RESOLUTION No. 03-520

A RESOLUTION AUTHORIZING A CONDITIONAL USE FOR NURSERY AND GARDEN CENTER ON 0.59 ACRE ZONED "LC" LIMITED COMMERCIAL, LOCATED NORTHEAST OF BONNIE BRAE-KELLOGG DRIVE INTERSECTION IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D, AS ADOPTED BY ORDINANCE NO. 44-975, AS AMENDED.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-D of the Wichita-Sedgwick County Unified Zoning Code, a Conditional Use to permit garden center on .059 acre zoned "LC" Limited Commercial legally described below:

Case No. CON2003-00030

A Conditional Use Permit for Nursery and Garden Center, on .059 acre zoned "LC" Limited Commercial described as:

Beginning at a point 107.80 feet North of the Southeast corner of Lot 1, Ruth Addition to Wichita, Sedgwick County, Kansas, thence West 180.06 feet, thence North 141.67 feet, thence East 179.97 feet thence South 142.13 feet to the point of beginning. Generally located northeast of the Bonnie Brae-Kellogg Drive intersection.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. The seasonal nursery and garden center shall conform to all requirements of Section III-D.6.z. of the Unified Zoning Code, except that a setback of seven feet for the fenced outdoor display area shall be allowed along Kellogg Drive.

2. The area devoted to outdoor storage shall be screened from the adjoining residential neighborhood with a solid fence in compliance with the UZC screening standards (Art. IV, Sec. IV-3) at least six but not more than eight feet in height along the northern property line, and shall be enclosed within the wrought iron fenced area designated on the site plan. No materials except live plants and garden ornaments such as trellises that exceed this height shall be stored higher than the height of the screening fence, and the outdoor storage area shall be screened from view of Kellogg Drive. Pots, timbers, mulch, rock materials and similar non-living materials shall not be stored higher than the height of the fence.

3. The applicant shall obtain all applicable permits, including but not limited to: building, health, and zoning. Parking shall be allowed to be reduced to 90 percent of total UZC parking requirements, based on UZC Art. III, Sec. III-D.6.z(10).

4. The site shall be developed in general conformance with the approved site plan.

5. Construction of improvements shall be completed within one year of approval by the appropriate governing body.

6. 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 VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

SECTION 2. That upon the taking effect of this Resolution, the notation of such Conditional Use permit shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director of the Wichita-Sedgwick County Metropolitan Area Planning Department.

SECTION 3. That this Resolution shall take effect and be in force from and after its adoption by the Governing Body.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, this date SEP 16 2003

