

**METROPOLITAN AREA PLANNING COMMISSION**

**MINUTES**

**June 5, 2008**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, June 5, 2008, at 1:30 P.M., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: M.S. Mitchell, Chair; Don Anderson, Vice Chair; Darrell Downing; David Foster; Bud Hentzen; Hoyt Hillman; Bill Johnson; Ronald Marnell; John W. McKay, Jr.; and Debra Miller Stevens were present. David Dennis; Michael Gisick; Don Sherman; and G. Nelson Van Fleet were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Bill Longnecker, Senior Planner; Derrick Slocum, Associate Planner; Neil Strahl, Senior Planner; and Maryann Crockett, Recording Secretary.

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**1. Approval of May 8, 2008 and May 22, 2008 MAPC meeting minutes**

Approval of the May 8, 2008 Minutes.

**MOTION:** To approve the May 8, 2008 Minutes.

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

Approval of the May 22, 2008 Minutes.

**MOTION:** To approve the May 22, 2008 Minutes, as amended.

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

**MCKAY** abstained due to his absence.

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**2. CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

**2-1. SUB 2008-15 : Final Plat -- TYLERS LANDING 4TH ADDITION**, located east of Tyler Road and on the south side of 37th Street North.

NOTE: This is a replat of Lots 1 and 9, Block A of the Tyler's Landing 3<sup>rd</sup> Addition.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of City water and sanitary sewer (main and laterals) to serve all the lots being platted.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan.
- D. The Applicant shall guarantee the paving of the proposed streets.

- E. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- F. For those reserves being platted for drainage purposes, the required covenant 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.
- G. The applicant shall submit a covenant that provides four (4) off-street parking spaces per dwelling unit on each lot that abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- H. GIS requests a new name for Pepper Ridge Ct. The segment adjoining Lots 17-29, Block A shall be denoted as a Circle (Cir).
- I. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Westar Energy has requested additional easements.
- R. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**MOTION:** To approve subject to staff recommendation.

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

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**2-2. SUB 2008-40: One-Step Final Plat -- TANNER ADDITION**

NOTE: This is an unplatted site located within the City. The site has been approved for a zone change (ZON 2008-15) from SF-5 Single-family Residential to NR, Neighborhood Retail subject to a Protective Overlay addressing permitted uses, density, and building height.

STAFF COMMENTS:

- A. Wichita Water Utilities Department has required the extension of sewer. Water is available, but in-lieu-of-assessment fees are needed for connections.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the drainage plan. An off-site drainage easement is needed.
- D. The plat proposes two openings along Harry. Traffic Engineering has approved one opening. Complete access control is needed along the west 170 feet.
- E. A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlay and its special conditions for development on this property.
- F. The platting binder indicates a party holding a mortgage on the site. This party's name must be included as a signatory on the plat, or else documentation provided indicating that such mortgage has been released.
- G. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- H. 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.)
- I. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.

- J. 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.
- K. 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.
- L. 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.
- M. Perimeter closure computations shall be submitted with the final plat tracing.
- N. 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](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**MOTION:** To approve subject to staff recommendation.

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

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### **3. PUBLIC HEARING – VACATION ITEMS**

#### **3-1. VAC2008-15: City request to vacate a portion of a platted easement**

**OWNER/APPLICANT:** Diane C Mercer-Burroughs

**LEGAL DESCRIPTION:** The platted 10-foot utility easement, running parallel to the common lot line of Lots 23 & 24, Block 7, the Westlink Seventeen Addition, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located west of Maize Road, midway between Central Avenue and Maple Street, west of North Parkdale Street, on the southwest portion of North Parkdale Court (WCC #V)

**REASON FOR REQUEST:** Additional space for a detached garage

**CURRENT ZONING:** Subject property and all adjacent and abutting properties are zoned SF-5 Single-family Residential ("SF-5")

The applicant is requesting consideration for the vacation of the platted 10-foot utility easement, that was located, half on Lot 23 and half on Lot 24, all in Block 7, all in the Westlink Seventeen Addition. The applicant (subject site = Lot 23) has provided a Quit Claim that has reconfigured the two lots, moving the common lot line between the two lots; the Quit Claim acts an instrument for a boundary shift. The

reconfigured lots appear to meet the 5,000-square foot minimum required for the SF-5 zoning district. The width of the lots along the street right-of-way has not changed, but remains as they were platted. The results of the Quit Claim is that Lot 23 has now extended into Lot 24 and the platted 10-foot utility easement, is entirely in the subject site, Lot 23. A vacation of the platted easement does not absolve encroachments into setbacks. The GIS map shows no manholes, water or sewer lines in the subject platted easement. Comments from Storm Water and franchised utilities have not been received and are needed to determine if they have utilities located within the platted utility easement. The Westlink Seventeen Addition was recorded with the Register of Deeds January 17, 1979.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works/Water & Sewer/Storm Water, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted 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 May 15, 2008 which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described platted utility easement and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the platted utility easement described in the petition should be approved with conditions:
- (1) Vacate the platted utility easement as described in an approved legal description, as approved by City Water & Sewer, Public Works, Storm Water and franchised utilities. Retain the platted utility easement until all comments from all utilities have been received.
  - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide City Public Works, Water & Sewer, Storm Water and franchised utilities with any needed plans for review for relocation or reconstruction of utilities. Provide any guarantees needed for the relocation or reconstruction of utilities. Provide any easements needed for the relocation or reconstruction of utilities. All must be completed prior to proceeding to the Wichita City Council for final action.
  - (3) All improvements shall be according to City Standards and at the applicant's expense.
  - (4) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation 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 utility easement as described in an approved legal description, as approved by City Water & Sewer, Public Works, Storm Water and franchised utilities. Retain the platted utility easement until all comments from all utilities have been received.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide City Public Works, Water & Sewer, Storm Water and franchised utilities with any needed plans for review for relocation or reconstruction of utilities. Provide any guarantees needed for the relocation or reconstruction of utilities. Provide any easements needed for the relocation or reconstruction of utilities. All must be completed prior to proceeding to the Wichita City Council for final action.
- (3) All improvements shall be according to City Standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**MOTION:** To approve subject to staff recommendation.

