

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

September 25, 2008

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, September 25, 2008, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Darrell Downing, Chair; G. Nelson Van Fleet., Vice-Chair; Don Anderson; David Dennis; David Foster; Bud Hentzen; Hoyt Hillman; Bill Johnson and Debra Miller Stevens. Michael Gisick; Ronald Marnell; John W. McKay, Jr.; M.S. Mitchell and Don Sherman were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Jess McNeely, Senior Planner; Neil Strahl, Senior Planner; Derrick Slocum, Associate Planner and Maryann Crockett, Recording Secretary.

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1. Approval of the September 11, 2008, MAPC meeting minutes:

MOTION: To approve the September 11, 2008, MAPC minutes, as amended.

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

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB 2008-64: One-Step Final Plat -- COX MACHINE 3RD ADDITION**, located on the north side of 21st Street and east of Hoover Road.

NOTE: This is a replat of a portion the Zoo Business Park Addition. The cul-de-sac length has been reduced and number of lots reduced from eleven to seven.

STAFF COMMENTS:

- A. The applicant needs to extend water to serve all the lots being platted. Sewer needs to be extended to serve lots 1-4, 6 and 7. Lot 5 has access to sewer on the northeast corner of the lot.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan subject to additional easements. The applicant has provided off-site drainage easements.
- D. The plat proposes complete access control along the 21st Street North street frontage.
- E. The Applicant shall guarantee the paving of the proposed street to the business/industrial street standard.
- F. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the **association and who is to own** and maintain the reserves prior to the association taking over those responsibilities.

- G. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- H. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- I. The applicant shall submit a copy of the instrument, which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the appropriate governing body.
- J. The pipeline company needs to approve the portion of Zoo Park Circle located over the pipeline easement and located within the pipeline setback.
- K. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendation.

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

FOSTER in @1:35 P.M.

3. PUBLIC HEARING – VACATION ITEMS

3-1. VAC2008-26: City request to vacate a platted drainage and utility easement.

OWNER/APPLICANT: Clear Creek Development, Inc.

AGENT: Ruggles and Bohm PA c/o Chris Bohm

LEGAL DESCRIPTION: The west 10-feet of the east 30-feet, except the south 10-feet thereof, of Lot 23, Block 1, The Clear Creek Addition, as recorded Wichita, Sedgwick County, Kansas.

LOCATION: Generally located between US-54 and Lincoln Street, west of 143rd Street East, more specifically on the southwest corner of Laguna and 143rd Street East.

REASON FOR REQUEST: Allow a larger house to go onto lot

CURRENT ZONING: Subject property and the northern, western and southern abutting properties are zoned “SF-5” Single-Family Residential. Property east of the subject property and across 143rd Street East is zoned “SF-20” Single-family Residential.

The applicant is requesting consideration for the vacation of the west 10-feet of the east 30-feet of Lot 23, Block 1, the Clear Creek Addition. Within the east 30-feet of Lot 23, west to east, there is a platted 20-foot drainage and utility easement, a platted 5-foot wall easement and a platted 5-foot utility easement. The applicant proposes vacation of the west 10-feet of the 20-foot drainage/utility easement to allow a larger house on the lot. There appears to be a portion of sewer and a manhole in the southern portion of the multiple platted easements; the applicant proposes to retain this portion of the easement. There is no water or sewer in the rest of the platted easements. The Clear Creek Addition was recorded with the Register of Deeds May 29, 2003.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of

the platted drainage and utility easement as described in the legal description with the following conditions.

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

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle and the Derby Reporter, of notice of this vacation proceeding one time September 4, 2008, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described platted drainage and utility easement and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the platted drainage and utility described in the petition should be approved with conditions:

- (1) City Public Works needs to comment on the acceptability of this vacation and if any substitute easements and/or dedications should be required.
- (2) Storm Water Management needs to comment on the acceptability of this vacation with regards to the drainage plan of the area.
- (3) Provide Staff with any required replacement easements for utilities and/or drainage. Public Works/ Storm Water must approve dedications. Approved dedications, with original signatures, will be provided to Planning to be recorded with the Register of Deeds with the Vacation Order.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. All improvements shall be according to City Standards and at the applicant's expense, including any new driveways from private property onto public ROW and closing of any existing drives. Provide Public Works with a guarantee to ensure that those improvements will be made, or the applicant may chose to provide staff with a drive approach certificate which will be recorded with the Sedgwick County Register of Deeds.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) City Public Works needs to comment on the acceptability of this vacation and if any substitute easements and/or dedications should be required.
- (2) Storm Water Management needs to comment on the acceptability of this vacation with regards to the drainage plan of the area.

- (3) Provide Staff with any required replacement easements for utilities and/or drainage. Public Works/ Storm Water must approve dedications. Approved dedications, with original signatures, will be provided to Planning to be recorded with the Register of Deeds with the Vacation Order.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. All improvements shall be according to City Standards and at the applicant's expense, including any new driveways from private property onto public ROW and closing of any existing drives. Provide Public Works with a guarantee to ensure that those improvements will be made, or the applicant may chose to provide staff with a drive approach certificate which will be recorded with the Sedgwick County Register of Deeds.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendation.

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

3-2. VAC2008-27: County request to vacate a platted setback.

APPLICANT/OWNER: Phomma Chounramany

LEGAL DESCRIPTION: Lot 49, Block 30, Oaklawn Subdivision in Sedgwick County, Kansas

LOCATION: Generally located north of 47th Street South, west of K-42 and on the north side of Juniper Avenue (BoCC #V)

REASON FOR REQUEST: Existing encroachment into setback

CURRENT ZONING: Site and all abutting and adjacent northern, eastern and western properties are zoned SF-5 Single-family Residential ("SF-5").

There is a portion of the primary residence encroaching 6 feet into the platted 20-foot front setback. The zoning of the subject site is SF-5. The Unified Zoning Code (UZC) requires a minimum of a 25-foot front yard setback for the SF-5 zoning district. If this was not a platted setback the applicant could have applied for an Administrative Adjustment, which would reduce the SF-5 zoning district's 25-foot front yard setback by 20% or five feet, resulting in a 20-foot setback, which is the site's platted front setback. The requested vacation can only reduce the platted setback to 20 feet. Further reduction of the setback would require a variance. The applicant has filed a request for a variance from the Board of Zoning Appeals for a 14-foot building setback (BZA2008-29). There are no utilities within the described portion of the platted setback. The Oaklawn Subdivision was recorded with the Register of Deeds on December 5, 1951.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from County Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval of the vacation of the described portion of the platted setback with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle and the Derby Reporter, of notice of this vacation proceeding one time September 4, 2008, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described platted setback and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the platted setback described in the petition should be approved with conditions:
- (1) The requested vacation will only remove the platted 20-foot front setback and re-establish it as a non platted 20-foot front setback; the Unified Zoning Code (UZC) requires a minimum of a 25-foot front yard setback for the SF-5 zoning district. If this was not a platted setback the applicant could have applied for an Administrative Adjustment, which would reduce the SF-5 zoning district's 25-foot front yard setback by 20% or five feet, resulting in a 20-foot setback. Further reduction of this 20-foot non platted front setback is contingent upon approval of BZA2008-29, which could result in a 14-foot front setback.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
 - (3) All improvements shall be according to County standards and at the applicant's expense.
 - (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) The requested vacation will only remove the platted 20-foot front setback and re-establish it as a non platted 20-foot front setback; the Unified Zoning Code (UZC) requires a minimum of a 25-foot front yard setback for the SF-5 zoning district. If this was not a platted setback the applicant could have applied for an Administrative Adjustment, which would reduce the SF-5 zoning district's 25-foot front yard setback by 20% or five feet, resulting in a 20-foot setback. Further reduction of this 20-foot non platted front setback is contingent upon approval of BZA2008-29, which could result in a 14-foot front setback.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
- (3) All improvements shall be according to County standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval

by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendation.