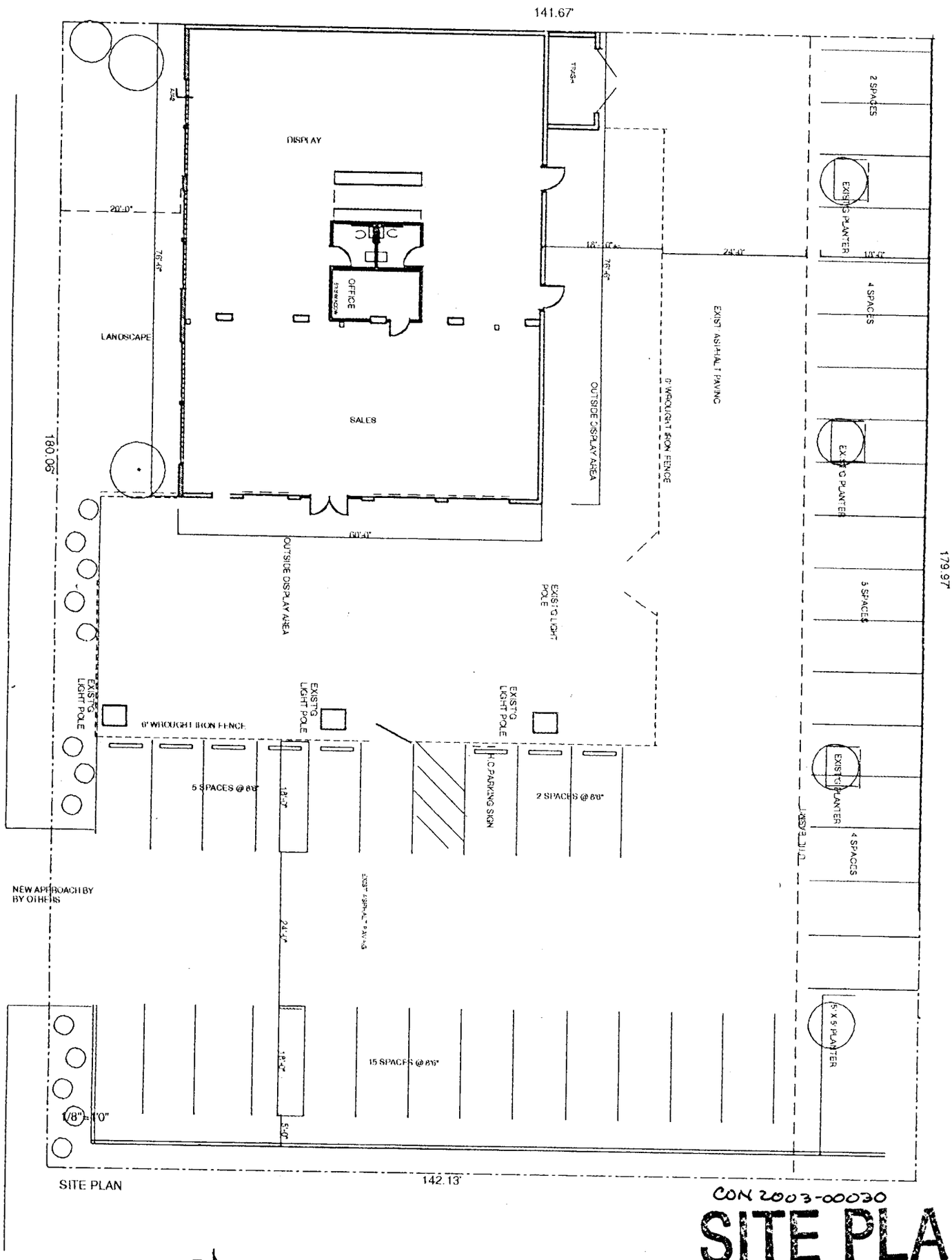
Carlos Mayans, Mayor

ATTEST:

for Patsy Ellis, Deputy
Pat Graves, City Clerk

Approved as to form:

Gary E. Rebenstorf, City Attorney



SITE PLAN

CON 2003-00030

SITE PLAN

APPROVED 09/18/03 BY DG

MAPD Copy 2 of 2

EXTERIOR DISPLAY WILL INCLUDE PLANT MATERIAL, CERAMIC WARE, POTS WROUGHT IRON TRELLISES,

AREA OF PARCEL ---------- 25,543 S.F.
AREA OF BUILDING ----------4590 S.F +-

LEGAL DESCRIPTION:

Beginning at a point 107.80 ft. North of the Southeast corner of Lot 1, Ruth Addition to Wichita, Sedgwick County, Kansas, thence West 180.06 ft., thence North 141.67 ft., thence East 179.97 ft. thence South 142.13' to the point of beginning.

NEW FACILITY for NATURES WAY
8748 E. KELLOGG

SANDY ROBERTS ARCHITECT
667 OAK FOREST LN. DERBY, KS. 67037

WICHITA–SEDGWICK COUNTY
W-SC
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 9

STAFF REPORT

MAPC August 21, 2003

CASE NUMBER: CON2003-00030

APPLICANT/AGENT: John Brown (owner); Sanford Roberts (agent)

