CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

February 15, 2011

Tong Nguyen
1440 N. Oliver Ave.
Wichita, KS 67208

RE: **CON2010-00054** - City Conditional Use request for an alterations business (Personal Care Service) in the GO General Office zone district, generally located northeast of the intersection of North Oliver and 13th Street (1440 N. Oliver).

Dear Applicants:

At its regular meeting on **January 20, 2011**, the Wichita - Sedgwick County Metropolitan Area Planning Commission considered the above captioned request. The action of the MAPC was to **APPROVE** the request, subject to the conditions on the attached resolution.

This action was not accompanied by valid appeals of protest petitions. Therefore, the action of the Planning Commission is **FINAL**.

This is a reminder that the zoning notification signs should now be removed from the property. If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

Derrick Slocum
Associate Planner
Current Plans Division

DKS:mc
Enclosure

Copies to: Chinh Nguyen, 1129 N. Pinecrest, Wichita, KS 67208
Ken-Mar, Eric Williams, 1610 N. Floberta, Wichita, KS 67208
Lambsdale, Mike McAdam, 1104 N. Pinecrest St., Wichita, KS 67208

CONDITIONAL USE RESOLUTION NO. CON2010-00054

WHEREAS, Chinh Nguyen, (Owner) and Tong Nguyen Van Le (Applicant); pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requests a Conditional Use for a Personal Care Service on 0.15 acres zoned GO General Office ("GO") described as:

> Lots 40, 41 and 42, Except a permanent easement for street purposes condemned in District Court Case #84C-2124, and except the West 5 feet of Lot 42 dedicated for street purposes Block 14, University Heights Addition to Sedgwick County, Kansas; generally located north and east of the intersection of North Oliver and 13th Street East. (1440 N. Oliver)

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 January 20, 2011, 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 allow a Conditional Use for a Personal Care Service on 0.15 acres zoned GO General Office ("GO") described as:

> Lots 40, 41 and 42, Except a permanent easement for street purposes condemned in District Court Case #84C-2124, and except the West 5 feet of Lot 42 dedicated for street purposes Block 14, University Heights Addition to Sedgwick County, Kansas; generally located north and east of the intersection of North Oliver and 13th Street East. (1440 N. Oliver)

Approved subject to the following conditions:

1. Solid screening fence six (6) to eight (8) foot high along the north and east property lines.

2. The subject property shall be developed in general conformance with the approved site plan.

3. The subject property shall be developed in conformance with all applicable codes to include but not limited to: zoning, sign, building, fire, and health codes.

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 the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

Adopted this 20th Day of January 2011

METROPOLITAN AREA PLANNING COMMISSION

Debra Miller Stevens, Chair MAPC

ATTEST:

John L. Schlegel, Secretary

WICHITA–SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 10

STAFF REPORT

MAPC: January 20, 2011
Tentative City Council Date: March 1, 2011

CASE NUMBER: CON2010-00054

APPLICANT/AGENT: Chinh Nguyen (Owner)
Tong Nguyen Van Le (Applicant)

