Does it go back to rural zoning? Another concern is that there is a kennel, our at least a lot of dogs, on the property. Our understanding is that there is no permit to have kennels there. How will that affect any children in that area? The children are bound to wonder. Are there going to be fences or barriers to restrict them from wondering onto other properties? What will keep them safe in that area? What's going to keep somebody wanting to do mischief to those children or anybody in that area which would flow through the rest of our property either through vandalism or safety?

FERRIS Hydraulic, is a major arterial in this area. It feeds the Coliseum. We don't believe that anything we will be doing will have an impact in the numbers of traffic that is comparable to what is already there. The area is buffered somewhat. The property just to the east of our property has a runway on that property and certainly that would impose much more of a danger to people crossing or trying to get into this area. The applicant will be marking off this area with banners and flags to keep people confined to his property. He is also building a short tower where he can see, so that we can have some security for the area. We don't believe those are going to be an issue. All of the egress, ingress will be off of 93rd Street. There will be a very long gravel roadway to the back. All the activity except for the maze itself will be on the south part of that property therefore his property to the north will not be impacted by trash and those kinds of things. The applicant is willing to have a 10 year maximum period on this. We believe development will probably be there within 10 years, so he will have a higher and better use for his property. He raises his own dogs on his property. He does not have a kennel. He has a large enough tract that he is allowed to raise his own dogs.

DUNLAP The property east of that airstrip, your family owns that? That road that goes in there, is that a private driveway?

MOSS Yes, my family owns those properties. It is a private drive.

DUNLAP Who is using the airstrip?

MOSS I believe that is owned by the Robinsons? Park City and Valley Center are trying to annex these properties. Valley Center wants to island annex these properties and some of these others going up to 101st, and I don't know how far east of there.

HENTZEN Scott, Where would it fit better in our scheme of things for a corn field maze than in the country? Where would it fit better?

KNEBEL Perhaps on a road that had better access, was paved, did not dead end, and did not have primarily residential uses on it would be a better location.

MOTION: **DUNLAP** moved to deny, **BISHOP** seconded the motion.

DUNLAP The reason I made this motion is that a vast majority of the property out here is 5 acres lots. There is a fight between Valley Center and Park City if this land is to be annexed or not. Also, some of the neighbor's have said this won't be an appropriate use for out there. This site is close to nice homes. The traffic would have to go down a dirt road, and it would be dirty and dusty. I don't hear anything about road maintenance or picking up trash. I think there is a potential for people to get in trouble by wondering around. One of the neighbors lives there because they have an autistic child and they try hard to move away from people so that child can have some activity. It is not going to be a profitable operation and we have requirements for parking and access that need to be followed.

HENTZEN I don't see this application contributing to contamination in the ground or in the sky as far as the air is concerned. When I think of something out in the county like that I am thinking of a Christmas tree lot up on north Ridge Road. At Christmas time many cars go up there with kids, and it is a legal thing to have out there; the same way with picking peaches. You pick them in the country, not in the city. Having two buses a day at the most is not bad. If you have been around any of these schools, you have 40 buses a day.

WARREN I have been reading this zoning, and first they talk about spectators. There are no spectators in this thing. They are all participants. It is not unusual at all that we waive the street access and the paving.

SUBSTITUTE MOTION: The request approved subject to revising the conditions to increase the number of participants 90, to make the hours 9-10 p.m., and to begin on the second Friday in September.

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

BISHOP Point of clarification. Do you mean a maximum number of 90 people as requested by the applicant?

WARREN What I am doing is superimposing Mr. Ferris' conditions on the back of his letter and not what staff recommended in conditions.

SUSTITUTE MOTION CARRIES: 7-4 (**BISHOP, DUNLAP, GAROFALO** and **BARFIELD** opposed).

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11. **Case No.: CON2003-23** – Wichita Television Corporation, Inc. (a.k.a. KSNW TV) c/o Dave Rickels (owner/applicant); Baughman Company c/o Russ Ewy (agent) request Sedgwick County Conditional Use for a 1075-foot high television tower on property zoned "RR" Rural Residential on property described as;

The Southwest Quarter of the Northwest Quarter of Section 23, Township 26 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas. Generally located Southeast of 151st Street North and 53rd Street North.

BACKGROUND: The applicant is seeking a Conditional Use to permit the construction of a 1,075-foot high guyed lattice tower (see attached "Site Exhibit") for use by KSNW television. The subject property is zoned "RR" Rural Residential and is located approximately ¼ mile south of 53rd Street North on the east side of 151st Street West. Wireless Communication Facilities over 65 feet in height in the "RR" Rural Residential zoning district may be permitted with a Conditional Use.