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

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### **PUBLIC HEARINGS**

4. **Case No.: ZON2008-10** (Deferred from April 10, 2008 MAPC Hearing) - David Lowry (owner), Christian Ablah (applicant), Poe & Associates, Attn: Tim Austin (agent) Request City zone change from "B" Multi family and "MF 29" Multi family to "LC" Limited commercial on property described as;

Lot 1 & N 33.51 feet of Lot 3, Block 2, East Boulevard Addition, Sedgwick County, Kansas.

AND

The South 16.49 feet of Lot 3 and all of Lot 5 & N 8.51 feet of Lot 7, Block 2, East Boulevard Addition, Sedgwick County, Kansas. Generally located 454 North Bleckley and 446 North Bleckley.

**BACKGROUND:** The applicant is requesting a zone change from B Multi-family Residential ("B") (Lots 1, 3 and the north 40.51 feet of Lot 5) and MF-29 Multi-family Residential ("MF-29") (the south 9.49 feet of Lot 5 and the north 8.51 feet of Lot 7) to the LC Limited Commercial ("LC") district. The application area contains approximately 0.4-acres with 128 feet of frontage located along Central Avenue, one block east of Oliver. These lots are developed with two four-plexes, one on each lot, built in the early 1940's, with what appears to be less than five off-street parking spaces serving eight dwelling units. The applicant proposes the rezoning to allow for the highest and best use to allow commercial development.

The majority of residential development in this area is located between Bleckley Drive (west) and Pinecrest Avenue (east), along the south side of Central Avenue. This development consists of four-

plexes, duplexes and single-family residences zoned B or MF-29. Most of these multi-family structures appear to have been built in the early 1940's.

Property south of the subject site is zoned MF-29, and is developed with a four-plex, also built in the early 1940s. Property east of the site is zoned B and developed with single-family residences. Property north of the subject site, across Central Avenue, is zoned LC, and is developed with a fast food restaurant. West of the subject site, across Bleckley Drive, the property is zoned LC, and is developed with a retail strip center.

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

**CASE HISTORY:** This site is platted as the East Boulevard Addition, approved in 1930. There was an attempt to rezone this property in 1990-91 (Z-3010) to LC but the City Council denied that request and forwarded the request back to the Metropolitan Area Planning Commission (MAPC) for consideration of OC Office Commercial ("OC") zoning (converted in 1996 to the NR Neighborhood Retail ("NR") district). Office Commercial zoning was approved by the MAPC, and returned to the City Council which approved the OC zoning subject to replatting within one year. The property was never replatted during the one year time span, and was allowed to lapse by the applicant. The rezone never took effect due to the property not being replatted.

**ADJACENT ZONING AND LAND USE:**

NORTH:	LC Limited Commercial	Fast Food Restaurant
SOUTH:	MF-29 Multi-family Residential	Four-plex
EAST:	B Multi-family Residential	Single-family Residential
	TF-3 Two-family Residential	Duplex
WEST:	LC Limited Commercial	Retail Strip Store

**PUBLIC SERVICES:** All public services are available at the subject site. Central Avenue is a four-lane principal arterial with 40,801 Average Daily Traffic (ADTs). Nearby, Oliver Avenue is a four-lane minor arterial with 31,853 ADTs. Bleckley Drive is a local residential street, but is not classified on the Federal Roadway Functional Roadway Map. The intersection of Central and Bleckley is not signalized. The subject site currently has access drives on to both Central and Bleckley.

**CONFORMANCE TO PLANS/POLICIES:** The "2030 Wichita Functional Land Use Guide" depicts this site as "Urban Residential." This category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The Functional Land Use Guide shows the south side of Central, from Bleckley to Pinecrest, to retain the existing residential zoning classification. From Pinecrest to Edgemoor, the guide favors LC zoning or rezoning requests. Zoning and rezoning requests for LC or GO General Office ("GO") are favored on the north side of Central from Oliver to Edgemoor. The commercial location guidelines indicate the stripping out of commercial zoning along arterial streets is undesirable. Also the location guidelines state that commercial uses should locate in compact clusters or nodes versus extended strip developments, commercially-generated traffic should not feed directly onto local residential streets and commercial uses that are not located in planned centers or nodes (including large free-standing buildings, auto-related and non-retail uses) should be guided to other appropriate areas such as: the CBD fringe; segments of Kellogg; established areas of similar development; and, areas where traffic patterns, surrounding land uses and utilities can support such development.

**RECOMMENDATION:** The application area is small for most modern LC uses. To encourage the redevelopment of this site with land uses which will maintain a degree of compatibility with the residential land uses to the south and east, and to establish a new zoning classification on the property that is more in line with the commercial and office land uses to the west and north, and which recognizes the fact that this site fronts onto an arterial street, staff recommends that the request for LC not be approved, but instead staff recommends that the property be zoned NR. Neighborhood Retail zoning would establish a transition area between the existing non-residential uses in the area and the neighborhood to the south and east because the NR districts limits individual retail uses to a maximum size of 8,000 square feet; restaurants are limited to a maximum size of 2,000 square feet and drive-through service is prohibited. Other development standards also apply to the NR district, but the NR district would provide for land uses which typically produce fewer vehicular trips than would be generated by LC land uses. Based upon information available prior to the public hearings, planning staff recommends that the request for LC Limited Commercial zoning be DENIED, however, if the Planning Commission feels the request is appropriate, staff would recommend APPROVAL of NR Neighborhood Retail zoning, subject to replatting within one year, and dedication of complete access control along Bleckley Drive, and dedication of access control except for one opening along Central Avenue.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property south of the site is zoned MF-29. The MF-29 property is developed with a four-plex, built in the early 1940s. Property east of the site is zoned B, and developed with single-family residences. Property north of the subject site, across Central Avenue, is zoned LC, and is developed with a fast food restaurant. West of the subject site, across Bleckley Drive, the property is zoned LC, and is developed retail strip store.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned B and MF-29. The B district permits a reasonably lengthy list of permitted uses including a variety residential uses and medical services. The site could probably be adapted to uses currently allowed. The site contains .4 acre, which is a small area for most current day retail uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of LC zoning would introduce some uses not in character with adjacent existing residential uses. Commercial uses generate more average daily traffic; introduce larger signage and more lighting than is found in typical residential areas. Approval could encourage other property owners seek similar zoning up and down Central Avenue that could impact Central Avenue's ability to carry the traffic it was designed to carry.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: If approved, presumably this request would generate more economic return for the applicants than leaving the site as currently zoned. From the public's standpoint, approval of this request would be a case of encroachment of commercial zoning into an established neighborhood and would not be consistent with the community's adopted plan that encourages the use of zoning as one of the tools to promote and enhance neighborhood stability and investment.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" depicts this site as "Urban Residential." This category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The Functional Land Use Guide shows the south side of Central, from Bleckley to Pinecrest, to retain the existing residential zoning classification. From Pinecrest to Edgemoor, the guide favors LC zoning or rezoning requests. Zoning and rezoning requests for LC or GO General Office are favored on the north side of Central from Oliver to Edgemoor. The commercial location guidelines indicate the stripping out of commercial zoning along arterial streets is undesirable. Also the location guidelines state that commercial uses should locate in compact clusters or nodes versus extended strip developments, commercially-generated