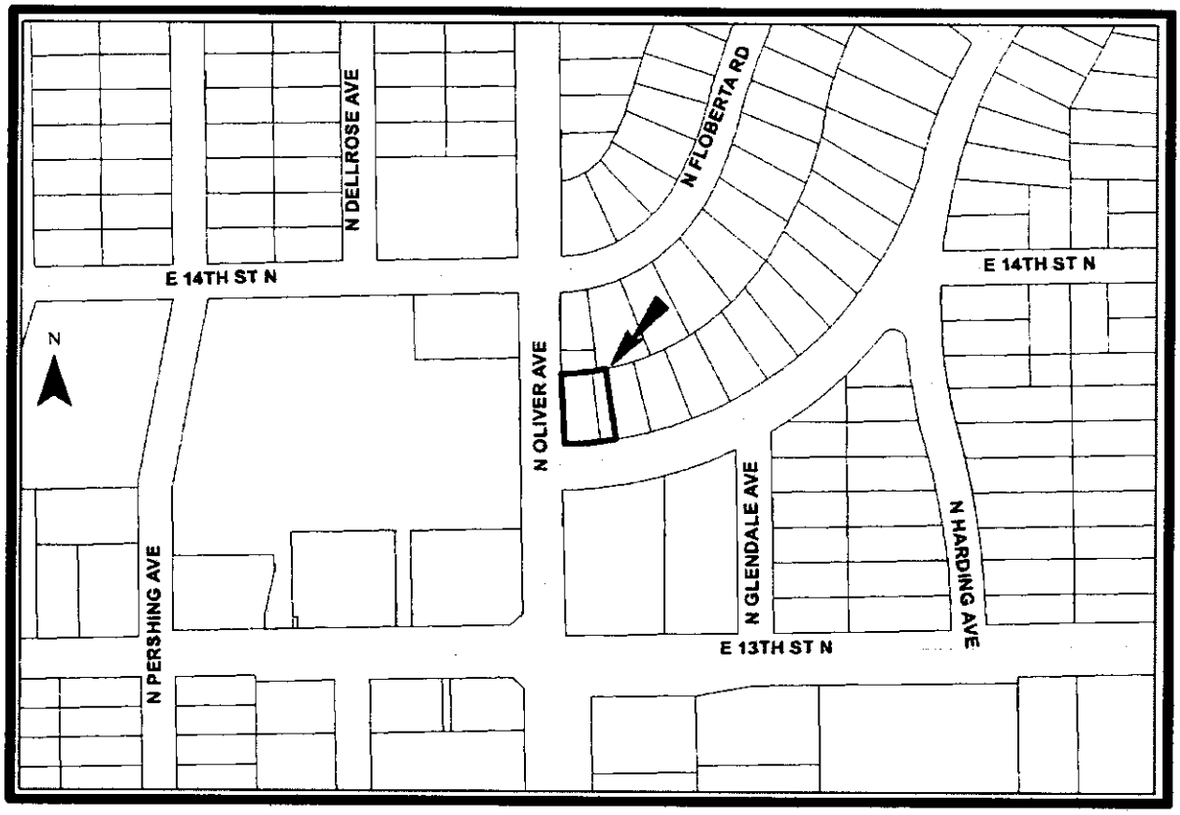
REQUEST: Conditional Use to permit an alterations business (Personal Care Service)

CURRENT ZONING: GO General Office ("GO")

SITE SIZE: 0.15 acre

LOCATION: Generally located north and east of the intersection of North Oliver and 13th Street East. (1440 N. Oliver)

PROPOSED USE: Alterations Business (Personal Care Service)



BACKGROUND: The applicant is requesting a Conditional Use permit to allow "Personal Care Service" (alteration store) on a 0.15-acre lot located north and east of the intersection of North Oliver Avenue and 13th Street East (Lots 40, 41 and 42; Block 14, University Heights Addition). The site is currently zoned GO General Office ("GO"). The applicant proposes to use an existing structure on the site for the use. There are currently two access points for the site with access off of North Oliver and Northeast Parkway. There is currently an area on the site for parking; however, there may be a need for additional parking for the change of use, thus an area on the south side of the property could be used for additional parking.

The applicant's site plan depicts the proposed use as being located in the middle of the site with some parking located along the north side of the existing principle building, and the possibility of additional parking south of the principal building. The existing building, shown on the site plan, does extend into the street side setback, which is fifteen feet in the GO zone district. However, since no modifications are taking place on the building, thus not increasing the non-conformity, the site may remain as is without the need of a variance. In the future, if the applicant plans to modify the structure then a variance may be needed. The site plan does not depict the number of parking spaces available, but an area for proposed parking has been identified. It appears that one area is located between the principal structure and the detached structure, with access off of North Oliver. The area identified on the site plan is located on the south side of the principal structure with access off of Northeast Parkway. The code calls for one space per 250 square feet of building area for the "personal care service" (alteration store). It appears that the proposed use for the site would require around ten (10) parking spaces. The number of possible existing parking spaces located between the two structures would not meet the minimum number required; however, the additional space south of the principal structure may be able to accompany the remaining spaces. If not, the applicants could likely reduce the number of parking spaces required through an Administrative Adjustment. Administrative Adjustments permit up to a 20% reduction or a reduction of two spaces). There appears to be two access points onto the site. One off of Oliver is shown on the western portion of the site's street-side frontage, and another on the south portion of the site, off of Northeast Parkway.

Property east of the subject site is zoned TF-3 Two-family Residential ("TF-3"), and is developed with a single-family residence. Property to the west of the subject site, across Oliver Avenue, is zoned LC Limited Commercial ("LC"), and is developed with retail uses (CUP DP-319). Property south of the subject site is also zoned LC, and is developed with a convenience store. Property north of the subject site is zoned TF-3, and is developed with a residence.

The GO district permits a single tenant pole or ground sign up to 32 square feet in area with a maximum sign height of 22 feet. No ground sign may be located within 15 feet of an adjacent property. Lighting is limited to indirect or internal white light. Flashing or moving images are prohibited. Building signs are also limited to a maximum of 32 square feet and a height of 30 feet. One building sign per elevation is permitted provided that the sign is facing a street or nonresidential zoning or have 150 feet of parking, loading or open space between the sign and residentially zoned land. The site will also have to comply with the screening and landscape requirements per the Unified Zoning Code, such as solid fencing and/or plant materials located between the application area and residentially zoned property, the screening of dumpsters and outdoor work areas. The Unified Zoning Code also requires parking spaces to be paved. The

Landscape Ordinance requires the screening of new parking spaces. If the structure has not previously been used for a non-residential use there may be building code requirements that may also need to be addressed.

CASE HISTORY: The subject site is a part of the University Heights Addition which was platted on August 30, 1928.

ADJACENT ZONING AND LAND USE:

NORTH:	TF-3	Residences
EAST:	TF-3	Residences
SOUTH:	LC	Convenience Store
WEST:	LC	Retail Store

PUBLIC SERVICES: All utilities are available to the subject site. The subject site is accessed off of North Oliver Avenue, a paved, four lane minor arterial with approximately 26,800 Average Daily Trips (ADT's) at its intersection with 13th Street East, just south of the subject site. 13th Street East is a paved, four lane minor arterial with approximately 35,900 ADT's.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this site as appropriate for "urban residential" type uses. The "urban residential" category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The requested Conditional Use would be classified as "local commercial" by the Guide. The "local commercial" category includes those uses that typically depend upon nearby customers as opposed to a regional customer base, and include: commercial, office, personal services, medical, auto repair, grocery stores, florist shops, service stations, restaurants and on a limited presence basis mini-storage warehousing and small scale light manufacturing. However, the properties to the south and west of the subject site are categorized as "local commercial" on the 2030 Wichita Functional Land Use Guide and many uses that are classified in the "urban residential" category could be developed on this GO zoned property.

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

1. Solid screening fence six (6) to eight (8) foot high shall be installed along the north and east property lines.
2. The subject property shall be developed in general conformance with the approved site plan.
3. The subject property shall be developed in conformance with all applicable codes to include but not limited to: zoning, sign, building, fire, and health codes.
4. The Personal Care Service shall be operational and all conditions of approval shall be completed within one year of the final date of approval.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the surrounding area**: Property east of the subject site is zoned TF-3 Two-family Residential ("TF-3"), and is developed with a single-family residence. Property to the west of the subject site, across Oliver Avenue, is zoned LC Limited Commercial ("LC"), and is developed with retail uses (CUP DP-319). Property south of the subject site is also zoned LC, and is developed with a convenience store. Property north of the subject site is zoned TF-3, and is developed with a residence.

2. **The suitability of the subject property for the uses to which it has been restricted**: The site is currently zoned GO General Office. The GO district permits a wide range of uses that could be appropriate at this location.

3. **Extent to which removal of the restrictions will detrimentally affect nearby property**: Approval of this request should not detrimentally affect nearby properties given the fact that all services associated with this use must be conducted inside.

4. **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant**: Approval adds a potential use that could be developed on the site, thereby bringing a service closer to potential clients. Denial presumably would be an economic loss to the property owner.

5. **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" type uses. The "urban residential" category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The requested Conditional Use and the use requested to be permitted would be classified as "local commercial" by the Guide. The "local commercial" category's uses are local in their customer base and include: commercial, office, personal services, medical, auto repair, grocery stores, florist shops, service stations, restaurants and on a limited presence basis mini-storage warehousing and small scale light manufacturing. However, the properties to the south and west of the subject site are categorized as "local commercial" on the land use guide and many uses that are classified in the "urban residential" category can be developed on this GO zoned property.

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.

CON2010-54

1440 N. Oliver

GO Zone - CON Application



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