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

3-3. VAC2008-28: City request to vacate a portion of a platted setback.

APPLICANT/OWNER: James P. and Patricia A. Murray

LEGAL DESCRIPTION: Lot 8, Block 15, Schweiters 9th Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located north of Harry Street, east of I-135, on the east side of Aloma Street (2245 Aloma)
(WCC #I)

REASON FOR REQUEST: Proposed encroachment into platted front building setback with a carport

CURRENT ZONING: Site and all abutting and adjacent properties are zoned TF-3 Two-family Residential ("TF-3").

The applicant proposes to vacate 12 feet of the platted 40-foot front yard setback, resulting in a 28-foot building setback. The zoning of the subject site is TF-3. The UZC requires a minimum of a 25-foot front yard setback for the TF-3 zoning district. If this was not a platted setback the applicant could have obtained a building permit since the proposed structure meets the UZC standards. There are no utilities, manholes, sewer or water lines within the described portion of the platted setback. The Schweiter's 9th Addition was recorded with the Register of Deeds on November 10, 1941.

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

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle and the Derby Reporter, of notice of this vacation proceeding one time September 4, 2008, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described platted setback and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the platted setback described in the petition should be approved with conditions:

- (1) Vacate the platted 40-foot front yard setback where the carport is proposed and allow a 25-foot setback at that location. Provide Planning staff with a legal description of the vacated setback, on a Word document, via e-mail.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
- (3) All improvements shall be according to County standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the platted 40-foot front yard setback where the carport is proposed and allow a 25-foot setback at that location. Provide Planning staff with a legal description of the vacated setback, on a Word document, via e-mail.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
- (3) All improvements shall be according to County standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendation.

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

3-4. VAC2008-29: City vacation request to vacate the plattor's text, amending it to allow parking in a portion of a platted reserve.

OWNER/APPLICANT: Ray Development Group

LEGAL DESCRIPTION: Generally described as the north 20 feet of Reserve B, the Fountains 2nd Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located south of Central Avenue, east of Greenwich Road, on

the southeast corner of Dowell Street and Central (WCC#II)

REASON FOR REQUEST: To allow parking

CURRENT ZONING: Subject property and abutting and adjacent properties to the south and west are zoned SF-5 Single-family Residential (“SF-5”). Abutting and adjacent properties to the north and west are zoned LC Limited Commercial (“LC”).

The applicant is requesting consideration for the vacation of the restriction of uses in the platlor’s text for a portion of platted Reserve B, Fountains 2nd Addition. The applicant requests the vacation to allow the additional uses of parking, while retaining the existing allowed uses in Reserve B. The uses that Reserve B has been set aside for include landscaping, sidewalks, drainage, utilities, and playground equipment or recreational uses. There are sewer lines running north-south through the central and east portions of the Reserve which are covered by 20-foot utility easements. All utilities located within the proposed portion of the platted reserve will be protected by existing or new easements. The plat also states that Reserve B shall be owned and maintained by the homeowners of the association for the addition. There is an associated Conditional Use, CON2008-40, for ancillary parking on the described portion of the reserve. The Fountains 2nd Addition was recorded with the Register of Deeds on June 29, 1996.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives, and other interested parties, Planning Staff recommends approval to vacate the uses of that portion of Reserve B as described in the legal description to allow parking with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle and the Derby Reporter, of notice of this vacation proceeding one time September 4, 2008, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described platlor’s text to allow an additional use in the vacated portion of the platted reserve and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the the uses of that portion of the platted reserve described in the petition should be approved with conditions:
- (1) Vacate the use restrictions as listed in a portion of Reserve B to allow the additional use of parking. Retain the original uses allowed in Reserve B of landscaping, sidewalks, drainage, utilities, and playground equipment or recreational uses.
 - (2) Extend storm water from the detention pond located south of the subject site to the new Development located on the proposed vacated reserve, per the design approval by the Storm Water in the Storm Water Engineer. If necessary provide a guarantee for the improvements, prior to the case to WCC for final approval. If necessary provide any needed easements prior to the case to WCC for final approval.
 - (3) Provide Planning with a Restrictive Covenant tying and binding the vacated portion of the reserve to the abutting Lot 1, Block 2, Fountains 2nd Addition. Provide Planning with the approval by the homeowners association for the sale of the described portion of the reserve.

Provide Planning Staff the approved legal description of the vacated portion of platted utility easement, via e-mail on a Word document.

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

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the use restrictions as listed in a portion of Reserve B to allow the additional use of parking. Retain the original uses allowed in Reserve B of landscaping, sidewalks, drainage, utilities, and playground equipment or recreational uses.
- (2) Extend storm water from the detention pond located south of the subject site to the new Development located on the proposed vacated reserve, per the design approval by the Storm Water in the Storm Water Engineer. If necessary provide a guarantee for the improvements, prior to the case to WCC for final approval. If necessary provide any needed easements prior to the case to WCC for final approval.
- (3) Provide Planning with a Restrictive Covenant tying and binding the vacated portion of the reserve to the abutting Lot 1, Block 2, Fountains 2nd Addition. Provide Planning with the approval by the homeowners association for the sale of the described portion of the reserve. Provide Planning Staff the approved legal description of the vacated portion of platted utility easement, via e-mail on a Word document.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant and at the applicant's expense.
- (5) All improvements shall be according to City Standards.
- (6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendation.

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

PUBLIC HEARINGS

4. **Case No.: ZON2008-47** – Robert Hettenbach (owner/applicant) Request City Zone change from SF-5 Single-family Residential to LI Limited Industrial on property described as;

Lot 11, Windover Addition, Sedgwick County, Kansas. Generally located south and east of the intersection of W. Walker Street and S. Sabin Avenue (1426 S. Sabin).

BACKGROUND: The applicant requests a zone change from SF-5 Single-Family Residential (“SF-5”) to LI Limited Industrial (“LI”) on a 0.36-acre platted lot located approximately 1,000 feet north of Harry on the east side of Sabin. The subject property is currently developed with a single-family residence. The applicant proposes to match the zoning of the property surrounding the subject site. The applicant has also been made aware that this rezone would cause his residence to become a non-conforming use since single-family residential is not a permitted use in the LI zone district. The applicant will have to abide to the regulations set forth in Article VII of the Wichita-Sedgwick County Unified Zoning Code (“UZC”).

The surrounding area is characterized primarily by industrial uses, although about ten single-family residences remain along Sabin on property zoned SF-5. The abutting property to the south is zoned LI and is currently vacant, but the next two properties to the south are single-family residences. The properties farther south and east are zoned LI and are developed with contractor businesses, a machine shop and a steel fabricator. The properties to the northeast include more LI zoned property developed with warehouses and a plumbing contractor. The properties to the west are zoned SF-5, owned by the city and are instrumental for storm water drainage and retention. These properties were acquired by the City in 1984.

