CONDITIONAL USE RESOLUTION NO. CU-550

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 for an outside display on 1.9 acres zoned "LC" Limited Commercial and "TF-3", Two-family Residential described as:

> Lot 2, 6 & 7, Block 1, Carriage House Plaza Addition, Sedgwick County, Kansas. Generally located North of Kellogg and west of Woodchuck 200 feet (8100 W. Kellogg).

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 December 16, 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 for an outside display on 1.9 acres zoned "LC" Limited Commercial and "TF-3", Two-family Residential described as

> Lot 2, 6 & 7, Block 1, Carriage House Plaza Addition, Sedgwick County, Kansas. Generally located North of Kellogg and west of Woodchuck 200 feet (8100 W. Kellogg).

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, and located in general conformance with the site plan. The display area shall be enclosed with a wrought iron fence at least 6 feet in height.

2. The applicant shall obtain all applicable permits, including but not limited to: building, health and zoning and landscaping.

3. The provisions of Section III-D.6.z of the Unified Zoning Code shall be strictly adhered to. Further, 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. Any violation of the conditions approved as part of this request shall render the Conditional Use null and void.

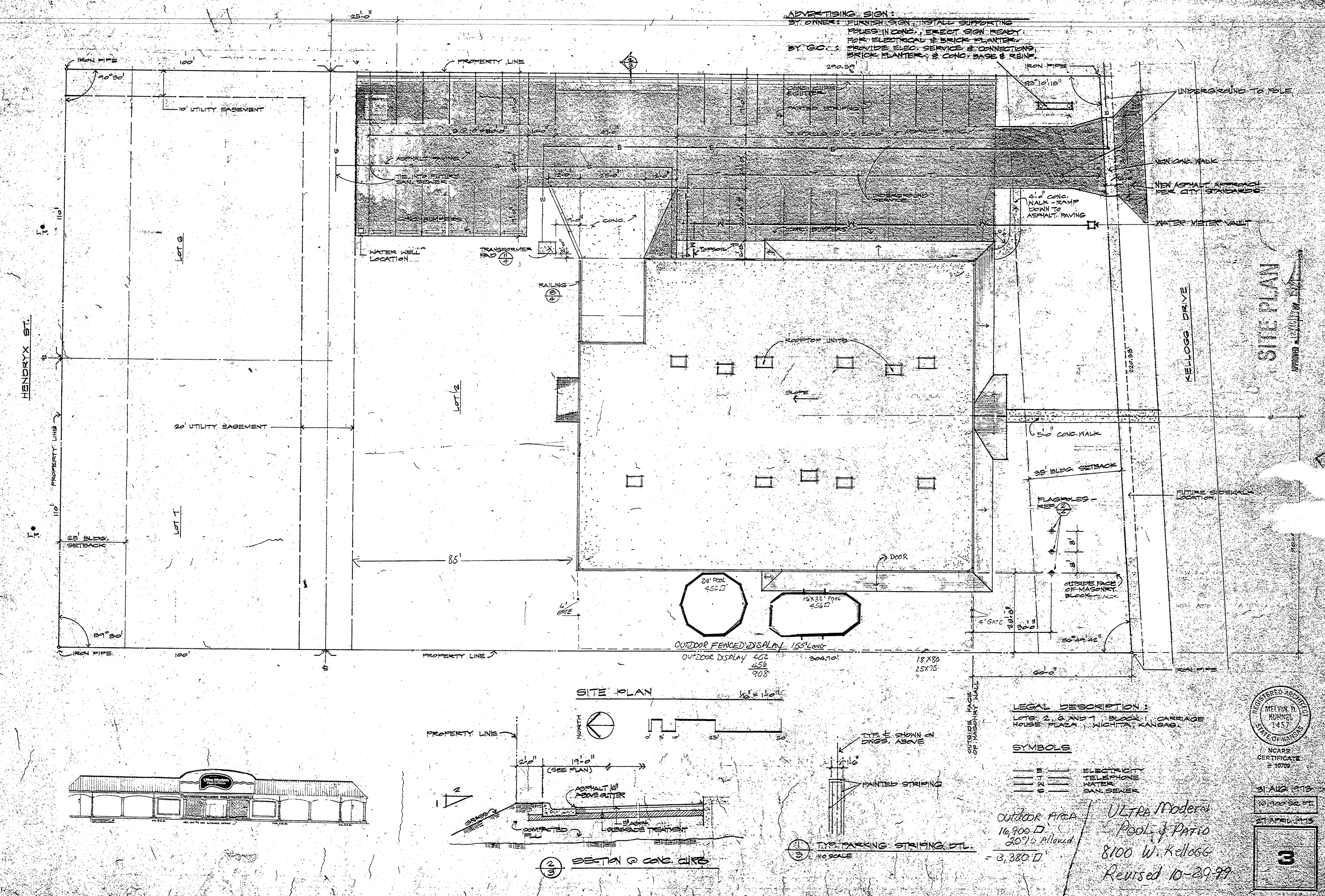
Adopted this 16th day of December, 1999. This resolution shall become effective on the fifteenth day after the date last noted above unless the matter is forwarded to the Governing Body for final action under the provisions of Section V-D.6. When any one or more of the exceptions listed in Section V-D.6 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