traffic should not feed directly onto local residential streets and commercial uses that are not located in planned centers or nodes (including large free-standing buildings, auto-related and non-retail uses) should be guided to other appropriate areas such as: the CBD fringe; segments of Kellogg; established areas of similar development; and, areas where traffic patterns, surrounding land uses and utilities can support such development. The Wichita City Council found that OC zoning or its current equivalent of NR zoning was appropriate in 1990.

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.

**MILLER** explained that staff received a call from the developer **CHRISTIAN ABLAH** late yesterday afternoon wherein he provided additional information relative to the application that staff did not have until that time. He said **ABLAH** mentioned requesting a deferral; however, staff pointed out that the item had already been deferred once and suggested that the applicant go ahead and make a case for their request with the understanding that staff would do whatever “tweaking” of the recommendation was necessary during the meeting. He said essentially what staff has tried to do is make a recommendation that is similar to recommendations on other properties in this same situation. He said staff has removed the supplemental use requirements limiting the property to 2,000 square feet; however, it was too late to change the Staff Report.

**FOSTER** asked about the issue of the drainage canal on the east side of the property and asked if there was any new information related to that?

**SLOCUM** replied that the applicant would be able to answer that.

**TIM AUSTIN, POE & ASSOCIATES, AGENT FOR THE APPLICANT**, said the nature of the phone call to Planning staff was to re-emphasize the plan of assembling properties and redeveloping the east side of Central and Oliver. He showed photographs of the remodeled Oliver Square including Papa John’s and Sugar Sisters. He said the applicant is interested in doing a larger development in the area and that fits in with LC zoning on both the northeast and southeast corners. He said the flood study was currently in progress, but it is not completed. He said he surveyed the finished floors on the existing building to see how they related to the published FEMA Flood Map and that it was 1363.72 as compared to the 1363 base flood elevation. He said because of the complicated nature of the drainage, the flood study has not been completed yet. He said there is a tremendous amount of LC zoning from Oliver to Edgemoor on both sides of the street with a mixture of multi-family and NR, and they feel this request is consistent with past policies. He said the drainage canal to the east is 40-foot wide. He said the applicant is not interested in deferring the application. He concluded by stating that the property owner was present to support the application.

**MITCHELL** clarified that floor elevation was above the base flood elevation, even though the property is partly mapped in the floodplain. He also clarified that the flood study was currently under way.

**AUSTIN** said that was correct.

**MITCHELL** asked about the City’s Capital Improvement Program (CIP) to make improvements in the area?

**AUSTIN** said the City does have an item, he believes in the 2015 CIP Budget, but he thinks it is inadequately funded. He said Engineering staff has indicated they would like a further study with an aerial flight and ultimately extend the box from Kellogg north.

**MITCHELL** asked if the applicant was agreeable to the requirement of platting within one year.

**AUSTIN** said they didn't feel like platting was necessary since the lots are already platted and he recalled from the last discussion on this item that requirement would be waived. He added that they are agreeable to the access limitations.

**MITCHELL** said that leaves open the question of whether there is enough space and elevation available for the City's proposed CIP to go between these two properties and no way to make sure that is accomplished through platting.

**AUSTIN** said until a program is identified and designed, they feel it is inappropriate to impede an owner who has a property that can be developed.

**MITCHELL** said he thought that was one of the items **AUSTIN** agreed to try to resolve before the case was rescheduled.

**AUSTIN** said he believed the issue was the flood study because the floodway for the FEMA map stops at 1<sup>st</sup> Street and picks up further north at Murdock or 9<sup>th</sup> Street. He said the applicant has been talking with the City about a redevelopment district and the flood study will help the applicant finalize what land is actually buildable, footprints of buildings, and what land would be floodplain and floodway.

**MCKAY** asked why the applicant did not want to replat.

**AUSTIN** responded that the area was already platted. He said generally the purpose of replatting is to bring property into compliance with subdivision regulation or City's needs. He said they don't see any needs that have been defined.

**MCKAY** commented that he did not think the restrictions on B Multi-family and LC Limited Commercial are the same.

**HENTZEN** asked staff why they were asking for a replat.

**MILLER** said staff felt that was the easiest way to address drainage issues and access controls. He said residential zoning doesn't typically have access controls. He said if the Commission feels it is more appropriate, an alternative would be that no building permits be issued until a full drainage study has been reviewed and approved and access controls approved by the City Traffic Engineer, in lieu of platting.

**FOSTER** said he feels this project is important in terms of inner city revitalization and promoting inner city neighborhoods so he thinks the Commission needs to look at all means of making it happen. He asked if a Protective Overlay (PO) of the LC Limited Commercial zoning would be appropriate and what would staff like to see in the PO to make the project possible.

**MILLER** commented that the primary difference between LC and NR is that fewer uses are allowed in the NR but general retail is permitted. He said NR limits restaurants and building services and eliminates "drive through" services. In addition, he said buildings can't be larger than 2,000 square feet and the other primary difference is no individual retail can exceed 8,000 square feet. He said the reason for recommending NR versus LC was to protect the residential character on the east and south of the property. He said it is hard to buffer LC on such a small site that close to residential uses. He commented that staff is also supportive of in-fill projects.

**MARNELL** commented that he didn't recall seeing replatting coming through before as a recommendation and added that the Commissioner has changed a lot of zoning from one level to another.

**MILLER** reiterated what he had said earlier about dealing with the drainage issues and access control and said platting was one way to take care of those items. He said the Commission could require the

applicant to submit a drainage plan and access control as separate instruments prior to the issuance of building permits.