The subject site is in Flood Zone X, which identifies the area being in a flood insurance rate zone that corresponds to areas outside the 100-year floodplain, and by areas protected from the 100-year flood by levees.

CASE HISTORY: The property is platted as Lot 11, Windover Addition, recorded on April 28, 1954.

ADJACENT ZONING AND LAND USE:

NORTH:	LI	Contractors Office
SOUTH:	LI	Vacant
EAST:	LI	Steel Fabrication
WEST:	SF-5	Storm Water Retention Area

PUBLIC SERVICES: The subject property has frontage along Sabin, an unpaved local street. Public water and sewer service are currently available to the subject property.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “employment/industry center.” This category encompasses areas with uses that constitute centers or concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses include: manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices.

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

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized primarily by industrial uses, although about ten single-family residences remain along Sabin on

property zoned SF-5. The abutting property to the south is zoned LI and is currently vacant, but the next two properties to the south are single-family residences. The properties farther south and east are zoned LI and are developed with contractor businesses, a machine shop and a steel fabricator. The properties to the northeast include more LI zoned property developed with warehouses and a plumbing contractor. The properties to the west are zoned SF-5, are owned by the city and are instrumental for storm water drainage and retention. These properties were acquired by the City in 1984.

2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned SF-5 and is currently developed with a single-family residence. Given the long-standing recommendation provided by the adopted land use plan that this area is appropriate for industrial uses, further residential development of the subject property would not be suitable, and would be contrary to the community's goal of converting the area from residential to industrial use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental effects on remaining residential properties in the area are reduced by the screening, lighting, and compatibility standards of the Unified Zoning Code and the landscape street yard, parking lot screening, buffer landscaping requirements of the Landscape Ordinance. These ordinances help limit noise, lighting, and other activity from adversely impacting the surrounding residential properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "employment/industry center." This category encompasses areas with uses that constitute centers or concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses include: manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices.
5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated. All services are in place, and any increased demand on community facilities can be handled by current infrastructure.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

HILLMAN said he realized identifying the proposed use was beyond the MAPC's purview, but he was curious about the applicant's plans, since there was a lot of vacant land around the site. He asked if they were going to expand their operation.

SLOCUM acknowledged that the zoning change did not require that the applicant reveal plans for the site, but he added that they currently operate a small engine repair shop and live on-site. He said the applicant's son was also considering something industrial in scope.

MOTION: To approve subject to staff recommendation.

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

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5. **Case No.: ZON2008-48** -L. Wayne Wayman (owner/applicant) Request City zone change from LC Limited Commercial to GC General Commercial with a PO Protective Overlay on property described as;

Lot 1, Edminster Gardens, Sedgwick County, Kansas. Generally located on the northeast corner of K-15 and 31st Street South.

BACKGROUND: The application area is located on the northeast corner of 31st Street South and K-15, and is currently zoned LC Limited Commercial (“LC”). The site currently classified as being developed with an automobile service garage. The use of the site as an automobile service garage is a legal activity in the LC district, per the Unified Zoning Code (“UZC”). This site has been used for automobile related uses over the years. The applicant has applied for the rezone to create more opportunities in terms of uses that can utilize the site. A Protective Overlay is being included with this zone change to exclude any nuisance type uses that are allowed in the GC zone district. The applicant has expressed that a manufacturing use (Section II-B.8.e of the UZC) could be a possible option for the subject site, and the GC zone district would allow that particular type of use.

The zoning of the surrounding property is predominately LC. Property to the north is zoned LC and SF-5 Single-family Residential (“SF-5”) and is currently developed with a warehouse, motorcycle dealership and a single-family residence. Property to the west of the subject site (across K-15) is zoned LI Limited Industrial (“LI”), and is currently being used as a landfill with construction services located on the site. Property to the south of the subject site is zoned LC, and is developed with a mobile home park. Property to the east of the subject site is zoned LC and is developed with a vehicle repair shop.

The subject site is in Flood Zone X, which identifies the area being in a flood insurance rate zone that corresponds to areas outside the 100-year floodplain, and by areas protected from the 100-year flood by levees.

CASE HISTORY: The application area is platted as Lot 1, Edminster Gardens Addition, recorded May 9, 1951.

ADJACENT ZONING AND LAND USE:

NORTH:	LC & SF-5	Warehouse & Residence
SOUTH:	LC & LI	Landfill and Construction Services & Mobile Home Park
EAST:	LC	Vehicle Repair & Parking
WEST:	LI	Landfill & Construction Services

PUBLIC SERVICES: All public services are available to the site. 31th Street, along the south side of the subject site, is a paved four-lane minor arterial, (Source: Federal Roadway Functional Classification Map, WAMPO) with approximately 22,000 average daily trips. Southeast Boulevard (K-15) is a paved four-lane freeway and expressway with approximately 30,000 average daily trips. Volusia Street, along the east side of the subject site, is a paved two-lane local road with no daily trip counts.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as “Local Commercial.” “This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of recommended uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing.” In terms of conformance with commercial goals/objectives/strategies and locational guidelines, the application conforms with the **Commercial/Office Objective** to “Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses,” as well as **Strategy III.B.6** recommends that traffic generated by commercial activities be channeled to the closest major thoroughfare with minimum impact upon local residential streets.

Commercial Locational Guideline #1 of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and

gress in order to avoid traffic congestion. **Commercial Locational Guideline #3** recommends that commercial development employ design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**, subject to the provisions of a Protective Overlay:

1. Uses permitted on the site are limited to those permitted in the GC General Commercial zoning district except; pawn shops, night club in the city, sexually oriented business, tattooing and body piercing facility and tavern or drinking establishment.
2. Signs are to be allowed by sign code except for no off-site or portable signs.
3. On-site pole lighting will be no taller than 15-feet including the base/pedestal. Pole lighting will be directed down onto the site away from adjacent residential development. No pole lighting will be placed within setbacks.
4. The site shall be developed in conformance with all applicable regulations.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The zoning of the surrounding property is predominately LC. Property to the north is zoned LC and SF-5 and is currently developed with a warehouse, motorcycle dealership and a single-family residence. Property to the west of the subject site (across K-15) is zoned LI, and is currently being used as a landfill with construction services located on the site. Property to the south of the subject site is zoned LC, and is developed with a mobile home park. Property to the east of the subject site is zoned both LC and is developed with a vehicle repair shop.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC Limited Commercial. The LC district permits a wide range of retail and office uses that could be appropriate at this location.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: This property is located adjacent or across the street from LC and LI zoned property. Approval of this request will not introduce zoning or potential uses into the area that do not already exist.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial of the request would cause the applicant continued economic loss since it has been challenging for the applicant to attract uses allowed in the LC zone district to this location. Approval of the request will allow this property to be utilized in a manner appropriate for this location and would allow more flexibility in the type of uses that can be allowed on this site.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as "Local Commercial." "This category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may also include mini-storage warehousing and small scale, light manufacturing." The current zoning request for GC, subject to the recommended protective overlay, for the 0.3-acre subject site is in conformance with the Comprehensive Plan's recommended development. In terms of conformance with commercial goals/objectives/strategies and locational guidelines, the application conforms with the Commercial/Office Objective to "Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses," as well as Strategy III.B.6 Channel traffic generated by commercial activities to the closest major thorough-fare with minimum impact upon local residential streets.