Frank Garofalo, Chair

ATTEST:

Marvin S. Krout, Secretary


ADVERTISING SIGN:
BY OWNER: FURNISH SIGN, INSTALL SUPPORTING POLES IN CONC., ERECT SIGN READY FOR ELECTRICAL & BRICK PLANTER.
BY G.C.: PROVIDE ELEC. SERVICE & CONNECTIONS, BRICK PLANTER, & CONC. BASE & REINF.
IRON PIPE
PROPERTY LINE
10' UTILITY EASEMENT
20' UTILITY EASEMENT
25' BLDG. SETBACK
HENDRYX ST.
KELLOGG DRIVE
LOT 6
LOT 2
LOT 1
ASPHALT PAVING
TIE INTO FUTURE SAN. SEWER
CONC. BUMPERS
WATER WELL LOCATION
TRANSFORMER PAD
RAILING
CONC.
TOPSOIL
PAINTED STRIPING
UNDERGROUND SERVICE
UNDERGROUND TO POLE
NEW CONC. WALK
NEW ASPHALT APPROACH PER CITY STANDARDS
4'-0" CONC. WALK - RAMP DOWN TO ASPHALT PAVING
WATER METER VAULT
ROOFTOP UNITS
SLOPE
5'-0" CONC. WALK
35' BLDG. SETBACK
FUTURE SIDEWALK LOCATION
FLAGPOLES - REF.
OUTSIDE FACE OF MASONRY BLOCK
DOOR
24' POOL 452 □'
16'X32' POOL 456 □'
OUTDOOR FENCED DISPLAY 155' LONG
OUTDOOR DISPLAY 452 456 908
18 X 80 25 X 75
4' GATE
6' GATE
85'
100'
110'
90°30'
89°30'
290.59'
93°10'18"
60'-0"
SITE PLAN
1/16" = 1'-0"
NORTH
0' 5' 10' 25' 50'
PROPERTY LINE
2'-0"
19'-0" (SEE PLAN)
ASPHALT 1/4" ABOVE GUTTER
GRASS
COMPACTED FILL
SUBGRADE TREATMENT
SECTION @ CONC. CURB
TYP. ℄ SHOWN ON DWGS. ABOVE
PAINTED STRIPING
TYP. PARKING STRIPING DTL.
NO SCALE
LEGAL DESCRIPTION:
LOTS 2, 6 AND 7, BLOCK 1, CARRIAGE HOUSE PLAZA, WICHITA, KANSAS.
SYMBOLS
E ELECTRICITY
T TELEPHONE
W WATER
S SAN. SEWER
OUTDOOR AREA
16,900 □
20% Allowed
= 3,380 □
ULTRA Modern Pool & Patio
8100 W. Kellogg
Revised 10-29-99
REGISTERED ARCHITECT MELVIN D. KUHNEL 1457 STATE OF KANSAS
NCARB CERTIFICATE # 10709
31 AUG. 1973
16,900 SQ. FT.
27 APRIL 1973
3
SITE PLAN