**MARNELL** referred to the recommendation in the Staff Report stating that there already was complete access control along Bleckley and dedication of access control except one opening along Central. He asked if that was not part of the zone change.

**MILLER** said that language is inserted to warn the applicant that is what will be expected at platting so that will not be a surprise.

**MARNELL** asked if that could be done at these proceedings if the zone change was approved.

**MILLER** responded yes, that was the other way to take care of the issues.

**HENTZEN** asked the agent if the applicant would agree to the alternative approach recommended by staff.

**AUSTIN** said yes, and added that he believed staff withdrew the request for the replat requirement and they have previously agreed to dedication of the access controls

**JOHNSON** inquired if anyone else wished to speak on this item.

**MARNELL** asked about the drainage study.

**AUSTIN** said the requirement that no building permits would be issued until the drainage study is completed and approved will become an issue when they pull the building permits. He said they can file a letter of map amendment and still obtain a building permit, so they do not want that to be a condition of the proposed zoning change. He said the only condition that is necessary is the dedication of access controls.

**HILLMAN** clarified then they are not planning on waiting until the flood control process is completed by the City before they develop the property?

**AUSTIN** said that process is at least ten years out, and not scheduled until 2015.

**MITCHELL** said the alternative to the City's approval of a new flood study was a drainage plan approved by Storm Water Engineering prior to obtaining building permits.

**AUSTIN** responded yes.

**KATHY ARRINGTON, PO BOX 471 N NEWTON, KS 67117**, said she was the property owner's (Ralph and Rosemary Lowry) daughter and said she was present to express that they are in favor of this rezoning request. She said her parents have had a contract pending since December, 2007 and that this delay has caused them financial distress. She said their issue was whether to fix the properties to rent, or wait to see what Mr. Ablah was able to do. She said they are in favor of the zoning, and quite frankly wanted to be rid of the properties. On behalf of her parents, she requested that the Commission approve the zoning.

**STEPHANIE MAYES, 601 STONE CREEK DRIVE, NEWTON, KS 67114**, said she was with Coldwell Bankers and that they have been marketing the property for close to a year. She said they have avoided selling to persons in the community renting other properties and commonly known as "slum lords". She said Mr. Ablah's proposal was a good opportunity for the community and this area. She concluded by saying that this is a forgotten area and that Mr. Ablah has already cleaned up the corners and was working on putting something together. She said they support the application.

**MOTION:** To approve for LC zoning subject to staff 's alternative recommendation which was to submit a drainage plan and dedication of access controls per the City Traffic Engineer prior to the issuance of any building permits.

**HENTZEN** moved, **MCKAY** seconded the motion, and it carried (9-1). **MILLER STEVENS** – No.

**HENTZEN** said he felt this was a reasonable request and that it appears the drainage issue has been agreed to by staff and the applicant. He added that he didn't know what the applicant could do that would affect drainage in this area.

**FOSTER** said he would like restrictions on restaurants and industrial uses looked at as well and asked if a PO could be added to the case as part of the motion.

**HENTZEN** said no, he wasn't willing to change his motion.

**SUBSTITUTE MOTION:** To approve for LC zoning subject to staff's alternative recommendation which was to submit a drainage plan and dedication of access controls per the City Traffic Engineer prior to the issuance of any building permits, and that Staff would craft a PO of uses.

**DIRECTOR SCHLEGEL** asked **FOSTER** what use restrictions he was talking about so staff could have some guidelines.

**FOSTER** said size of spaces, drainage issues, and he would like to limit practicality of some uses.

The substitute motion died due to lack of a second.

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5. **Case No.: ZON2008-26** – Autolights Inc. Attn: Rex Hensley (applicant), Baughman Company, P.A., attn: Russ Ewy (agent) Request City zone change from SF-5 Single family Residential and LC Limited Commercial to GC General Commercial on property described as;

Lots 46 and 47, Linwood Acres Addition, Sedgwick County, Kansas. Generally located the south side of Lewis, 1/2 block west of Zelta and one block north of Kellogg.

**BACKGROUND:** The applicants request a zone change from SF-5 Single-family Residential ("SF-5") and LC Limited Commercial ("LC") to GC General Commercial ("GC") on a site encompassing two properties. The property at 11002 East Lewis Street is 0.87 acres in size, while the property at 11728 East Lewis Street is 0.88 acres in size (Lots 47 and 46 respectively of the Linwood Acres Addition.) Lot 47 is developed with an outbuilding while Lot 46 is currently undeveloped. The applicants proposed to use the site for vehicle rental and additional outdoor storage.

The applicant is not requesting access to Lewis from the expanded site. Access to the subject site will be provided from the frontage road through the existing property along Kellogg Drive. The applicant will be asked to submit an agreement not to protest participating in the future paving of Lewis Street. The City's landscape code will require the frontage along Lewis Street to be landscaping with trees in front of a screening fence.

The surrounding area is characterized, predominantly, by large undeveloped and developed commercial properties zoned either LC or GC. Residential development is located north of the subject site, across Lewis, with property zoned MH Manufactured Housing District ("MH"), TF-3 Two-family Residential

(“TF-3”), MF-18 Multi-family Residential (“MF-18”) and SF-5 with development consisting of a Mobile Home Park and single-family residences. The property to the south (same property owner as the subject site) is zoned GC and is developed as an auto dealership. The property to the east of the subject site is zoned LC and SF-5 and is currently developed with a Manufactured Home Park along with some undeveloped property, while the property to the west of the subject site is zoned GC and is being developed as an automobile dealership.

**CASE HISTORY:** The subject site encompasses two properties, Lots 46 and 47 of the Linwood Acres Addition, recorded on October 1929. Property abutting the west property line was rezoned to GC with a Protective Overlay in 1998.

**ADJACENT ZONING AND LAND USE:**

NORTH:	“MH”	Mobile Home Park
SOUTH:	“GC”	Auto Dealership
EAST:	“LC”	Vacant, Manufactured Home Park
WEST:	“GC”	Vacant Commercial Land (Auto dealership under construction)

**PUBLIC SERVICES:** The subject site can be accessed off of East Lewis Street, an unimproved local road. However, the main access to the site is off of East Kellogg Drive, a paved two-lane frontage road running along the north side of East Kellogg Road, a four-lane freeway/expressway with a traffic count of approximately 50,000 average daily trips. Complete access control by separate instrument will be required along East Lewis Street. The subject property does have access to public sewer or public water service. The nearest sewer line runs along the south property line and the nearest water line runs along the north side of Lewis Street.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area as “Regional Commercial” within the Wichita 2030 Urban Growth Area. “This category encompasses major destination areas (centers and corridors) containing concentrations of commercial, office, and personal service uses that have predominately regional market areas and high volumes of retail traffic. These areas are located in close proximity to major arterials or freeways. The range of uses includes major retail malls, major automobile dealerships and big box retail outlets with a regional market draw. Regional Commercial areas may also include higher density residential housing and uses typically found in Local Commercial areas.”