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

DERRICK SLOCUM, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

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

6. **Case No.: CUP2008-32 DP-126** – WFMS Investments LLC c/o Ryan Dusek (applicant), Spangenberg Phillips Architecture c/o Jon Looney (agent) Request Amendment #2 to modify wall signage for Parcel 2 on property zoned GO General Office on property described as:

Lot 2, Block 2, Central Avenue Plaza Addition, Wichita, Sedgwick County, Kansas. Generally located on the north side of Carriage Parkway, approximately 1/4 mile north of Central and 1/8 mile east of Edgemoor (800 N. Carriage Parkway).

BACKGROUND: The application area is Parcel 2 of DP-126, Central Avenue Plaza Commercial Community Unit Plan. DP-126 limits signs to the Sign Code provisions, which would allow building signage area equivalent to 32 square feet per tenant on this GO General Office (“GO”) zoned site. Property immediately south of the application area is zoned LC Limited Commercial (LC) and would permit building signs at 20% of a building façade, or 400 square feet. The site is under construction with a medical office/pharmacy building, and the applicant wishes to construct two building signs of 50 and 96 square feet (see the attached elevation drawing). Therefore, the applicant requests a CUP Amendment to allow a 50 square-foot sign and a 96 square-foot sign on Parcel 2.

DP-126 is developed with existing medical office, general office, retail and restaurant uses. North of this site is an SF-5 Single-family Residential (“SF-5”) zoned City park; the proposed signs face south, into the CUP and would not be visible from the park. South of the site is an LC zoned strip commercial center, and east of the site is a GO zoned medical office. West of the site is a drainage way, further west is SF-5 zoned vacant property; the proposed signs would not be visible from the west.

CASE HISTORY: DP-126 was approved in 1982, and was amended in 1999. The site was platted as the Central Avenue Plaza Addition in 1983. The application area, Parcel 2, was vacant prior to the current construction.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	City Park
SOUTH:	LC	Strip retail commercial
EAST:	SF-5	Drainage way, vacant
WEST:	GO	Medical office

PUBLIC SERVICES: North Carriage Parkway is a local street with a 96-foot right-of-way and a central median. All typical public services are available.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this area as appropriate for “local commercial.” This category encompasses areas that contain concentrations of predominantly commercial, office and personal service uses that do not have a significant regional market draw.

The Unified Zoning Code (UZC) states that Commercial Community Unit Plans (CUPs) may be used to establish appropriate sign controls. The Sign code permits applicants to request a CUP amendment to alter a CUP's sign controls.

RECOMMENDATION: The application area could seek a zone change to LC in order to accommodate the requested signs; staff feels that maintaining the current GO zoning adjacent to the SF-5 zoned park is preferable. Medical offices of this size which are not in CUPs have been approved for signage variances by the Board of Zoning Appeals (BZA) for similar sized signs. While the proposed signs do exceed what the sign code would allow in GO zoning, they are proportional to the building, and will not be visible from the park or any residences. The proposed building signs, at 50 and 96 square feet, are not as large as signage that could be permitted in the abutting LC zoning. The UZC states that CUPs may be used to establish appropriate sign controls; the Sign code permits applicants to request a CUP amendment to alter a CUP's sign controls. Based upon information available prior to the public hearings, planning staff recommends that the request for Amendment #2 to DP-126, to allow a 50 square-foot building sign and a 96 square-foot building sign be APPROVED, per General Provisions of the CUP, the Provisions for Parcel #2, and the following conditions:

1. DP-126 General Provision #13 shall be amended to add: "Amendment #2 permits two building signs on Parcel #2 to be permitted at 50 square-feet and 96 square-feet respectively. The building signs shall conform to the approved site plan and elevations of DP-126, Amendment #2."
2. The site shall be developed in conformance with the approved site plan and elevations.
3. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case or the request shall be considered denied and closed.

The staff recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: DP-126 is developed with existing medical office, general office, retail and restaurant uses. North of this site is an SF-5 Single-family Residential ("SF-5") zoned City park; the proposed signs face south, into the CUP and would not be visible from the park. South of the site is an LC zoned strip commercial center, and east of the site is a GO zoned medical office. West of the site is a drainage way, further west is SF-5 zoned vacant property; the proposed signs would not be visible from the west.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned GO with a CUP overlay. The property is suitable for the uses to which it has been restricted.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed increase in building sign size should have no negative effect on surrounding properties. The proposed signage is not visible from the abutting park or any residential areas.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this area as appropriate for "local commercial." This category encompasses areas that contain concentrations of predominantly commercial, office and personal service uses that do not have a significant regional market draw. The Unified Zoning Code (UZC) states that Commercial Community Unit Plans (CUPs) may be used to establish appropriate sign controls. The Sign code permits applicants to request a CUP amendment to alter a CUP's sign controls.
5. Impact on Community Facilities: All public facilities are available. Existing road facilities are adequate.

JESS MCNEELY, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

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

7. **Case No.: CON2008-35** – Catholic Diocese of Wichita (owner), Karl Hesse (agent) Request County Conditional Use for a cemetery on property zoned RR Rural Residential on property described as:

A tract of land in the Southeast Quarter of Section 32, Township 28 South, Range 2 West of the 6th Principal Meridian, Sedgwick County, Kansas, and all or parts of certain lots in Wall's Addition to Clonmell, being more particularly described as follows:

Commencing at the Southeast corner of the Southeast Quarter of Section 32, Township 28 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas; thence N 90 degrees W along the South line of said Southeast Quarter, 1163.51 feet to a point 115 feet East of the Southwest corner of the Southeast Quarter of said Southeast Quarter; thence N 0 degrees 06'57" W parallel with the East line of said Southeast Quarter, a distance of 690 feet to a point on the North line of Block 2, and 15 feet West of the Northeast corner of Lot 8 in said Block 2, Wall's Addition to Clonmel, Sedgwick County, Kansas; thence continuing N 0 degrees 06'57" W a distance of 60 feet to a Point of Beginning; thence continuing N 0 degrees 06'57" W a distance of 130 feet; thence N 90 degrees E, a distance of 495 feet; thence S 0 degrees 06'57" E, a distance of 130 feet; thence N 90 degrees W, a distance of 495 feet to the point of beginning;

Along with:

The East 15 feet of Lot 8, and Even Lots 10 through 44 inclusive, Block 2, Wall's Addition to Clonmell, Sedgwick County, Kansas. Generally located northwest of the intersection of K 42 and W. 71st Street South.

BACKGROUND: The applicant owns an existing non-conforming cemetery, and wishes to expand the area of the existing cemetery. Both properties are currently zoned RR Rural Residential ("RR"), and are located at the northwest corner of 71st Street South and K-42; in the unincorporated town of Clonmel (see attached site plan). Cemeteries are permitted by the "Unified Zoning Code" only with Conditional Use approval in the RR zone district; therefore, the applicant has requested a Conditional Use for a cemetery for the existing cemetery, and for the proposed cemetery expansion. Combined, these two tracts total 2.5 acres. The application area is part of the St. John Catholic Church campus.