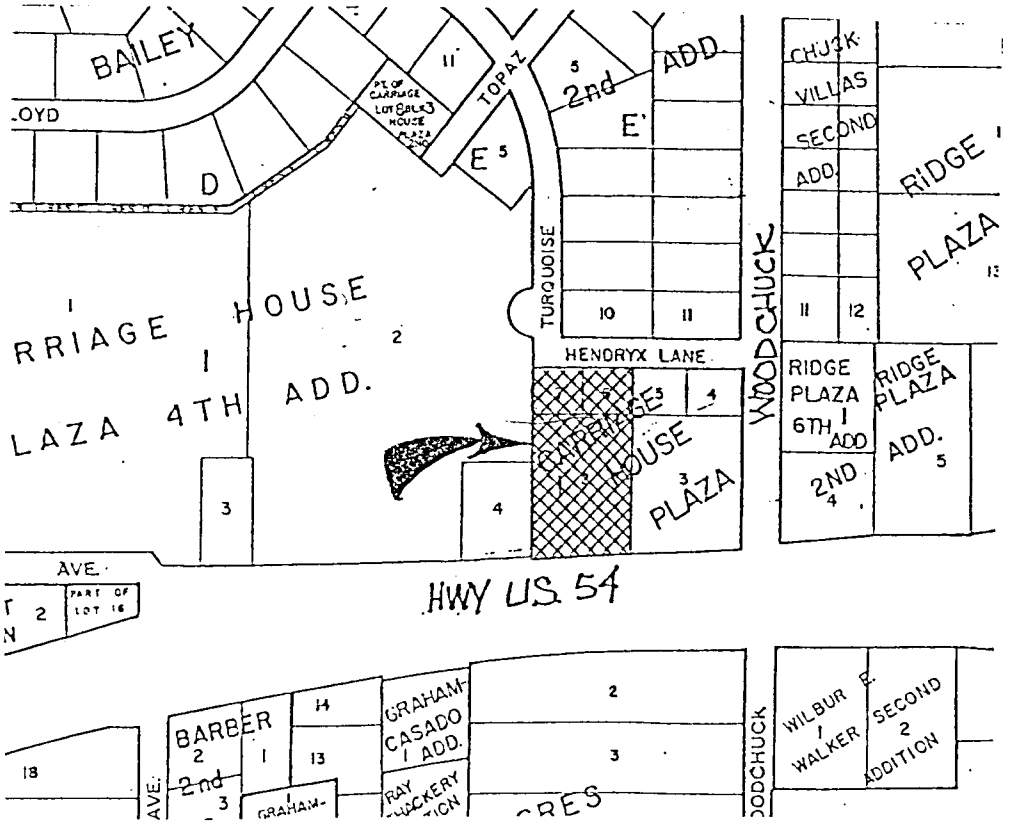
DM

AGENDA ITEM NO. 9A + 9B

STAFF REPORT

CPO (5) December 15, 1999
MAPC December 16, 1999

CASE NUMBER:	CU-550 and Z-3348
APPLICANT/AGENT:	Wallace and Rowlen Partnership (Linda S. Wallace and Rita L. Rowlen) (Owner);
REQUEST:	Conditional Use to allow outside display
CURRENT ZONING:	"LC" Limited Commercial and "TF-3", Two-family Residential
SITE SIZE:	1.9 acres
LOCATION:	North of Kellogg and west of Woodchuck 200 feet (8100 W. Kellogg)
PROPOSED USE:	Ultra Modern Pool and Patio



BACKGROUND: The applicant, Ultra Modern Pool and Patio, is requesting a Conditional Use and a zone change ("TF-3", Two-family Residential to "LC", Limited Commercial) to allow outside display and future expansion area on property zoned "LC" Limited Commercial. The application area is located north of Kellogg and 200 feet west of Woodchuck in a building previously used for furniture sales. Parking is located to the east of the building, with access to Kellogg.

The site is currently developed with a 16,900 square foot commercial building. The intention is to establish a wrought iron fenced area west of the existing building (an area 30 feet wide and 150 long) to be used as an outdoor retail display area for the business. The display 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. The display area would also house two above-ground pools that are too large to be kept within the ten-foot distance required by the code.

After the application was filed and advertised, staff learned that the applicant is also seeking approval for 5,000 square feet of outside storage to the rear of the existing building. This area is to be sandwiched between the back of the existing building and a proposed new 3,000 square foot storage building. The east and west side of the storage area would be fenced with a solid fence 8 feet high to completely enclose the storage area. A gate would be located on the east side of the storage area, facing the parking lot and the "LC" zoned land located next door. The Zoning Code permits up to 10 percent of the amount of enclosed building area to be used for outside storage in the Limited Commercial district "by right", up to 20 by Conditional Use. The amount of area sought in this case would exceed 20 percent and requires rezoning or a variance.