The subject property is located within the zoning area of influence of the City of Colwich. The Colwich Planning Commission will consider the Conditional Use request on July 29, 2003.

The applicant indicates (see attached letter dated June 27, 2003) that the proposed wireless communication facility is needed for KSNW to provide high definition digital television to south-central Kansas. The applicant indicates that the existing radio and television towers in the area are not capable of supporting the required antennas and equipment to support high definition digital television.

The character of the surrounding area is rural (see attached "Aerial Exhibit") with numerous radio and television towers located in the immediate vicinity. The surrounding properties are zoned "RR" Rural Residential and are used for primarily for agriculture. The nearest residence is located approximately ¼ mile southwest of the proposed tower.

The tower is proposed to be located on a 40 acre tract as shown on the attached "Site Exhibit." Access to the site is proposed via an existing gravel drive to 151st Street West. The tower is proposed to be located near the center of the tract and approximately 100 feet north of an existing television tower on the tract that will remain. The existing equipment building on the tract will be used with no new equipment buildings proposed.

Section IV-C.5.b. of the Unified Zoning Code requires a 1,075-foot setback for the tower from the all property lines; however, the tower is proposed to be set back approximately 530 feet from the nearest property line to the south. The setback requirement can be waived through approval of the Conditional Use request, and planning staff recommends waiving the setback requirement since the proposed tower cannot be located on the subject property in compliance with the setback requirement.

Federal Aviation Administration (FAA) regulations (see attached) require aircraft warning lights on the tower since the height of the tower exceeds 200 feet. Flashing white obstructions lights will be required on the tower; however, FAA regulations permit a dual lighting system consisting of red lights at night and flashing white lights only during the day to limit the impact on urban development in the general vicinity. Section III-D.6.g.(5) of the Unified Zoning Code prohibits strobe lighting such as the flashing white lights required by the FAA; however, Section V-D.6. of the Unified Zoning Code allows the Board of County Commissioners to modify Supplementary Use Regulations (such as the strobe lighting prohibition) upon receiving a favorable recommendation from the MAPC. Planning staff recommends that the Board of County Commissioners modify the lighting requirement to comply with the FAA regulations and permit a dual lighting system.

CASE HISTORY: The subject property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR"	Agriculture, radio/television tower
SOUTH:	"RR"	Agriculture
EAST:	"RR"	Agriculture
WEST:	"RR"	Agriculture

PUBLIC SERVICES: No municipally-supplied public services are required. The site has access to 151st Street West, an unpaved township road.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights-of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing; and 9) painting towers red and white instead of using strobe lighting. Since the time the Wireless Communication Master Plan was adopted, the FAA changed their regulations to require day-time strobe lighting for towers in excess of 200 feet in height; whereas, when the plan was adopted, the FAA allowed painting towers red and white instead of using strobe lighting. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment.

RECOMMENDATION: 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 Section III.D.6.g. of the Unified Zoning Code shall be met, except as modified by the following conditions.
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.

C. The support structure shall be a "guyed lattice" tower and shall be 1,075 feet in height.
D. The tower shall be lighted only with a dual lighting system consisting of red lights at night and white flashing lights during the day that conforms with FAA regulations. The applicant shall submit a copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.
E. Approval of the Conditional Use constitutes a waiver of the Compatibility Height Standard for the wireless communication facility.
F. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.
G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
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 rural with numerous radio and television towers located in the immediate vicinity. The surrounding properties are zoned "RR" Rural Residential and are used primarily for agriculture. The proposed tower is consistent with the zoning, uses, and character of the area.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential and is currently used for a television tower. A Conditional Use may be granted to permit a wireless communication facility in the "RR" Rural Residential zoning district; however, the facility should conform 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: Locating an additional television tower on the subject property should not create adverse impacts on surrounding properties.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility conforms to the Wireless Communication Master Plan since the existing towers in the vicinity cannot accommodate the communication needs of the applicant and the most logical location for a tall television tower is in an area where numerous tall radio and television towers currently exist.

5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed tower does not detrimentally impact the operation of airports in the vicinity.

MOTION: To approve, subject to staff comments and citing the findings in their report.

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

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12. DR2003-22 - The City of Kechi seeks annexation of properties located adjacent to The City of Kechi, east of Hillside Road and north of 61st Street North.

MOTION: To approve, subject to staff comments and citing the findings in their report.

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

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13. Other matters

DALE MILLER, Planning staff. The Bylaws say a new MAPC chair will be appointed the first meeting in September; that would be September 4. Should we put it on that agenda?

HENTZEN Yes.

The Metropolitan Area Planning Department informally adjourned at 3:52 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 _____, 2003.

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

(SEAL)