The surrounding properties are primarily developed with other church facilities, a farmstead and agricultural uses. The surrounding property is zoned RR. The property to the north, west and east is developed as a farmstead, while the property to the south is developed with a church.

CASE HISTORY: The applicant's property is platted as the Walls Addition to Clonmel, which was recorded on April 9, 1907. The Walls Addition included unimproved platted roads, Cashel and Washington; they are currently going through the process of vacation (VAC2008-00024) to be included within the area of the proposed cemetery.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Farmstead
SOUTH:	RR	Church
EAST:	RR	Agricultural Land

WEST: RR Farmstead

PUBLIC SERVICES: The site is located approximately 450 feet from 71st Street South and K-42. 71st Street South is a paved two lane major rural collector and K-42 is a paved two lane minor arterial. (Source: Federal Roadway Functional Classification Map, WAMPO.) The most recent traffic count for K-42 occurred in 2006 with a count near this location of 9,090 Average Daily Trips (“ADTs”). The most recent traffic count on 71st Street near this location occurred in 2007 with a count of 714 ADTs. The site is served by Rural Water District #4 and a lagoon.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for “Rural” development. This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County, and predominately larger lot residential exurban subdivisions (normally with lot sizes of 2 acres or more) with provisions for individual, or community water and sewer services. Since the proposed use is a cemetery, that is considered a public and institutional use. The Public/Institutional Locational Guidelines of the Comprehensive Plan recommend that public and institutional facilities should have convenient access to arterial streets, public transportation and major utility trunk lines. However, the authors were probably not thinking of cemetery uses when that guideline was recommended.

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

1. The site shall be developed in general conformance with the approved site plan.
2. Development and use of the subject property shall be in accordance with all applicable federal, state, and local rules and regulations, including building and construction codes, health codes, and operational standards.
3. 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 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 surrounding properties are primarily developed with other church facilities, a farmstead and agricultural uses. The surrounding property is zoned RR. The property to the north, west and east is developed as a farmstead, while the property to the south is developed with a church.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned RR Rural Residential (“RR”). With a Conditional Use, a cemetery is permitted in the RR zone district. Part of the application area is already used as a cemetery owned by the nearby church. This application is to expand, and to bring in to conformance, the existing cemetery. This site will continue to be used as such in the future.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The development standards of the Unified Zoning Code should limit any detrimental **effects** of the proposed cemetery on nearby property.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for “Rural” development. This category is intended to accommodate agricultural uses, rural based uses that

are no more offensive than those agricultural uses commonly found in Sedgwick County, and predominately larger lot residential exurban subdivisions (normally with lot sizes of 2 acres or more) with provisions for individual, or community water and sewer services. Since the proposed use is a cemetery, that is considered a public and institutional use. The Public/Institutional Locational Guidelines of the Comprehensive Plan recommend that public and institutional facilities should have convenient access to arterial streets, public transportation and major utility trunk lines. However, the author of that guideline was probably not thinking of a cemetery use when that guideline was recommended. A cemetery use at this location is consistent with adopted land use practices.

5. Impact of the proposed development on community facilities: The proposed cemetery will have significantly less impact on community facilities than other uses permitted by right on the applicant's property.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

MILLER STEVENS asked about the status of the vacation application case associated with this application.

SLOCUM said the vacation case was approved at Subdivision.

MOTION: To approve subject to staff recommendation.

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

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8. **Case No.: CON2008-37** - City of Wichita (owner), T-Mobile Central LLC, c/o George Wyrick (applicant), Ferris Consulting, c/o Greg Ferris (agent) Request: City Conditional Use for 120' wireless communication facility on property zoned SF-5 Single-family Residential on property described as:

A tract of land lying in and being a part of Lot 2 and the North 20 feet of the East 173.07 feet of Lot 1, Block 9, Glenn Village Addition to Wichita, Sedgwick County, Kansas, being more particularly described as follows: Beginning at the Southwest Corner of said Lot 2; thence North 01 degrees 24'34" West, along the West line of Lot 2, a distance of 50.00 feet; thence North 88 degrees 43'26" East, a distance of 27.00 feet; thence South 01 degrees 24'34" East, parallel with said West line, a distance of 50.32 feet; thence North 88 degrees 43'26" East, a distance of 21.00 feet; thence South 01 degrees 24'34" East, parallel with said West line, a distance of 19.67 feet to the South line of said North 20 feet of the East 173.07 feet of Lot 1, Block 9, Glenn Village Addition; thence South 88 degrees 43'26" West, along said South line, a distance of 48.00 feet to the Southwest Corner of said North 20 feet of the East 173.07 feet of Lot 1, Block 9, Glenn Village Addition; thence North 01 degrees 24'34" West, along the West line of said North 20 feet of the East 173.07 feet of Lot 1, Block 9, Glenn Village Addition, a distance of 20.00 feet to the point of beginning. Generally located on the southwest corner of Pawnee and Glenn.

BACKGROUND: The applicant, T-Mobile Central, LLC, is seeking a Conditional Use to permit the construction of a 120-foot high, galvanized steel, monopole cell phone tower. The 0.053-acre tower site is located on portions of the SF-5 Single-family Residential ("SF-5") zoned Lots 1 and 2, Block 9, Glenn Village Addition. The site is owned by the City and the building on it was used as a fire station, however it is currently being used by County Emergency Medical Services (EMS) and by a Police Bomb Unit. Considerations for location of the tower on the site include verification that there is no interference with the existing uses on the site. The Wireless Communication Facility Ordinance (adopted by the WCC 4-08-08 & BoCC 4-9-08), encourages the location of wireless facilities on certain City or County owned

properties, which have been identified and marketed as available, and this site appears to qualify for consideration for a wireless facility. The applicant also solicited public input prior to the application. To staff's knowledge the only response has been from USD 259 and they have indicated that they had no major issues with the proposed tower. Per the amended Wireless Communication Facility Ordinance, new wireless communication facilities over 65-feet in height in the SF-5 zoning district may be permitted with a Conditional Use.

The applicant's RF Engineer has provided (see attached letter #1) a letter that states that the proposed facility is needed to both provide, extend and improve phone service in this section of Wichita. The RF Engineer has also stated that the proposed tower will provide capacity relief for existing T-Mobile Towers in the area. The RF Engineer states that there are no towers or structures in the immediate 1-mile area that would allow co-location opportunities to meet their communication needs and has stated that the high volume of use has caused the area to experience frequent failed access. The wireless facilities map (#2) provided by the applicant shows existing facilities in the area, from I-235 – Kellogg/US 54 – I-135 – I-235. This map is in general agreement with the case map generated by City IT, however it does not show the approved (but not constructed) 150-foot T-Mobile tower located in Linwood Park; CON2008-25. T-Mobile is shown to have six (6) facilities on the map, which the RF Engineer has stated are at full capacity. Two of these six facilities are within the one-mile service radius, as shown on the facilities map. The applicant has provided current and desired coverage (#3) maps.

