

CONDITIONAL USE RESOLUTION NO. CU- 505

WHEREAS, Wallace and Rowlen Partnership (Linda S. Wallace and Rita L. Rowlen) (Owner), pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requested a Conditional Use to allow Conditional Use to allow a nursery and garden center on 1.63 acres zoned "LC" Limited Commercial described as:

Lot 6 of Village Square Addition, or Lot 6 of Reserve D, Block G, Second Addition to The Village, an Addition to Wichita, Sedgwick County, Kansas.
Generally located Northeast corner of Kellogg and Edgemoor.

WHEREAS, proper notice as required by the Unified Zoning Code and by the policy of the Metropolitan Area Planning Commission (hereinafter referred to as MAPC) has been given; and

WHEREAS, the MAPC did, at the meeting of March 25, 1999, consider said application; and

WHEREAS, the MAPC has authority to permit a Conditional Use, subject to any special conditions deemed appropriate in order to assure full compliance with the criteria of the Unified Zoning Code.

NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Area Planning Commission that this application be approved to permit a conditional use to allow a nursery and garden center on 1.63 acres zoned "LC" Limited Commercial described as

Lot 6 of Village Square Addition, or Lot 6 of Reserve D, Block G, Second Addition to The Village, an Addition to Wichita, Sedgwick County, Kansas.
Generally located Northeast corner of Kellogg and Edgemoor.

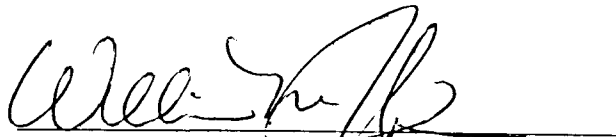
subject to the following conditions:

1. The permitted merchandise for sale within the outdoor display area shall be limited to above-ground pools and pool accessories, spas, patio furnishings, planters, pots, statuary fountains, outdoor grills/fireplaces, and landscaping materials.
2. The applicant shall obtain all applicable permits, including but not limited to: building, health and zoning and landscaping. A minimum of 4 shade trees shall be planted along Kellogg and Edgemoor and 3 trees along both the northern and eastern lot line (2 ornamental trees may substitute for each shade tree). All street yard trees along Edgemoor shall be a minimum of 3 ½" in caliper.

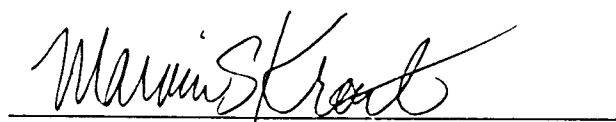
3. The provisions of Section III-D.6.z of the Unified Zoning Code shall be strictly adhered to. Further, the site plan shall indicate that lighting of the outdoor display area shall be limited to light standards not greater than 16 feet in height, and shall have lights shielded to direct light downward and away from the adjacent properties and public street. In addition, there shall not be permitted any string-type lighting, string banners and/or flags, or any other similar outdoor materials designed and/or intended to be attention-attracting devices.
4. The solid screening wall along the west side of the outdoor display area shall be the same non-metal material as the main building and the wrought iron fence along the south side of the outdoor display area shall be a minimum of six feet in height and shall include a landscaping bed outside the enclosed area on the west and south sides with planting materials of varying heights so as to partially obscure the area. The bed shall also extend east along the south elevation of the building. The solid screening wall along the north and west of the pallet storage area shall be at least eight feet in height and also shall have a landscaping bed outside the enclosed area on the west so as to partially obscure the area. No materials stored within the outdoor display area except patio umbrellas shall be visible above the top of the screening wall and/or wrought iron fence. No merchandise shall be displayed or stored outside the outdoor display area.
5. If the circulation drive and parking area is installed between the west side of the outside storage area and Edgemoor, the applicant shall meet buffering requirements between a residential and non-residential use and parking lot screening requirements.
6. The site shall be developed in general compliance with the amended site plan as noted above.
7. Any violation of the conditions approved as part of this request shall render the Conditional Use null and void.