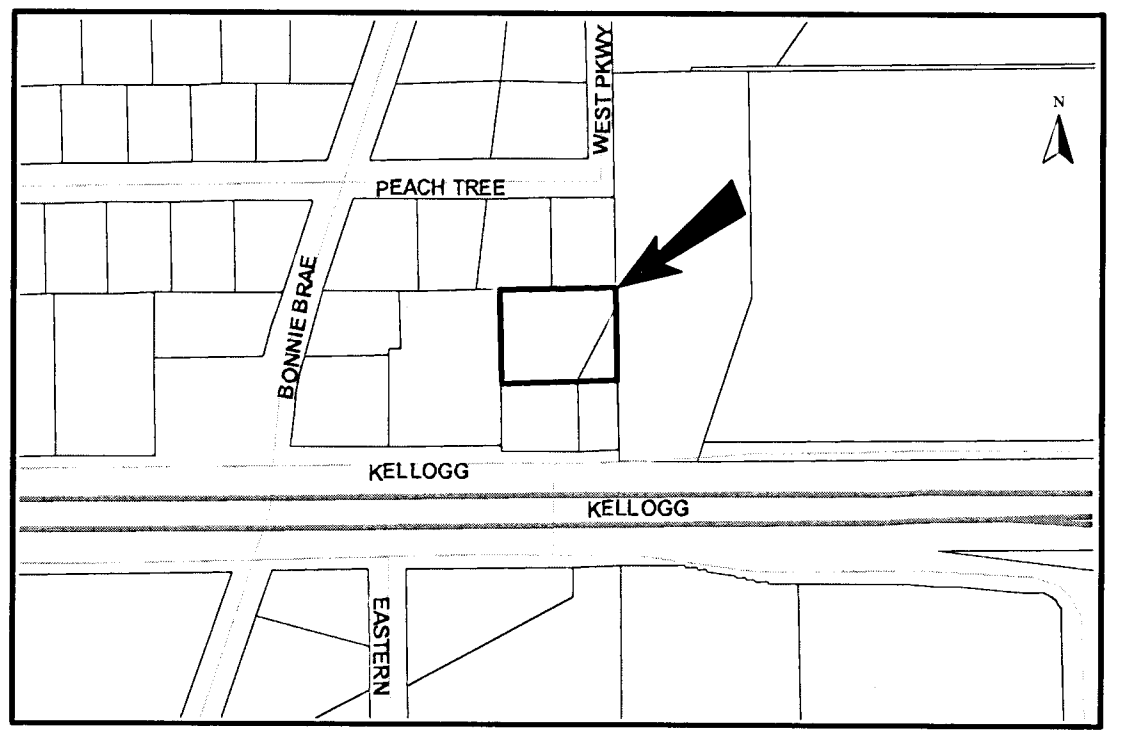
REQUEST: Conditional Use for a nursery and garden center

CURRENT ZONING: "LC" Limited Commercial

SITE SIZE: 0.59 acre

LOCATION: Northeast of the Bonnie Brae-Kellogg Drive intersection

PROPOSED USE: Nursery and garden center



BACKGROUND: The applicant is requesting a Conditional Use to operate a nursery and garden center for its business, Nature's Way, on property zoned "LC" Limited Commercial. The applicant currently operates Nature's Way on a facility located in the same vicinity. However, the existing site has been acquired for Kellogg freeway expansion, and the property remaining after the freeway/access road construction is inadequate for his business.

The applicant is seeking to move his business two blocks eastward onto a larger residual property. The proposed site is located on the north side of Kellogg Drive, east of Bonnie Brae. Gypsum Creek is the eastern boundary of the site. Bonnie Brae, a single-family residential neighborhood is located to the north.

The site plan shows the business reconfiguring the existing building on the site for his interior store facilities and having outdoor display space to the east and north of the building. The interior building area is 4,590 square feet. The site plan designates approximately 4,000 square feet for outdoor display and 1,000 square feet for outdoor storage.

The site plan appears to meet parking requirements of the Unified Zoning Code (UZC), but final calculations will be determined during the building permit review. Also, parking requirements can be adjusted by MAPC by either decreasing or increasing the parking based on specific site use conditions as part of the Conditional Use review per UZC Art. III, Sec. III-D.6.z(10) (see attached). In this case, it is recommended by staff that parking needs for this site would be anticipated to be at or slightly below the UZC requirements and the site plan should provide at least 90 percent of the requirements per Code. This would allow a reduction of about three spaces from the anticipated level of 36 spaces.

The applicant proposes a wrought iron fence that is six feet in height to enclose the outdoor display and storage space. Landscaping is shown along Kellogg Drive and buffer trees are located along the northern property line. Also, an existing six-foot wood fence is located along the northern property line.