The current zoning request of GC for the 1.77-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.B1** of regulating new strip commercial development to areas identified by the “Wichita Land Use Guide” and neighborhood/subarea plans for expansion. **Strategy III.B.6** seeks to channel traffic generated by commercial activities to the closest major thoroughfare with minimum impact upon local residential streets; the major access points for this proposed rezone directs traffic onto east Kellogg Road.

**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 egress in order to avoid traffic congestion. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, **#4** recommends compact clusters versus extended strip development, and **#5** stated that commercially-generated traffic should not feed directly onto local residential streets.

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

1. Dedication of complete access control by separate instrument along East Lewis Street.
2. The applicant shall construct a 6 foot solid screening fence along Lewis Street 10 feet south of the right-of-way line.
3. Submit a “no protest” petition regarding the future paving of Lewis Street.
4. Establish a covenant tying the ownership of the subject site to the abutting lot to the south.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The surrounding area is characterized, predominantly, by large undeveloped and developed commercial properties zoned either LC or GC. Residential development is located north of the subject site, across Lewis, with property zoned MH, TF-3, MF-18 and SF-5 with development consisting of a Mobile Home Park and single-family residences. The property to the south (same property owner as the subject site) is zoned GC and is developed as an auto dealership. The property to the east of the subject site is zoned LC and SF-5 and is currently developed with a Manufactured Home Park along with some undeveloped property, while the property to the west of the subject site is zoned GC and is being developed as an automobile dealership.
2. **The suitability of the subject property for the uses to which it has been restricted:** The subject property is currently zoned LC with a 30 foot strip of SF-5 zoning fronting East Lewis Street. Due to its close proximity to existing commercial zoning (LC to the east and GC to the south and west), it is unlikely that the subject property would be viable as a single-family residential property. This rezone request follows the zoning pattern for the properties located north of east Kellogg, between Greenwich and Zelta Street. The Protective Overlay for this request is patterned off the Protective Overlay that was placed on the property abutting to the west during its zone change in 1998.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The scale and impact of any development within GC zoning should be mitigated by the site development requirements related to access management, landscaping, screening, lighting and signage.
4. **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 “Regional Commercial” within the Wichita 2030 Urban Growth Area. “This category encompasses major destination areas (centers and corridors) containing concentrations of commercial, office, and personal service uses that have predominately regional market areas and high volumes of retail traffic. These areas are located in close proximity to major arterials or freeways. The range of uses includes major retail malls, major automobile dealerships and big box retail outlets with a regional market draw. Regional Commercial areas may also include higher density residential housing and uses typically found in Local Commercial areas.”

The current zoning request of GC for the 1.77-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.B1** of regulating new strip commercial development to areas identified by the “Wichita Land Use Guide” and neighborhood/subarea plans for expansion. **Strategy III.B.6** seeks to channel traffic generated

by commercial activities to the closest major thoroughfare with minimum impact upon local residential streets; the major access points for this proposed rezone directs traffic onto east Kellogg Road.

- 5. **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.

**MCKAY** mentioned the complete access control from Lewis Street. He asked if Lewis Street is paved in the future and the applicant signs a “no protest petition”, will there be some type of access control negotiations.

**SLOCUM** responded that has not been decided yet. He said normally the City discourages commercial traffic on local streets.

**RUSS EWY, BAUGHMAN CO., AGENT FOR THE APPLICANT**, said the client has expressed no hesitation on the terms of the protective overlay and they see very little need for Lewis Street to be paved; however, if that happens, they will seek vacation of Lewis Street at that time.

**MOTION:** To approve subject to staff recommendation.

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

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- 6. **Case No.: ZON2008-28** - Mobile Home Living Inc., (owner), Ruggles & Bohm c/o Tom Ruggles (agent) Request City zone request on a parcel with no zoning to MH Manufactured Housing on property described as;

A tract of land in Section 22, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at a point on the South Section line, North 89 degrees 40' East, 2523.94 feet from the Southwest Corner of said Section 22; thence continuing along said line, 327 feet to a point on the West Right of Way of the Wichita and Valley Center Riverside Levee; thence along said West Right of Way, North 24 degrees 28' West, 328.73 feet; thence South 89 degrees 40' West, 192.59 feet; thence South 00 degrees 20' East, 300 feet to the point of beginning. Generally located 1/2 mile east of Hydraulic Avenue at 55th Street South and abutting the Arkansas River.

**BACKGROUND:** The application area is an unzoned parcel along the Arkansas River. The property is under the same ownership as the mobile home park to the north and west of the site. The applicant wishes to develop the site with storage for the mobile home park and therefore requested a rezoning to MH Manufactured Housing (“MH”). The property is currently unplatted; however, the applicant has initiated the platting process.

Property north and west of the site is zoned MH and is developed with manufactured home pad sites. Property south of the site is zoned SF-5 Single-family Residential and utilized as a municipal sewage treatment site. Property east of the site is the unzoned Arkansas River.

**CASE HISTORY:** The site is unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH:	MH	Manufactured housing
SOUTH:	SF-5	Sewage treatment

EAST: Unzoned Arkansas River  
WEST: MH Manufactured housing

**PUBLIC SERVICES:** The site has access from Spruce Ave., a two-lane paved private street internal to the larger mobile home park. City water and sewer are available at the site.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “Urban Residential.” The Urban Residential category includes all densities of residential development found within the urban municipality.

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

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property north and west of the site is zoned MH and is developed with manufactured home pad sites. Property south of the site is zoned SF-5 Single-family Residential and utilized as a municipal sewage treatment site. Property east of the site is the unzoned Arkansas River.
2. The suitability of the subject property for the uses to which it has been restricted: The site cannot be developed if unzoned, therefore the property is not suitable for the uses to which it has been restricted.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will allow the site to be used for manufactured housing, or in support of a manufactured housing development. There should be no detrimental effect on nearby property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “Urban Residential.” The Urban Residential category includes all densities of residential development found within the urban municipality.
5. Impact of the proposed development on community facilities: The proposed zone change should have no impact on community facilities.

**DONNA GOLTRY (FOR JESS MCNEELY)**, Planning staff presented the staff report.

**FOSTER** asked specifically what type of storage will be allowed.

**GOLTRY** said the types of items that people would store in sheds and garages. She said the applicant also wants to use the building as a maintenance facility for the manufactured home park.

**FOSTER** asked about storage of vehicles.

**GOLTRY** responded no.

**MITCHELL** asked about the east line of the property and the levee right-of-way.

Staff couldn't respond to that question.

**TOM RUGGLES, RUGGLES & BOHM, AGENT FOR THE APPLICANT**, gave a brief history of the property explaining that this back corner was an exception of the original plat of the mobile home park, which was platted in 1988. He said the mobile home park was sold in 2005 and the current owner's

intent is to use the building as a storage and maintenance facility and storage facility for the mobile home park tenants. He said this Commission had previously approved the plat and conditions in May, 2008. He said the owner was willing to sign a covenant and in addition, there is language on the face of the plat that limits use of this property to a maintenance and storage facility.

**HILLMAN** asked about screening.

**RUGGLES** responded he believed the zoning regulations required a screening fence, similar to what already exists around the mobile home park.

**HILLMAN** said control of access to the materials such as gasoline and mowers might be of interest to the owner.

Responding to **MITCHELL's** earlier question concerning the levee right-of-way, **RUGGLES** said the east line of the tract is in alignment with the west high bank line as it continues north, as it was platted in the addition to the north.

**MOTION:** To approve subject to staff recommendation.

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

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- 7. Case No.: CON2008-25** - City of Wichita (owner), Board of Park Commissioners, T-Mobile Central LLC, c/o George Wyrick (applicants), Ferris Consulting, c/o Greg Ferris (agent) Request City Conditional Use permit for a 150 foot wireless communication tower in TF-3 Two family Residential zoning on property described as;

A tract of land lying in and being a part of the Northwest Quarter of Section 34, Township 27 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, being more particularly described as follows: Commencing at the Southwest corner of said Northwest Quarter; thence North 01degrees 07'55" West, along the West line of said Northwest Quarter, a distance of 1055.58 feet; thence North 88 degrees 52'05" East a distance of 951.81 feet to the point of beginning; thence South 74 degrees 55'20" East a distance of 49.63 feet; thence South 25 degrees 15'32" West a distance of 59.90 feet; thence North 63 degrees 26'26" West a distance of 19.16 feet to the point of beginning. Generally located Linwood Park, west of I-35 and Kansas Avenue and 1400 feet south of Harry.

**BACKGROUND:** The applicant, T-Mobile Central, LLC, is seeking a Conditional Use to permit the construction of a 150-foot high, galvanized steel, monopole cell phone tower. The proposed tower will also have lights placed on its lower portion, which will be used to light the left field of an existing baseball field. The irregular (see site plan) tower site is located in the TF-3 Two-family Residential ("TF-3") zoned (+) 44-acre Linwood Park. The public park is located between Harry Street (north), I-35 (east), Mount Vernon Road (south) and Hydraulic Avenue (west). 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 TF-3 zoning district may be permitted with a Conditional Use. The site is not in an area where an Administrative Permit (per the above sited amended ordinance) would allow a tower, if it did not exceed the allowed height.

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 provided by the applicant shows the existing facilities in the area, from Broadway Avenue (west) – north of Kellogg Street – Oliver Street (east) – 31<sup>st</sup> Street South. This map is in general agreement with the case map generated by City IT. T-Mobile is shown to have six facilities on the map, which the RF Engineer has stated are at full capacity. The applicant has provided current and desired coverage maps.

The site is located in the TF-3 zoned (+) 44-acre Linwood Park, which is located between Harry Street (north), I-35 (east), Mount Vernon Road (south) and Hydraulic Avenue (west). If approved the proposed 150-foot monopole will replace an existing light pole located along the fence in left field of a baseball field. The baseball field is located immediately to the west and north of the site. There is approximately 375 feet of open park land located north of the site between the site and a parking lot and two other baseball fields. A public school is located north of the baseball fields. A public library/rec center/senior center, a basketball court and a playground are located over 200-280 feet south of the site. Kansas Avenue (public street right-of-way) is located approximately 140 feet east of the site. I-35 and the drainage channel that runs under it are located approximately 300 feet further east of the site. The site is located within a large area that is “protected by a levee.” Existing single-family residences or other residential uses are located (+) 1,000 feet from the site. Zoning outside of the park is mostly TF-3, B Multi-family Residential (“B,” developed as single-family, duplex and multi-family residential development), some LC Limited Commercial (“LC,” developed as small local retail) and a GO General Office (“GO”) site.

The site plan shows the irregular shaped tower site located within the park, showing a portion of the baseball field (one of three baseball fields in the area), some existing trees, Kansas Avenue and a proposed 20-foot access and utility easement to Kansas. It does not indicate if the easement has any type of all weather surface on it. The site plan does not show the public library/rec center/senior center, a basketball court and a playground all of which are located within 200-280 feet south of the site; this portion of the park has been developed for multiple indoor and outdoor uses for citizens of all ages. The site plan shows no fencing around the site. The site plan shows no light poles, power poles, cabinets, equipment or buildings located within the fenced-in area. The use of the park’s existing trees must be determined if it meets screening requirements of the Unified Zoning Code (UZC) Art. IV, Sec. IV-B.3.b.1. Art. IV Sec. IV-C.5.b. of the UZC requires a setback equal to the height of the communication tower from the abutting properties.

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 interferes with other radio/communication frequencies. The applicant has not provided an analysis of airspace in the area, which must be provided to staff prior to building permits being issued. The applicant has not provided any proposed lighting of the tower, except to say it will not have strobes. Tower lighting must meet the FAA requirements for aircraft warning. The proposed galvanized surface of the tower will blend into the sky more readily than a red or white paint, which meets the intent of the “Design Guidelines” of the “Wireless Communication Master Plan.” The proposed tower must allow co-location for three (3) other providers. The applicant has indicated that the tower will have a triangular “top hat” antenna array, the UZC recommends antennas mounted flush to the support structure over triangular “top hat” antenna arrays, however it also recognizes that the triangular “top hat” antenna’s signal travels further than the flush mounted antennas, therefore reducing the number of needed towers.

**CASE HISTORY:** The TF-3 zoned site is part of an unplatted portion of the (+) 44-acre Linwood Park. The Wichita Board of Park Commissioners and City Council have approved (4-15-2008) leasing this site to the applicant.

**ADJACENT ZONING AND LAND USE:**

NORTH: TF-3 Park, parking lot, baseball fields, public school

SOUTH:	TF-3	Park with public library/rec center/senior center, playground, and basketball court,
EAST:	TF-3	Park, Kansas Avenue, park with bike path, I-35
WEST:	TF-3	Park with baseball field

**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 Kansas 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 TF-3 zoning district may be permitted with a Conditional Use.

The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan requires a Conditional Use for new undisguised ground mounted facilities over 65-feet in height in the TF-3 zoning district and that they comply with the compatibility setback standards; the site meets those setback standards. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area as much as possible. The tower will replace an existing light tower for a public park baseball field, providing light for the ball field while providing extended and improved phone service in this section of Wichita. The park/site is adjacent to I-35 and has no residential uses within 1,000 feet of it; 2) Minimize the height, mass, or proportion. The tower is similar in height, mass and proportion to other T-Mobile towers in the area; 3) Minimize the silhouette; monopoles are favored over lattice type structures for up to 150-foot and antennas mounted flush to the support structure over triangular “top hat” antenna arrays. The 150-foot tower is a monopole, but uses triangular “top hat” antenna arrays. The triangular “top hat” antenna’s signal travels further than the flush mounted antennas, therefore reducing the number of needed towers; 4) Use colors, textures, and materials that blend in with the existing environment. The monopole tower will have a galvanized surface, which will blend into the sky more readily than red or white paint; 5) Be concealed or disguised as a flagpole, clock tower, or church steeple. The tower will replace an existing light tower for a public park baseball field, providing light for the ball field while providing extended and improved phone service in this section of Wichita; 6) Be placed in areas where trees and/or buildings obscure some or all of the facility. There are existing mature trees all around the site, plus ball fields and a public library/rec center/senior center all which will help to “hide” the site; 7) Be placed on walls or roofs of buildings. The application doesn’t do this; 8) Be screened through landscaping, walls, and/or fencing. Existing trees provide landscaping, there are no walls proposed, a fence will probably be put up for security; and 9) Painting towers red and white instead of using strobe lighting. The applicant has stated that there will be no strobes and that it will be a galvanized steel finish. NOTE: Since the time the Wireless Communication Master Plan was first adopted, the FAA changed their regulations to require daytime strobe lighting; whereas, when the plan was adopted, the FAA allowed painted towers red and white instead of using strobe lighting.

The 2030 Functional Land Use Guide classifies the site, Linwood Park, as “park and open space.” It defines “park and open space” as land meant to accommodate parks, golf courses, public open space, private development reserves and recreational facilities/corridors (including natural drainage channels, easements, abandoned railway corridors, etc.). A wireless communication facility is a commercial use. Entry into residential areas is typically the final part of the business plan of most personal wireless providers. The facilities’ maps generated by the applicant and City IT/GIS services show the existing facilities in the area, some of which are in residential areas, thus the proposed site is not introducing a new use to the large area. The Locational Guidelines of the Wireless Communication Master Plan recommends large park areas as possible/preferred sites for towers. The proposed location of the site within a public park, which will affect the fewest number of people with its presences while providing an opportunity to improve communication services to this portion of the community.

**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 150 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 0.07-acre tower site located within the owner’s (+) 44-acres shall be developed in general conformance with the approved revised site and landscape plan. These plans must show the type and size of 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. The site plan must identify the utility access easement as being current or proposed. If it is proposed it must be recorded. If a surface is needed for the drive/access easement, it must be approved by the Zoning Administrator. All improvements and construction of the facility/tower shall be completed within a year and before the facility becomes operational.
- G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. Provide the Storm Water Engineer with any required plans for review and approval of the site.
- H. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The character of the surrounding area is a public park, Linwood, developed with baseball fields, playgrounds, outdoor basketball courts, a public library/rec center/senior center and a public school. Established single-family residential neighborhoods are located more than 1,000 feet away from the site within the park and are separated from the park by public streets (north, west and south of the park) and an interstate highway (I-35, west of the park) with a major drainage channel running underneath it. The entire park is zoned TF-3. Zoning outside of the park is mostly TF-3, B (single-family, duplex and multi-family residential development), some LC (small local retail) and a GO site.
- 2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned TF-3 and is currently used as a public park. The public park has three baseball fields, a library/rec center/senior center, a basketball court, parking lots and a playground; this portion of the park has been developed for multiple indoor and outdoor uses for citizens of all ages. The site is suitable for its continued use as a public park. A Conditional Use may be granted to permit a wireless communication facility in the TF-3 zoning district, however, the facility should conform to the guidelines of the Wireless Communication Plan as much as possible. The Locational Guidelines of the Wireless Communication Master Plan recommends large park areas as

possible/preferred sites for towers. 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 affects 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, all which are more than 1,000 feet from the site. The location of the site on parkland ensures future development around the site will occur outside the 44-acre Linwood Park, thus continuing the minimization of detrimental effects on the existing development and any future development outside of the park.
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 in a park where existing vegetation obscures some of the facility from view. The proposed tower will also serve as a light pole for the baseball park it abuts, which meets the intent of the Master Plan's standard of using rebuilt athletic field/stadium light standards for communication towers. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned TF-3 or more restrictive. The site appears to meet that standard.
5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed tower is not a hazard to air navigation (including the need or not for lighting) and that the tower does not interfere with other radio/communication frequencies.

**BILL LONGNECKER**, Planning staff presented the staff report.

**HILLMAN** said since the wireless communication tower was located immediately next to a baseball diamond, he was concerned about electrical and other potential hazards and asked how these would be handled, as well as how baseballs that fell inside the fence would be recovered.

**LONGNECKER** stated that the security gates and fence surrounding the tower are there for safety and liability reasons and to protect the tower's equipment. He said the Park Department will have keys to the gate for recovery of baseballs.

**MOTION:** To approve subject to staff recommendation.

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

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8. Case No.: CON2008-26 – Stonehedge LLC (owner); Crafton Tull Sparks c/o Chris Winkler (agent) Request City Conditional Use permit for a school, elementary (Montessori School) on property zoned LI Limited Industrial on property described as;

Lots 6, 7 and 8, Block 3, Stonehedge Second Addition, Wichita, Sedgwick County, Kansas.  
Generally located 1/2 block east of Rock Road and 1/2 block south of 35<sup>th</sup> Street North (3500 North Rock Road).

**BACKGROUND:** The applicant is requesting a Conditional Use for a Montessori school (elementary school) on a 0.56-acre tract located on property zoned LI Limited Industrial (“LI”). The site is located one-half block east of Rock Road and one-half block south of 35<sup>th</sup> Street North (3500 North Rock Road), with direct access onto a private street. Schools are a Conditional Use in the LI zoning district to evaluate potential conflicts between industrial activities allowed by right in the LI district, which can involve heavy truck traffic, noise, odors, etc., and the needs for a safe and secure environment for an elementary school.

The proposed Conditional Use would be located in the southeast corner of an office park development accessed from 35<sup>th</sup> Street North to Rock Road. The site plan shows a 3,870 square foot building located primarily on Lot 7, Block 3, Stonehedge Second Addition, with parking located to the west (Lot 8). The number of parking spaces is per the Unified Zoning Code (“UZC”) for elementary school. A platted 15-foot setback is located along the internal street serving the property. Standard LI setbacks apply for other property lines, and no compatibility setbacks or Landscape Ordinance requirements would accrue due to the surrounding LI zoning pattern. A drainage reserve is located south of the property.

The site is located within an office park composed of buildings with residential architectural style ranging from Craftsman bungalow, to traditional and modern styles. No industrial uses are located within the office park. Green spaces (reserves) surround the buildings simulating a residential feel. The intensity of uses is typical of uses in the GO General Office (“GO”) zoning district, which allows elementary schools by right.

Other uses in the vicinity include retail and restaurant uses fronting onto Rock Road and industrial park uses in the Comotara Business Park, including high-tech manufacturing, office warehousing, offices and business service uses.

**CASE HISTORY:** The property is platted as Lots 6, 7 and 8, Block 3, Stonehedge Second Addition, recorded April 16, 1985.

**ADJACENT ZONING AND LAND USE:**

NORTH:	LI	High-tech manufacturing (LSI), vacant
SOUTH:	LI	Office-warehouse, offices, business service uses, drainage reserve
EAST:	LI	Office-warehouse
WEST:	LI	Offices, retail and restaurant (along Rock Road)

**PUBLIC SERVICES:** Access is from a private street abutting the site to 35<sup>th</sup> Street North and then to Rock Road. 35<sup>th</sup> Street North is a local nonresidential street, with a median at its juncture with Rock Road. Rock Road is a heavily travelled major arterial with two northbound lanes, three southbound lanes and two center turn lanes at 35<sup>th</sup> Street North. Traffic volume (2007 Average Daily Traffic) was 26,329 southbound between 37<sup>th</sup> Street North and K-96 and was 13,610 northbound on this segment. Normal public services are available.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide”, 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identifies the site as “employment/industry center.” The employment center classification is representative of the uses located in the Comotara Business Park area, roughly bounded by K-96, Rock Road, 37<sup>th</sup> Street North and Webb Road. A school, classified as an institutional-type use, is less typical of the range of uses found in employment/industry center, and more appropriately falls within the range of institutional uses typical of the “Urban Development Mix” category. However, the location of this private school within the office park setting of Stonehedge Second Addition should not be a conflict with the overall character of the

Comotara Business Park. The perimeter of the office lots in Stonehedge Second Addition are drainage reserves, and are shown as “park and open space” on the *Comprehensive Plan* Land Use Guide. The site meets the **Public/Institutional Locational Guideline #2** for convenient access to arterial streets, public transportation and major utility trunk lines.

**RECOMMENDATION:** Based upon information available prior to the public hearing, Staff recommends APPROVAL subject to the following conditions:

1. The subject property shall be developed in general conformance with the approved site plan.
2. Construction of improvements shall be commenced within one year of approval by the appropriate governing body.
3. The site shall be developed and operated in compliance with all government requirements/permits for the use.
4. 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 site is located within an office park composed of buildings with residential architectural style ranging from Craftsman bungalow, to traditional and modern styles. No industrial uses are located within the office park. Green spaces (reserves) surround the buildings simulating a residential feel. The intensity of uses is typical of uses in the GO General Office (“GO”) zoning district, which allows elementary schools by right. Other uses in the vicinity include retail and restaurant uses fronting onto Rock Road and industrial park uses in the Comotara Business Park, including high-tech manufacturing, office warehousing, offices and business service uses.
2. The suitability of the subject property for the uses to which it has been restricted: The property is suitable for development with the uses permitted by right in the current zoning district.
3. Extent to which removal of the restrictions will detrimentally affect nearby properties: Due to the characteristics of the immediate environs of the site and the proposed type of school facility, the approval of this Conditional Use should not pose a detriment to the continued operation of the other offices within the Stonehedge Second Addition.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide”, 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identifies the site as “employment/industry center.” The employment center classification is representative of the uses located in the Comotara Business Park area, roughly bounded by K-96, Rock Road, 37<sup>th</sup> Street North and Webb Road. A school, classified as an institutional-type use, is less typical of the range of uses found in employment/industry center, and more appropriately falls within the range of institutional uses typical of the “Urban Development Mix” category. However, the location of this private school within the office park setting of Stonehedge Second Addition should not be a conflict with the overall character of the Comotara Business Park. The perimeter of the office lots in Stonehedge Second Addition are drainage reserves, and are shown as “park and open space” on the *Comprehensive Plan* Land Use Guide. The site meets the **Public/Institutional Locational Guideline #2** for convenient access to arterial streets, public transportation and major utility trunk lines.
5. Impact of the proposed development on community facilities: The marginal increase in traffic on

Rock Road should be minor compared to the existing traffic volumes; no significant increase in other public services is anticipated.

**DONNA GOLTRY**, Planning staff presented the staff report.

**MOTION:** To approve subject to staff recommendation.

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

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The Metropolitan Area Planning Department informally adjourned at 2:25 p.m.

State of Kansas )  
Sedgwick County )<sup>ss</sup>

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)