Adopted this 25th day of March, 1999. This resolution shall become effective on the fifteenth day after the date last noted above unless the matter is forwarded to the Governing Body for final action under the provisions of Section V-D.6. When any one or more of the exceptions listed in Section V-D.6 exist, this resolution with its conditions of approval shall be considered a recommendation of the MAPC to the Governing Body which shall then have final authority to approve, approve with conditions or modifications, or deny the Conditional Use application.

METROPOLITAN AREA PLANNING COMMISSION

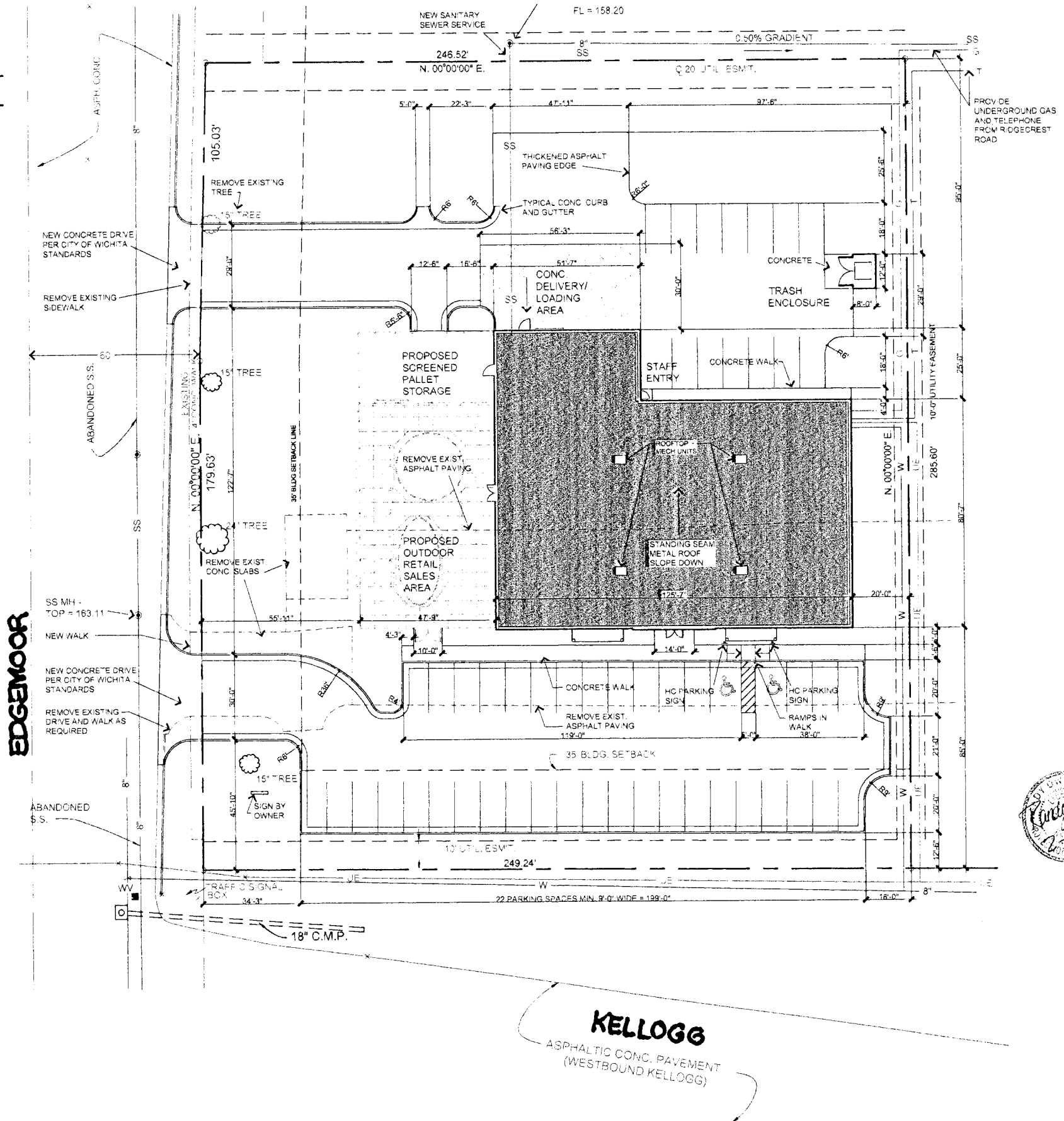

William M. Johnson, Chairman

ATTEST:


Marvin S. Krout, Secretary

ULTRA MODERN POOL & PATIO

N.E. CORNER OF KELLOGG AND EDGE MOOR



SITE PLAN
SCALE: 1" = 20'-0"

CV505

SPANGENBERG • PHILLIPS
ARCHITECTURE

224 E. Douglas, Fifth Floor Wichita, KS 67202 T 316.267.4002 F 316.267.1509

STAFF REPORT

CPO(2) March 22, 1999
MAPC March 25, 1999

CASE NUMBER: CU-505

APPLICANT/AGENT: Wallace and Rowlen Partnership (Linda S. Wallace and Rita L. Rowlen) (Owner); Spangenberg Phillips Architecture (Agent)

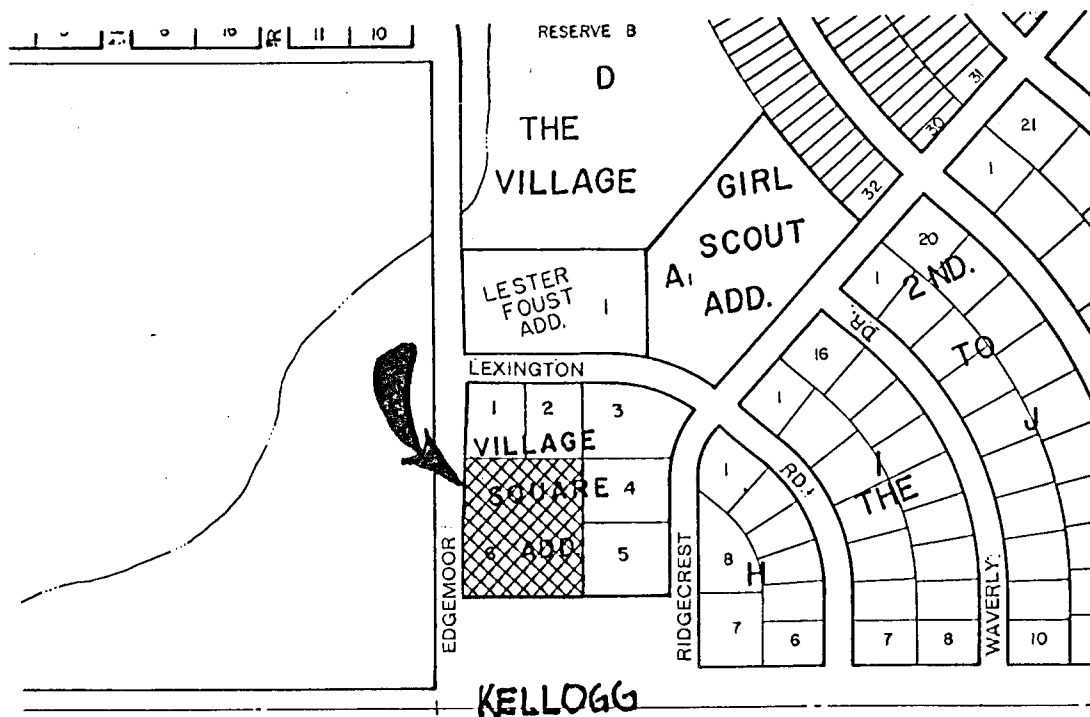
REQUEST: Conditional Use to allow a nursery and garden center

CURRENT ZONING: "LC" Limited Commercial

SITE SIZE: 1.63 acres

LOCATION: Northeast corner of Kellogg and Edgemoor

PROPOSED USE: Ultra Modern Pool and Patio



BACKGROUND: The applicant is requesting a Conditional Use to allow a nursery and garden center in an "LC" Limited Commercial district. The intention is to establish an area to the west of the proposed building to be developed as the outdoor retail sales area for the business. The nursery and garden center area, along with the enclosed building on the site, would be used for the sales of above-ground pools, pool accessories, furnishings, chemicals, spas, fireplaces, etc. There would be two permanent above-ground pools for display purposes only in the outdoor covered patio. The applicant has indicated that the sales of in-ground pools and pool construction operations will be conducted on a different site.