The Unified Zoning Code contains 11 Supplementary Use Regulations (see attached) for outdoor nurseries and garden centers located on property zoned "LC" Limited Commercial. The applicant proposes a modification to one of the Supplementary Use Regulations. Section III-D.6.z(3) requires a 25-foot setback from public right-of-way for the outdoor display area; however, the applicant proposes a setback of seven feet for the outdoor display area, with a wrought iron fence surrounding the display area. A Supplementary Use Regulation can be modified by the City Council upon receiving a favorable recommendation from the MAPC. Planning staff recommends the proposed modification of this requirement for the fenced display area since the fence will ensure the display does not extend to the right-of-way and since other relocation projects along Kellogg Drive have been granted relief on landscaping/setback type of requirements due to the right-of-way acquisition impacts.

As shown on existing FEMA maps, the eastern portion of the lot may have been within the floodway and the remainder of the lot was within the 100-year floodplain. However, a map

amendment is being processed and should be in effect in approximately six months. This map amendment removes the property from the floodway, and only a small portion of the existing parking in the southeast corner of the site would remain in the 100-year floodplain.

CASE HISTORY: The property a portion of Lot 1, Ruth Addition, recorded July 15, 1959.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-5"	Single-family residences
SOUTH:	"LC"; "GC"	Retail, vehicle sales
EAST:	"SF-5"; "LC"	Gypsum Creek, vacant retail site
WEST:	"LC"	Vacant retail site

PUBLIC SERVICES: The subject property will have access to Kellogg from the Kellogg Drive frontage road. The side streets are blocked along the northern edge of the commercial tracts to prevent commercial traffic from the site traveling through the Bonnie Brae residential neighborhood to the north. Other normal public services are available.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The request conforms to the Land Use Guide and Commercial Locational Guidelines of the Comprehensive Plan. The Unified Zoning Code contains 11 Supplementary Use Regulations for nurseries and gardens centers located in the "LC" Limited Commercial zoning district. The request conforms to all the Supplementary Use Regulations except the 25-foot setback for outdoor display that must be approved by the Wichita City Council.

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

1. The seasonal nursery and garden center shall conform to all requirements of Section III-D.6.z. of the Unified Zoning Code, except that a setback of seven feet for the fenced outdoor display area shall be allowed along Kellogg Drive.

2. The area devoted to outdoor storage shall be screened from the adjoining residential neighborhood with a solid fence in compliance with the UZC screening standards (Art. IV, Sec. IV-3) at least six but not more than eight feet in height along the northern property line, and shall be enclosed within the wrought iron fenced area designated on the site plan. No materials except live plants and garden ornaments such as trellises that exceed this height shall be stored higher than the height of the screening fence, and the outdoor storage area shall be screened from view of Kellogg Drive. Pots,

timbers, mulch, rock materials and similar non-living materials shall not be stored higher than the height of the fence.

3. The applicant shall obtain all applicable permits, including but not limited to: building, health, and zoning. Parking shall be allowed to be reduced to 90 percent of total UZC parking requirements, based on UZC Art. III, Sec. III-D.6.z(10).

4. The site shall be developed in general conformance with the approved site plan.

5. Construction of improvements shall be completed within one year of approval by the appropriate governing body.

6. 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 VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area to the south, east and west is zoned "LC" Limited Commercial and "GC" General Commercial and is developed with similar retail and commercial uses. The area to the north is zoned "SF-5" Single-family Residential and developed with single-family residences. The request is consistent with the zoning, uses, and character of area to the east, south and west.

2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial and is suitable for other "LC" type of uses.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The screening, lighting, and compatibility standards of the Unified Zoning Code, including but not limited to the specific restrictions on lighting and noise of the supplemental regulations for nursery and garden center, and the buffer requirements of the Landscape Ordinance should limit noise, lighting, and other activity from adversely impacting residential area to the north.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The request conforms to the Land Use Guide and Commercial Locational Guidelines. The Unified Zoning Code contains 11 Supplementary Use Regulations for nurseries and gardens

centers located in the "LC" Limited Commercial zoning district. The request conforms to all but one of the Supplementary Use Regulations.

5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated.