CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

July 8, 2016
~~March 18, 2016~~

Stutzman Greenhouse Inc.
6709 W. Highway 61
Hutchinson, KS 67501

GIMJ, LLC
c/o Dan Dopps
6820 W. Central Ave.
Wichita, KS 67212

RE: CON2016-00003 - City Conditional Use request to permit a Seasonal Nursery and Garden Center on property zoned LC Limited Commercial, generally located East of Ridge Road, on the north Side of Central Avenue (6820 W. Central Ave.)

Dear Applicant

At its regular meeting on **March 3, 2016**, the Wichita - Sedgwick County Metropolitan Area Planning Commission (MAPC) considered the above captioned request. The action of the MAPC was to **APPROVE** the request, subject to the following conditions:

A. The conditional use permits a "nursery and garden center" developed in substantial conformance with the approved site plan. The conditional use does not prohibit uses permitted by-right in the LC zoning district.
B. The "nursery and garden center" shall be constructed, maintained and operated in general conformance with the approved site plan and in conformance with applicable local, state or federal regulations or codes, including but not limited to zoning, building, fire, health, unless specifically modified by this conditional use or subsequent adjustments or amendments.
C. The conditional use permitting the "nursery and garden center" shall be effective so long as the building located on the site is vacant or is used in association with a nursery or garden center or can provide the minimum required off-street parking spaces required for all the uses located on the property.

D. 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 case received no protests during the two-week period, therefore the MAPC decision is final. If you have any questions concerning this application, please contact out office at 268-4421.

Sincerely,

Derrick Slocum
Division Supervisor

Copies to: Tom Stolz, MABCD
J. R. Cox, MABCD

CONDITIONAL USE RESOLUTION NO. CON2016-00003

WHEREAS, GIMJ, LLC c/o: Dan Dopps (Owner) and Stutzman Greenhouse Inc. (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 seasonal nursery on approximately 1.03 acres zoned LC Limited Commercial ("LC"), described as:

Lot 3, Block 2; 2nd Addition to Queen's Lake, Wichita, Sedgwick County, Kansas.

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 3, 2016, 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 seasonal nursery on approximately 1.03 acres zoned LC Limited Commercial ("LC"), described as:

Lot 3, Block 2; 2nd Addition to Queen's Lake, Wichita, Sedgwick County, Kansas.

Approved subject to the following conditions:

A. The conditional use permits a "nursery and garden center" developed in substantial conformance with the approved site plan. The conditional use does not prohibit uses permitted by-right in the LC zoning district.
B. The "nursery and garden center" shall be constructed, maintained and operated in general conformance with the approved site plan and in conformance with applicable local, state or federal regulations or codes, including but not limited to zoning, building, fire, health, unless specifically modified by this conditional use or subsequent adjustments or amendments.
C. The conditional use permitting the "nursery and garden center" shall be effective so long as the building located on the site is vacant or is used in association with a nursery or garden center or can provide the minimum required off-street parking spaces required for all the uses located on the property.
D. 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.

Adopted this 7th day of July 2016.

METROPOLITAN AREA PLANNING COMMISSION

Carol Chapman Neugent

Carol Neugent, Chair MAPC

ATTEST:

Dale Miller

Dale Miller, Secretary

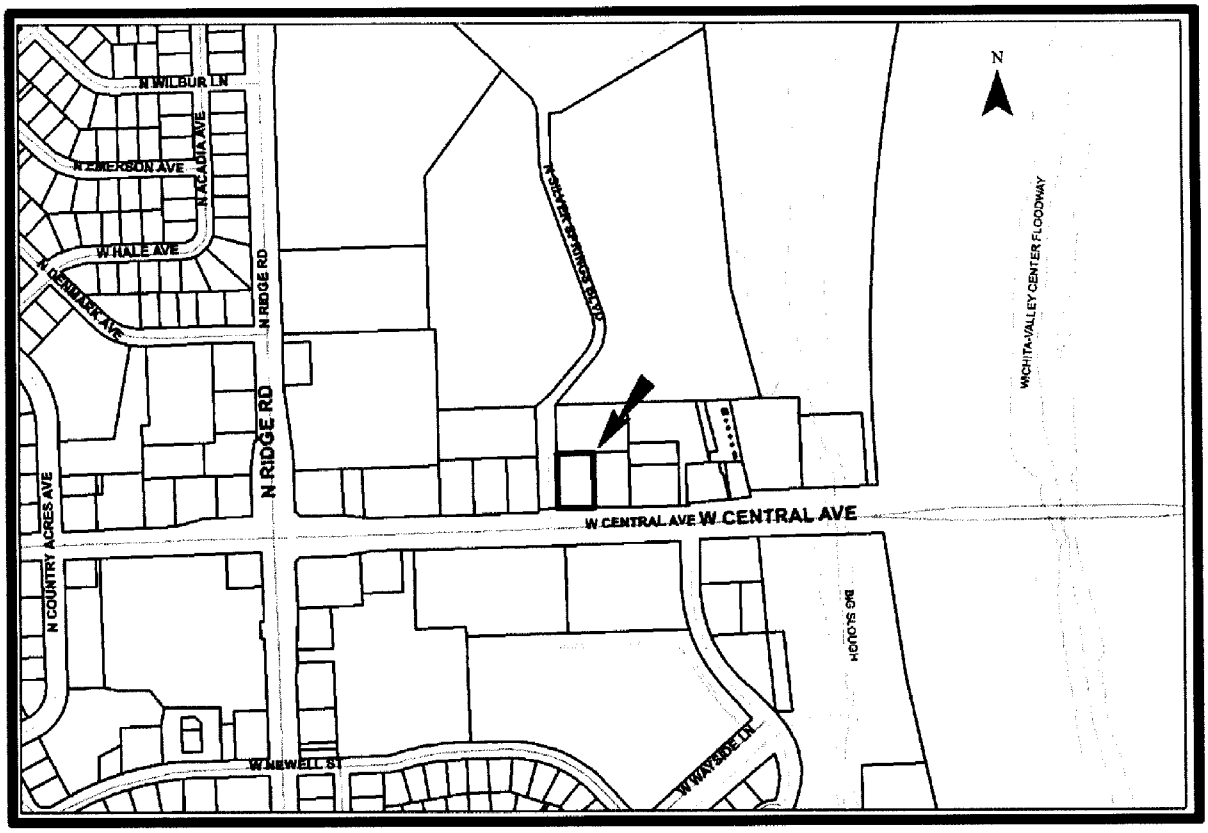
WICHITA–SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 9

STAFF REPORT

MAPC March 3, 2016
DAB March 7, 2016

CASE NUMBER:	CON2016-00003
APPLICANT/AGENT:	Dan Dopps GIMJ, LLC (Owner) Stutzman Greenhouse, Inc. (Applicant/Agent)
REQUEST:	Conditional Use to permit a Seasonal Nursery and Garden Center
CURRENT ZONING:	LC Limited Commercial ("LC")
SITE SIZE:	1.03 acres
LOCATION:	East of Ridge Road, on the north Side of Central Avenue (6820 W. Central Ave.)
PROPOSED USE:	Nursery and Garden Center



BACKGROUND: The applicant is seeking a Conditional Use for a seasonal nursery and garden center on 1.03 acres of platted LC Limited Commercial ("LC") zoned land located northeast of North Silver Springs Boulevard and West Central Avenue (6820 West Central Avenue). The site contains an approximately 12,200 square-foot vacant commercial building, formerly used as a restaurant, with 199 on-site parking spaces. The property has two driveways off of North Silver Springs Boulevard and one driveway off West Central Avenue. The property has nearly 257 feet of frontage along West Central Avenue, and the plat shows a 50-foot building setback located along West Central Avenue.

Stutzman Greenhouse, Inc. proposes to install a 60-foot by 120-foot shade house, with additional area around the shade house for additional display, the total area being 75-feet by 145- feet in the existing parking lot located just south and east of the site's commercial building. The sales and display area will occupy approximately 10,875 square feet, and the display area will take up 51 of the site's 199 parking spaces which results in 148 remaining off-street parking spaces. The nursery and garden center is proposed to be in operation from April to the end of October. The applicant hopes to uses the site on seasonal basis for as long as the property owner permits. (See the attached site plan.)

The "Wichita-Sedgwick County Unified Zoning Code" (UZC) permits "nurseries and garden centers" in the LC district by right provided the use complies with the development standards contained in Article III, Section III-D. 6.z, including the outdoor display and storage limitations of the LC district found at Article III, Section III-B.14.e(2). Merchandise that is for sale within a building may be displayed in areas immediately contiguous to and within 10 feet of the building, subject to the following standards (in part):

(a) No portion of the display area shall be on publicly owned property unless the applicant shall have obtained appropriate approval for such use from the governing body.
(b) No required off-street parking space or loading space shall be utilized for display.
(c) No food or drink shall be displayed outside the building except in accordance with standards and prior written approval of Environmental Health.
(d) These provisions shall in no way be deemed to authorize the outdoor display of motor vehicles, rental trailers, rental equipment, used furniture, used appliances, used plumbing, used housewares, used building materials or similar items, except as such may otherwise be authorized under an appropriate section of the Code.

A "nursery and garden center" that does not comply with the Code's development standards may be permitted by "conditional use" subject to the development standards contained in Article III, Section III-D. 6.z, which reads in part:

(1) The property shall be contiguous to an arterial street or expressway or be located within a portion of the LC district or a more intense use district that is contiguous to such a street.

(2) Screening shall be provided as deemed appropriate and necessary to provide protection to adjacent properties; however, under no circumstance shall the screening be less than that required by Sec. IV-D of the UZC or that required by an approved development plan.
(3) Display and storage of merchandise, nursery stock, landscaping materials and equipment must be within an enclosed building; within an area enclosed by screening fence deemed necessary for the protection of adjacent properties; or be displayed in areas immediately contiguous to the buildings, provided any display or storage shall not be located within 25 feet of public right-of-way and shall not occupy required off-street parking spaces.
(4) All lights shall be shielded to reflect or direct light away from adjacent properties. No string-type lighting shall be permitted.
(5) No sound projecting devices or loudspeakers shall be used so as to be heard beyond the property lines.
(6) Any repair or servicing of vehicles or equipment shall only be permitted within an enclosed building.
(7) A site plan showing all structures, all ingress, egress, off-street parking, off-street loading space, on-site circulation, storage and display areas shall be submitted with the application.
(8) Areas for the growing of plants and nursery stock may be permitted in greenhouses or in open areas as designated by the applicant and approved by the Planning Commission.
(9) Any vehicle used in conjunction with the business may be stored within the main structure, an enclosed garage, or when approved by the Planning Commission as to adequate screening material and location, within an enclosed compound on the property.
(10) The Planning Commission may, in the process of the conditional use request, determine the number of parking spaces and loading spaces required for the use.
(11) The Planning Commission may establish other conditions deemed necessary for the protection of adjacent property and may also require periodic reporting of compliance with all conditions of approval.

Land located south, east and west of the application area is zoned LC and developed with a variety of non-residential uses, such as: office, restaurant, retail, bank and strip/mini mall. Property north of the site is zoned MF-29 Multi-family Residential ("MF-29") covered by CUP DP-26 and is developed with a large apartment complex.

CASE HISTORY: The application area is Lot 3, Block 2; 2nd Addition to Queen's Lake that was recorded in 1981.

ADJACENT ZONING AND LAND USE:

North: MF-29	Apartment Complex
South: LC	Strip Mall
East: LC	Restaurant
West: LC	Bank

PUBLIC SERVICES: The site is served, or can be served, by all normally supplied municipal services. West Central Avenue is a four-lane arterial with additional right-turn and left-turn lanes that carries an average daily traffic volume in excess of 30,000 vehicles.

CONFORMANCE TO PLANS/POLICIES: The 2035 Wichita Future Growth Concept Map of the Community Investments Plan identifies this site as appropriate for commercial types of uses. This identification encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality.

The Locational Guidelines of the Community Investments Plan indicates that primary outdoor sales uses should be located along highway corridors or in areas where the uses have already been established and support expansion of existing uses to adjacent areas.

RECOMMENDATION: Based upon the information available at the time the staff report was prepared it is recommended the application be approved subject to the following conditions:

A. The conditional use permits a "nursery and garden center" developed in substantial conformance with the approved site plan. The conditional use does not prohibit uses permitted by-right in the LC zoning district.
B. The "nursery and garden center" shall be constructed, maintained and operated in general conformance with the approved site plan and in conformance with applicable local, state or federal regulations or codes, including but not limited to zoning, building, fire, health, unless specifically modified by this conditional use or subsequent adjustments or amendments.
C. The conditional use permitting the "nursery and garden center" shall be effective so long as the building located on the site is vacant or is used in association with a nursery or garden center or can provide the minimum required off-street parking spaces required for all the uses located on the property.
D. 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 property surrounding the application area is predominantly zoned LC and developed with office, retail and commercial uses, with a MF-29 zoned apartment complex north of the subject site. West Central Avenue is a major transportation artery that carries in excess of 30,000 vehicles on an average daily basis. West Central Avenue,

between Ridge Road and I-235 is lined with nonresidential uses.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC which permits a wide range of residential, office and retail commercial uses, which should make it attractive for a wide range of uses. The site is developed with a vacant commercial building and associated parking.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should not detrimentally impact nearby properties. The conditions of approval should address any anticipated detrimental impacts generated by the site.

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 would add another "nursery and garden center" to the community's horticultural offerings. Denial would presumably be an economic loss to the property owner.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2035 Wichita Future Growth Concept Map of the Community Investments Plan identifies this site as appropriate for commercial types of uses. This identification encompasses areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. The Locational Guidelines of the Community Investments Plan indicates that primary outdoor sales uses should be located along highway corridors or in areas where the uses have already been established and support expansion of existing uses to adjacent areas.

6. Impact of the proposed development on community facilities: None identified.



199 Total Spaces
44 Required for Building
53 for Stutzmans