The area consists primarily of established single-family residential neighborhoods, with an elementary school and a middle school located (south side of Pawnee Avenue) mid-mile, abutting and adjacent to the site. All of these developments are zoned SF-5. The corners of the area along the Seneca Street and Meridian Avenue intersections with Pawnee are developed as small retail strips, free standing retail, a large retail strip, fast food restaurants, restaurants, office and apartments. These developments are zoned LC Limited Commercial ("LC"), GO General Office ("GO"), and B Multi-family Residential. There are also some MF-29 Multi-family Residential ("MF-29") and TF-3, Duplex ("TF-3") zoned single-family residences abutting these developments.

The site plan (#4) shows the 120-foot tower site located in the southwest corner of the City's ownership. As previously noted this site was used as a fire station, but it is currently being used by County EMS and by a Police Bomb Unit. The 120-foot tower does not meet the Unified Zoning Code's (UZC, Art. IV, Sec. IV-C, 5(b)) compatibility height standard of one foot of setback for every foot of height, however all single-family residences and school buildings are located outside the 120-foot compatibility height standard for the tower. An elementary school playground abuts the south and west sides of the site. The applicant plans to request that the compatibility height standard be waived or reduced by making an application for a Zoning Adjustment.

The site plan depicts chain link fencing put up by USD 259 that is located around the south and west sides of the tower site. The site plan also shows existing trees on the site, as well as the EMS building, the parking lot, the entrance to the site off of Glenn Avenue, the gated entrance to the site, and a platted 10-foot wide access/utility easement running through the site to Glenn. The site plan shows no light poles, power poles, cabinets, equipment or buildings located within the fenced-in area. The existing trees around the tower site provide sufficient screening between the facility and the adjacent, northern SF-5 zoned properties. A landscape buffer is required when a tower site is abutting or adjacent to SF-5 zoning, however, the applicant intends to request a waiver of the landscaping standard. The applicant has stated (#5) the site will have a 6-8-foot solid fence around it, and contends that this fencing, coupled with the EMS building and the site's existing trees provide adequate screening.

The proposed tower and associated communication frequencies and wattages must meet standards determined by the Federal Aviation Administration (FAA) to pose no hazard to air navigation or interfere with other radio/communication frequencies. The applicant has not provided an analysis of airspace in the area, which must be provided to staff prior to building permits being issued. The applicant has stated (#6) that any lighting on the tower will be as required by the FAA for aircraft and that it will not have

strobes. Additional lighting (#6) will also be needed for security purposes. The proposed galvanized surface of the tower will blend into the sky more readily than a red and white paint scheme, which meets the intent of the "Design Guidelines" of the "Wireless Communication Master Plan." The proposed tower must allow co-location for two (2) other providers. The applicant has indicated the tower will have a triangular "top hat" antenna array. The UZC recommends antennas mounted flush to the support structure over triangular "top hat" antenna arrays, but recognizes that the top hat arrays provide a larger coverage area, which potentially reduces the number of towers.

CASE HISTORY: The SF-5 zoned site is Lots 1 and 2, Block 9, Glenn Village Addition, which was recorded with the Register of Deeds January 26, 1963. The site is owned by the City and the building on it was used as a fire station, however it is currently being used by County Emergency Medical Services (EMS) and by a Police Bomb Unit. BZA 2003-72 allowed parking in the platted setback, which runs parallel to Glenn Avenue.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residences
SOUTH:	SF-5	Public school (elementary)
EAST:	SF-5	Public school (middle)
WEST:	SF-5	Public school (elementary), single-family residences

PUBLIC SERVICES: No municipally supplied public services are required. The applicant will extend electrical and phone service to the site. The site has access to Glenn Avenue, a paved two-lane residential street. The 2030 Transportation Plan shows no change to the current status of this road.

CONFORMANCE TO PLANS/POLICIES: Per the amended Wireless Communication Facility Ordinance (adopted by the WCC 4-08-08 & BoCC 4-9-08), new wireless communication facilities over 65-feet in height in the SF-5 zoning district may be permitted with a Conditional Use. The Wireless Communication Facility Ordinance (adopted by the WCC 4-08-08 & BoCC 4-9-08), encourages the location of wireless facilities on certain City or County owned properties, which have been identified and marketed as available, and this site appears to qualify for consideration for a wireless facility.

The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan requires a Conditional Use for new undisguised ground mounted facilities over 65-feet in height in the SF-5 zoning district and that they comply with the compatibility setback standards. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area as much as possible; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; monopoles are favored over lattice type structures for up to 150-feet and antennas mounted flush to the support structure are preferred over triangular "top hat" antenna arrays; 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) towers should be painted 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 daytime strobe lighting; whereas, when the plan was adopted, the FAA allowed painted towers red and white instead of using strobe lighting. The application appears to meet most of these considerations.

The 2030 Functional Land Use Guide classifies the site, as "major institutional." This land use classification is meant to accommodate such uses as: government facilities, military bases, libraries, schools, cemeteries, churches, hospital and medical facilities. A wireless communication facility is a commercial use. The County EMS facility on the site is a government facility and the Wireless Communication Facility Ordinance (adopted by the WCC 4-08-08 & BoCC 4-9-08), encourages the

location of wireless facilities on certain City or County owned properties, which have been identified and marketed as available. This site appears to qualify for consideration for a wireless facility, as noted by the WCC's approving the leasing of the site for a tower, contingent on approval of the Conditional Use. The facilities' maps generated by the applicant and City IT/GIS services show the existing facilities in the area, some of which are in residential areas, thus the proposed site is not introducing a new use to the larger area.

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

- A. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a "monopole" design that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall not exceed 120 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) wireless service providers.
- E. The tower shall conform to FAA regulations in regards to analysis of airspace in the area, which includes conformation that the height of the tower is not a hazard to air navigation (including the need or not for lighting) and that the tower does not interfere with other radio/communication frequencies. The applicant shall submit a current copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.
- F. The 0.053-acre tower site shall be developed in general conformance with the approved revised site and landscape plan. These plans must show the solid fencing around the site, parking, all light poles, lights, power poles, cabinets, equipment or buildings within the fenced in site or in the immediate area if it is to be used by the site. The plan must identify existing and/or proposed trees and shrubs, give their total numbers and their general size to determine if it meets screening requirements of the Unified Zoning Code (UZC) Art. IV, Sec. IV-B.3.b.1. All improvements shall be completed within a year and before the facility becomes operational.
- G. As needed the applicant shall apply for a Zoning Adjustment to waive or reduce the compatibility height standard and the landscape standard.
- H. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- I. 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 consists primarily of established single-family residential neighborhoods, with an elementary school and a middle school located (south side of Pawnee Avenue) mid-mile, abutting and adjacent to the site. All of these developments are zoned SF-5. The corners of the area along the Seneca Street and Meridian Avenue intersections with Pawnee are developed as small retail strips, free standing retail, a large retail strip, fast food restaurants, restaurants, office and apartments. These developments are zoned LC Limited Commercial ("LC"), GO General Office ("GO"), and B Multi-family Residential. There are also some MF-29 Multi-family Residential ("MF-29") and TF-3, Duplex ("TF-3") zoned single-family residences abutting these developments.
2. The suitability of the subject property for the uses to which it has been restricted: The site is owned by the City and the building on the site was used as a fire station, however it is currently

being used by County Emergency Medical Services (EMS) and by a Police Bomb Unit. Considerations for location of the tower on the site include verification that there is no interference with the existing uses on the site. The site could continue to be used by the County EMS and the Police Bomb Unit, with or without the tower. The Wireless Communication Facility Ordinance (adopted by the WCC 4-08-08 & BoCC 4-9-08), encourages the location of wireless facilities on certain City or County owned properties, which have been identified and marketed as available, and this site appears to qualify for consideration for a wireless facility. The proposed facility conforms to most of the plan's guidelines.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental effects on the single-family neighborhoods and businesses in the area should be minimized to a degree by the Conditional Use standards of the Unified Zoning Code, which should limit noise, lighting, and other activity from adversely impacting these properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility appears to conform to the Location Guidelines of the Wireless Communication Master Plan since there appears to be no other towers or tall structures in the vicinity of the site which can accommodate the communication needs of the applicant. It is always possible that other facilities may be presented as alternative/co-location sites during the public hearing, in which case the applicant will need to address those claims/opportunities for possible co-location. The proposed wireless communication facility mostly conforms to the Design Guidelines of the Wireless Communication Master Plan by minimizing the height, mass, proportion, and silhouette of the facility through its monopole design; by utilizing an unobtrusive color with a matte finish to minimize glare; and by being placed on City owned property that is adjacent and abutting USD 259 property, which act as stable institutional uses that have, in some locations, their own towers located on school yards. The 120-foot tower does not meet the Unified Zoning Code's (UZO, Art. IV, Sec. IV-C, 5(b)) compatibility height standard, however all single-family residences and school buildings are located outside the 120-foot compatibility height standard for the tower. An elementary school playground abuts the south and west sides of the site. The applicant will request that the compatibility height standard be waived; the applicant must make an application for a Zoning Adjustment to waive or reduce the compatibility height standard.
5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed tower is not a hazard to air navigation (including the need or not for lighting) and that the tower does not interfere with other radio/communication frequencies.

DALE MILLER, Planning Staff presented the Staff Report. **MILLER** commented that a waiver of the compatibility height setback was required for this application.

FOSTER asked about the waiver of landscape requirements and to please describe the landscape screening.

MILLER indicated that the applicant has provided landscape plans. He mentioned several Code requirements such as the compound being enclosed in solid fence screening. He said he believes the plan includes pine trees. He said most of the area is already paved and used for a parking lot. He said a waiver of the landscape requirements would be appropriate for this location.

DIRECTOR SCHLEGEL clarified that item G. in the Staff Report would not be needed if the setback requirement is waived. He also asked if the waiver would be taken care of by administrative adjustment or action of the MAPC.

MILLER said it has been done both ways, but since the case is before the MAPC for review, staff thought it would be appropriate to let the MAPC decide the issue.

GREG FERRIS, T-MOBILE CENTRAL, LLC, said they have negotiated a lease for the ground with the City of Wichita for installation of a 120-foot wireless communication facility. He referred Commissioners to the propagation maps provided with the Staff Report that reflect reception areas before and after tower construction. He commented that there was a large gap in this area. He reported that T-Mobile was upgrading their wireless phone system in Wichita to bring service to people where they “live, work and play.” He said during the propagation process they do an overlay with their customer base so they can identify customer concentrations and provide adequate service to those areas by locating additional towers. He briefly explained site work and how they look for existing towers, tall buildings or adequate places to build. He commented that the City’s Wireless Plan encourages applicants to look on City property. He commented that there are no “fall zones” in Wichita, but instead they are called “compatibility setbacks.” He said on a 120-foot tower, the strongest part of the tower is the base. He briefly reviewed tower construction and how they are anchored into the ground. He said they are not concerned about their towers falling over; that it would probably take a direct hit by a tornado to knock over a pole. He said the compatibility setback was the relationship of the tower to the neighbors or residential homes. He said the school has their own tower on site and that they don’t see an issue with the school yard. He said they felt this was a good site because of the buffering of the playground. He said they will provide some landscaping as well as solid screening and that they have met all the criteria of the City of Wichita’s Wireless Plan.

FOSTER asked if T-Mobile has found other towers where they can cohabitate with other wireless providers.

FERRIS commented that the MAPC only sees applications for new towers. He said when T-Mobile is able to co-locate on other towers, they are not required to submit an application or come before the MAPC. He said T-Mobile has Master Lease Agreements (MLS’s) with just about every wireless carrier for over 40 sites (not all in Wichita). He briefly explained the process and said they prefer doing those types of agreements, but that there was nothing suitable in this area.

MILLER STEVENS referenced item E. in the Staff Report and asked **FERRIS** to explain radio frequencies and possible conflicts with other towers and how they handle that.

FERRIS said the closest tower was located on the school grounds. He explained that the Federal Communications Commission (FCC) strictly regulates frequencies and that they are not allowed to interfere with anyone or they could lose their license. He said they submit frequencies to the FCC and will comply. He briefly mentioned that sometimes they have problems when they get within a mile of A.M. radio stations.

HILLMAN asked about the solid screening, graffiti, and recovery of baseballs and volleyballs from within the enclosure.

FERRIS commented that they are leasing from the City and believe they will be immediately notified of graffiti or other problems. He added that they have crews that go from site to site to maintain the area, fencing, weed control, landscaping, graffiti or whatever. He said in reference to sports equipment, he said the tower is located quite a ways away from where the playground is used. He said they don’t anticipate any problems and added that they would construct an 8-foot fence around the tower.

MOTION: To approve subject to staff recommendation, including waiving the compatibility setback, which will negate item G. in the Staff Report.

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

9. **Case No.: CON2008-40** – Ray Development Group, LLC Request City Conditional Use to allow ancillary parking on property zoned SF-5 Single-family Residential on property described as:

Lot 1, Block 2, The Fountains Second Addition to Wichita, Sedgwick County, Kansas.

AND

The North 20 feet of Reserve B, The Fountains Second Addition to Wichita, Sedgwick County, Kansas. Generally located on the southeast corner of Central Avenue and Dowell Street.

BACKGROUND: The application area is the north 20 feet of Reserve B of The Fountains Second Addition located approximately 237 feet south of east Central Avenue, east of Dowell Street, and contains approximately 3,740 square feet. The site is zoned SF-5 Single-family Residential (“SF-5”), however the applicant is seeking a Conditional Use to permit “ancillary parking” for eight spaces to support a proposed retail center zoned LC Limited Commercial (“LC”) on the land located immediately north of the subject site. A site plan is attached for reference. The subject site is part of a much larger reserve that was platted in 1996. Use of the reserve is restricted to: drainage, sidewalks, utilities, landscaping, playground and/or recreational improvements; therefore a companion case to this conditional use application (VAC2008-00029) has been filed to remove the site from Reserve B and its use limitations. The Subdivision Committee is scheduled to hear the vacation request on September 18, 2008. If approved, the northern and most westerly end of Reserve B will be reduced from a width of approximately 46 feet to approximately 26 feet. At this location, there is a residential lot, developed with a home that abuts the reserve’s southern border.

An existing screening wall is located south of the proposed parking area, and the site plan proposes to retain the wall. Landscaping per code is also proposed. A dumpster, screened per code, is also shown within the application area. The site plan does not indicate if there will be light standards in the proposed parking area or if the lighting will be light packs attached to the building.

CASE HISTORY: The Fountains Second Addition was approved by the Wichita City Council on September 25, 1996.

ADJACENT ZONING AND LAND USE:

NORTH: LC Limited Commercial
SOUTH: SF-5 Single-family Residential
EAST: LC Limited Commercial
WEST: SF-5 Single-family Residential

PUBLIC SERVICES: All necessary services are available. Utilities are present in the reserve.

CONFORMANCE TO PLANS/POLICIES: Good planning practice calls for appropriate buffers between commercial activities and residential uses. In this circumstance the proposed use is screened by an existing screening wall, and buffered by approximately 26 feet of dedicated reserve area that permits limited uses.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to any conditions of approval included in the companion vacation application (VAC 2008-00029) and the following conditions:

1. The site shall be developed in substantial conformance with the approved site plan.
2. Any lighting standards placed on this site shall be no taller than 15 feet, including any base.
3. The site shall be maintained in conformance with all applicable codes, including Article III, Section D. 6. of the Wichita-Sedgwick County Unified Zoning Code, unless modified by this conditional use.
4. If any of the utility managers determine it is necessary to move any of the utilities utilizing the

- reserve, the cost for moving those utilities shall be the applicants.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of approval for this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property located to the north and east is zoned LC while property located to the west and south is zoned SF-5. The application area is located on the edge between residential and non residential uses. If this request and the companion vacation case are approved, the transition area will be effectively moved to the southern side of the application area. In general the neighborhood is a mix of developed and developing lots with both residential and non residential uses.
2. The suitability of the subject property for the uses to which it has been restricted: Approval of the request will allow only ancillary parking. The property could continue to be used for the plat restricted SF-5 uses allowed.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed conditions of approval should minimize anticipated impacts. It is staff's understanding that the property owners' association sold this property to the applicant, and the nearby lot owners are part of the original development. Therefore, they must not have perceived the sale of part of the reserve to the applicant as having a negative impact on nearby properties.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial would presumably create a hardship on the adjacent commercial site as they are required by code to provide 45 stalls; they are able to provide 50 including the eight proposed to be located on the application area. Off-site parking is preferred from a public safety standpoint, so approval of the request would be supportive of that preference.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: Good planning practice calls for appropriate buffers between commercial activities and residential uses. In this circumstance the proposed eight parking spaces are screened by an existing screening wall, and buffered by approximately 26 feet of dedicated reserve area that permits a limited number of uses.
6. Impact of the proposed development on community facilities: There are utilities present in the reserve. When the MAPC considers this request, the Commission should take into account comments provided by staff and the various utilities' managers to the Subdivision Committee.

DALE MILLER, Planning Staff presented the Staff Report. **MILLER** commented that a waiver of the 20-foot compatibility setback was required for this application.

Responding to a question from **FOSTER** concerning type of screening, **MILLER** explained that screening would be the standard required by the zoning code, which would be wood or masonry or some other type of solid screening.

In reference to **FOSTER'S** question regarding plant materials, **MILLER** explained that some plant materials are already on-site and in place. He said that may meet minimum standards as established by the Landscape Ordinance, which the MAPC does not have any control over except through approval of the Conditional Use Permit. He said the MAPC could make a recommendation, above and beyond the minimum required by the code.

FOSTER asked about requiring evergreen screening wherever there is a break in the wall.

HILLMAN referred to the site layout plan provided with the Staff Report and asked staff to review the photos taken of the site.

DAVID RAY, 329 N. LANCASTER, APPLICANT, said the gap referred to between the two concrete walls will be filled with a wall. He said they will blend in with what is already in the neighborhood and be a good neighbor. He said with the wall, when people park in the lot, residents won't be able to see them.

MOTION: To approve subject to staff recommendation, including the waiver and recommendation for evergreen or masonry screening.

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

10. Case No.: CON2008-41 – Security Portfolio VII, LLC c/o Chris Penny Request City Conditional Use for Warehouse, Self Service Storage, on property zoned LC Limited Commercial and as expansion of existing operation on property described as:

Lot 2, Security Storage Properties 3rd Addition, Wichita, Sedgwick County, Kansas, EXCEPT the West 100 feet thereof. Generally located east of Seneca and 1/2 mile north of Pawnee (at the terminus of May Street).

BACKGROUND: The applicant seeks a Conditional Use to permit expansion of an existing self storage business with a climate controlled storage building. The existing self storage business north of the application area was permitted under a Board of Zoning Appeals (BZA) Use Exception (see the attached BZA52-88 Resolution). The application area is zoned LC Limited Commercial ("LC"), and is currently vacant.

North and east of the site is the existing self storage in LC and GO General Office ("GO") zoning. South and west of the site is LC zoned property used for vehicle parking and a fuel outlet; further south is an LC zoned church.

CASE HISTORY: The existing storage business was permitted as a BZA use exception in 1988. The site was platted as Lot 2 of the Security Storage Property 3rd Addition in 1989.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Self storage
SOUTH:	LC	Vehicle parking, fuel outlet
EAST:	GO	Self storage
WEST:	LC	Vehicle parking, fuel outlet

PUBLIC SERVICES: The site has access to Seneca, a paved five-lane arterial with a 50-foot half-width right of way at this location. All other municipal services are available at the site.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this area as appropriate for "local commercial." This category encompasses areas that contain concentrations of predominantly commercial, office and personal service uses that do not have a significant regional market draw.

RECOMMENDATION: The proposed Conditional Use is an expansion of an existing storage business which has had no apparent negative effect on surrounding properties. Based upon information available

prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The applicants shall obtain all applicable permits including, but not limited to: building, health and zoning.
2. The site shall be developed in conformance with the approved site plan.
3. The site shall conform to the conditions of BZA Resolution 52-88.
4. If operations have not begun within one year of approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North and east of the site is the existing self storage in LC and GO zoning. South and west of the site is LC zoned property used for vehicle parking and a fuel outlet; further south is an LC zoned church.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC, which permits self storage as a Conditional Use. The site is owned by the abutting self storage business and is landlocked. The site may not be useful to the current owner without the requested Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The requested Conditional Use would expand an existing business, and should have no more negative effect on nearby property than the existing self storage business.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this area as appropriate for “local commercial.” This category encompasses areas that contain concentrations of predominantly commercial, office and personal service uses that do not have a significant regional market draw.
5. Impact of the proposed development on community facilities: The site has access to Seneca, a paved five-lane arterial with a 50-foot half-width right of way at this location. The proposed Conditional Use to expand an existing self storage business should have negligible impacts on community facilities.

JESS MCNEELY, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

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

DIRECTOR SCHLEGEL announced that 2008 was the 50th anniversary of the Wichita-Sedgwick County Metropolitan Area Planning Commission and Department. He said on Tuesday, October 7, 2008, the City Council will issue a proclamation declaring October “National Community Planning Month”. He added that the next day the item will appear before the County Commission. He said staff plans to have video highlights of the long, successful planning relationship between the City and County. He said

if Planning Commissioners were able, he urged them to attend so that the governing bodies can acknowledge their participation.

The Metropolitan Area Planning Department informally adjourned at 2:15 p.m.

State of Kansas)
Sedgwick County) ^{ss}

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

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

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

(SEAL)