The Limited Commercial District permits "outdoor display" of merchandise that is offered for sale within a building if it is displayed within 10 feet of the building, subject to the following standards: merchandise can not be on public property; no required off street-parking spaces may be utilized for display; no food or drink may be displayed except with the approval of the Health Department and the outdoor display of motor vehicles, used appliances, used house wares, used building materials, rental vehicles and equipment are not permitted. The Office of Central Inspection has interpreted that this use is not similar to prohibited uses listed above, but is similar to a nursery or garden center.

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 rezoning request is for two lots located on the north end of the property. The zone change is being requested to provide for possible future expansion of the pool business. The applicant has agreed to build a masonry wall along Hendryx Street, at the 25-foot building setback line. A screening fence also will be required along the east line of the "TF-3" zoned lots if this request is approved, since there is Two-family zoning there today. The applicant has also agreed to plant trees at the rate of 1 tree per 30 feet along the north and east line where adjacent to or across the street from residential zoning.

The properties surrounding the application area are a mix of zoning districts and land uses. The lots to the north are zoned SF-6, Single-family and used for residential uses. To the east of the subject property are lots zoned "LC", Limited Commercial and "TF-3", Two-family residential that are vacant. The area to the south is Kellogg Highway. South of Highway 54 is "LI", Limited Industrial zoned land used for car sales. To the west is land that is approved for car sales on land zoned "LC" with a Community Unit Plan.

CASE HISTORY: Z-1244 approved "LC", Limited Commercial and "TF-3", Two-family residential zoning. The Carriage House Plaza Addition was recorded in 1971. BZA 17-73 approved a variance to reduce off-street parking requirements from 51 to 36 spaces on Lot 2, Block 1.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-6", Single-family Residential; homes
SOUTH:	"LI", Limited Industrial; Kellogg right-of-way; commercial uses
EAST:	"LC", Limited Commercial and "TF-3", vacant
WEST:	"LC", Limited Commercial; approved for car sales

PUBLIC SERVICES: Municipal water and sewer service is available to this site. The property has access to Kellogg Drive, a frontage road for Kellogg. Kellogg is shown as a divided four-lane freeway on the 2020 Transportation Plan with existing traffic volumes of approximately 40,000 average daily trips (ADT). The 2030 Transportation Plan projects traffic along Kellogg to increase to approximately 90,000 ADT for this segment. The latest edition of the Transportation Improvement Program shows Kellogg becoming a 6-lane freeway around 2001-2.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for commercial uses. Commercial uses are appropriate along the Kellogg corridor.

RECOMMENDATION: Based upon the amended request and on information available prior to the public hearings, planning staff recommends that the Conditional Use 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, and located in general conformance with the site plan. The display area shall be enclosed with a wrought iron fence at least 6 feet in height.

2. The applicant shall obtain all applicable permits, including but not limited to: building, health and zoning and landscaping.

3. The provisions of Section III-D.6.z of the Unified Zoning Code shall be strictly adhered to. Further, 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. Any violation of the conditions approved as part of this request shall render the Conditional Use null and void.

Staff recommends that the request to expand "LC", zoning to Hedryx be approved, subject to a Protective Overlay with the following provisions:

A masonry wall shall be installed along the 25 foot building setback line of Hendryx Street. A screening fence shall be installed along the east line where adjacent to "TF-3" zoning. Landscaping at the rate of at least the equivalent of 1 shade tree or 2 ornamentals or 10 shrubs per 30 feet shall be installed along the north and east property line where across the street or adjacent to "TF-3" zoning.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The properties surrounding the application area are a mix of zoning districts and land uses. The lots to the north are zoned SF-6, Single-family and used for residential uses. To the east of the subject property are lots zoned "LC", Limited Commercial and "TF-3", Two-family residential that are vacant. The area to the south is Kellogg Highway. South of Highway 54 is "LI", Limited Industrial zoned land used for

car sales. To the west is land that is approved for car sales on land zoned "LC" with a community unit plan. 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 the primary use is allowed "by right". The Unified Zoning Code does prohibit outdoor display in the "LC" district when it is located more than 10 feet from the building, however, the code permits consideration of the proposed Conditional Use to allow outside display 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, detrimental impacts on the adjacent properties should be minimized. I

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.