This case was originally scheduled to be heard by the MAPC on January 25, 1999 as a request for a Conditional Use for sales of outdoor equipment. It was deferred and readvertised to change the request to nursery and garden center after it was determined by the Office of Central Inspection that the proposed use fits this category.

An overall area of 4,992 square feet (104' x 48') is proposed for outdoor use, with the north 1,152 square feet (24' x 48') being used for "screened pallet storage" and the remaining 3,840 square feet (80' x 48') being used for sales of nursery and garden center items and as the display area for the two above-ground pools. The pallet storage area would be screened from view along Edgemoor and Lexington Road by a solid masonry wall that is 8' in height. The west side of the outdoor display area would be screened from Edgemoor with a solid masonry wall that is 6' in height and would have a pergola over a portion of the display area. The south side along Kellogg would be screened with a 6' wrought iron fence.

The proposed Conditional Use must meet the appropriate conditional use provisions of Section III-D.6.z of the Uniform Zoning Code pertaining to nurseries and garden centers. Some of these provision are the location of the site being contiguous to an arterial or expressway, screening of mechanical equipment, lighting to be shielded away from adjoining properties (no string-type lighting permitted), no sound projecting devices or loudspeakers that can be heard beyond property lines, any repair or service of vehicles or equipment must occur within an enclosed building, and all vehicles used in conjunction with the business must be stored inside the main building, a garage, or other location as deemed appropriate by the Planning Commission within an adequately screened and enclosed compound on the property.

The applicant states that this use is within the limitations and restrictions placed on the property by the Restrictive Covenants recorded with the rezoning and platting completed last year. (See Case History below)

The applicant has agreed to limit outside display to only the screened area and the enclosure, to limit the height of items in the display area, to provide landscaping beds along the west and south of the outdoor display space, and to add landscaping along the north and east side between the site and the surrounding lots zoned "GO" fronting

onto Ridgecrest and Lexington since these lots may remain undeveloped for a significant period of time and the landscaping would provide some buffer to the residential areas to the east. Additionally, if the City closes the point of access on Edgemoor nearest Kellogg in the future, a new parking area and circulation drive would need to be added on the site along Edgemoor. In this case, the applicant has agreed to install parking lot landscaping to screen the parking lot from Edgemoor. Finally, the applicant proposes the street yard landscaping requirement for shade trees on the site be spread around the perimeter of the property, with four shade trees along Kellogg, four along Edgemoor, three along the northern lot line and three along the eastern lot line instead of placing all the street yard landscaping along Kellogg and Edgemoor, and agrees that the trees along Edgemoor will exceed the minimum planting size.

The area is characterized by a mix of zoning districts and use. The remaining lots in Village Square Addition currently are vacant. Beyond these lots to the east of the subject property is a single-family residential neighborhood located on property zoned "SF-6" and "TF-3" (The Village). The area to the north and west is characterized by institutional uses. The Wichita Police Department Substation and Fire Station and the Girl Scout Council Service Center are located to the north of the application area on property zoned "SF-6" & "GO"; beyond this is Cypress Park. The Veterans Administration housing units and hospital is located across Edgemoor to the west on property zoned "GO". Across Kellogg to the south are various commercial uses on property zoned "LC".

CASE HISTORY: The rezoning of this property from "B" Apartment to "LC" Limited Commercial (Case No. Z-3220) was approved by the Wichita City Council on August 12, 1997, subject to platting within one year. The plat, Village Square Addition approved by the Wichita City Council on July 21, 1998 and recorded and published July 31, 1998.

Originally, the rezoning was proposed to be subject to the Protective Overlay intended to minimize the intensity of the potential commercial development on the subject parcel. During the course of deliberations between the developers and the neighborhood, the limitations were changed to a Restrictive Covenant to be filed by the developer on the entire property, enforceable by the neighborhood. As a result, there is no Protective Overlay in effect and any limitations affecting the property are through the provisions of the Restrictive Covenants of record.

ADJACENT ZONING AND LAND USE:

NORTH:	"GO" General Office	Vacant
SOUTH:	"LC" Limited Commercial	Kellogg right-of-way; commercial uses south of Kellogg
EAST:	"GO" General Office	Vacant
WEST:	"GO" General Office	Veterans Administration Hospital and housing units

PUBLIC SERVICES: Municipal water and sewer service is available to this site. The property has access to Edgemoor, a 4-lane arterial, with existing traffic volumes of approximately 9,776 average daily trips (ADT) a quarter-mile north of Kellogg. The 2020 Transportation Plan projects traffic along Edgemoor to increase to approximately 14,907 ADT for this segment. Edgemoor is also projected by the 2020 Transportation Plan to remain a 4-lane arterial. The latest edition of the Transportation Improvement Program shows no planned improvements to Edgemoor. The site also fronts on Kellogg, a 4-lane divided arterial, with existing traffic volumes of approximately 42,987 average daily trips (ADT) from Edgemoor to Woodlawn. The 2020 Transportation Plan projects traffic along Kellogg to increase to approximately 69,316 ADT for this segment, with Kellogg becoming a 6-lane freeway.

The issue of access to the public streets was resolved during the platting process. The lot has two access points on Edgemoor and complete access control along Kellogg, both now and proposed in the future when the next phase of the Kellogg Expressway project is completed. Future plans for the expressway call for Kellogg to pass under Edgemoor. A frontage road would be constructed along the southern edge of the site, however, the property would not have access onto the frontage road.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for public/institutional uses, however, the Plan indicates the Kellogg corridor as being appropriate for commercial development. The decision to rezone this property to "LC" effectively acknowledged the appropriateness of this property for commercial uses.

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

1. The permitted merchandise for sale within the outdoor display area shall be limited to above-ground pools and pool accessories, spas, patio furnishings, planters, pots, statuary fountains, outdoor grills/fireplaces, and landscaping materials.

2. The applicant shall obtain all applicable permits, including but not limited to: building, health and zoning and landscaping. A minimum of 4 shade trees shall be planted along Kellogg and Edgemoor and 3 trees along both the northern and eastern lot line (2 ornamental trees may substitute for each shade tree). All street yard trees along Edgemoor shall be a minimum of 3 ½" in caliper.
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5. The site shall be developed in general compliance with the amended site plan as noted above.
6. Any violation of the conditions approved as part of this request shall render the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The zoning and character of uses is not as strongly established as once existed in this immediate area due to the acquisition of the land for the Kellogg Expressway project along the south

of the subject property. However, the commitment to zone the lots to the north and east as "GO" General Office, coupled with the commercial uses to the south of Kellogg and the established apartment uses on the Veterans Administration property to the east support the use of the corner property as commercial. The restrictions applicable by the Unified Zoning Code and supplemented as stated above through this Conditional Use have further made this request compatible with the neighborhood.

2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial, and could be put to other uses permitted "by right." However, the code permits consideration of the proposed Conditional Use to allow nurseries and garden centers within this zoning classification.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: With the provisions of the Code and the Conditional Use permit, there detrimental impacts on the adjacent properties should be minimized. The impact on the residential neighborhoods beyond the adjacent properties to the east should be minimized by the Conditional Use restrictions as well as by the buffering of the commercial use with the general office use between the proposed site and the residential areas.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed use is in conformance with the Adopted Plan guidelines.
5. Impact of the proposed development on community facilities: None identified.