

W.C. C. ~~W.C. C.~~ ~~5-15-84~~
B.C.C./B.C.C. ~~5-15-84~~
Blumsted

5349 D

Closed ⁵⁻¹⁹⁻⁸⁶: Failure to complete
lot split, (see Z-2594
and 4/5-0641)

is an area on the
Arlon, and the north side of
the Arkansas River.

dated
7/10/12

POSTED 4-5-84
KE

ACTION

COMMITTEE _____

DATE _____

M.A.P.C.

*Approved as to
conditions* 4-19-84

B.C.C./B.C.C.C.

*Approved as
recommended* 5-15-84

5349D

Closed ⁵⁻¹⁹⁻⁸⁶ - Failure to complete
lot split, (see Z-2594
and 4/5-0641)

2/1/86
1/1/86

Map No. 5349 D
Sec. _____
Twp. _____
Range _____

DATA SHEET
COMMUNITY UNIT PLAN

DP - 23
Filed 3-21-84

Associated
Case: Z-2594

APPLICATION REQUEST: Approval of proposed AMENDMENT
MARINA LAKES COMMERCIAL AND RESIDENTIAL C.U.P.
(Residential)(Commercial) Community Unit Plan.

1. Applicant Marina Point Phase III - Joint Venture
Address 1999 North Amidon, Suite 222, Wichita, 67203 Phone 832-0840
2. Agent Alan McHenry
Address 1318 Stackman, Wichita, KS. 67203 Phone 265-1872
3. General Location: In an area on the west side of Amidon,
and the north side of the Arkansas River.
4. Proposed Use: _____

AREA DATA:
1. Acres: 9.0 (_____ ft. by _____ ft.)
2. Existing Zoning "B" Proposed Zoning "BB"
3. Area (is) (is not) platted. MARINA LAKES FIFTH ADDITION Addition

HISTORY

PROCEDURE DATA

1. MAPC Meeting:

Date 4-19-84 Action Approved sub to conditions

2. Governing Body

Date 5-15-84 Action Approved as recommended

NOTES:

CASE FILE

LOS ANGELES-CINCINNATI, OHIO
MCGRAW-HILL TELECOMMUNICATIONS
U.S.A.

SHAW-WALKER
No. 2-153C

Map No. 5349 D
Sec. _____
Twp. _____
Range _____

DATA SHEET
COMMUNITY UNIT PLAN

DP - 23 Amendment 12
Filed 3-21-84

Associated
Case: Z-2594

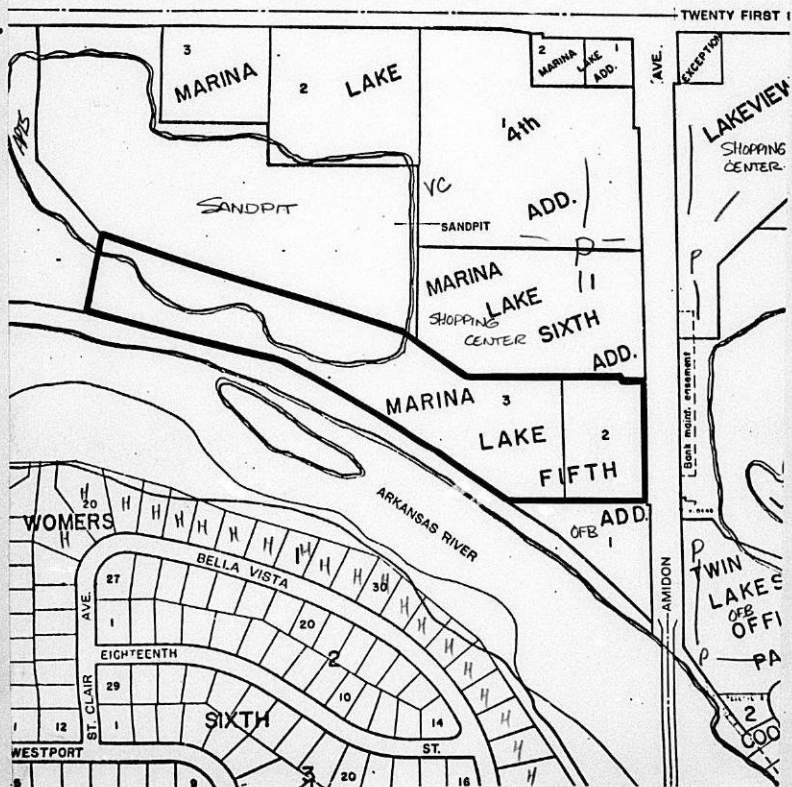
APPLICATION REQUEST: Approval of proposed AMENDMENT
MARINA LAKES COMMERCIAL AND RESIDENTIAL C.U.P.
(Residential)(Commercial) Community Unit Plan.

1. Applicant Marina Point Phase III - Joint Venture
Address 1999 North Amidon, Suite 222, Wichita, 67203 Phone 832-0840
2. Agent Alan McHenry
Address 1318 Stackman, Wichita, KS., 67203 Phone 265-1872
3. General Location: In an area on the west side of Amidon,
and the north side of the Arkansas River.
4. Proposed Use: _____

- AREA DATA:
1. Acres: 9.0 (_____ ft. by _____ ft.)
 2. Existing Zoning: (N) "LC" (E) "BB" & "OC" (W) "B" (S) ARKANSAS RIVER
 3. Land Use: East OFFICE, LAKE, SHOPPING CENTER South RIVER / SINGLE FAMILY
West ADTS., RIVER North SANDPIT, SHOPPING CENTER
 4. Sketch Plan Land Use is for: _____
 5. Present Land Use is for: _____
 6. Area (is) (is not) platted. _____

DP-23

PHOTO DATA:
Taken by _____ Date _____ Time _____



PICTURE SHEET

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT

DATE: June 11, 1986

TO: Monty Robson, Superintendent of Central Inspection

FROM: Louise Olivarez, Senior Planner, Current Plans Division

SUBJECT: DP-23 - Voiding of Amendment #12

Amendment #12 of the Marina Lake C.U.P., which created Parcel 9, was approved by the City Commission May 15, 1984, subject to splitting Lot 3, Marina Lake Fifth Addition (Parcel 8 and 9) within six months or the amendment and associated zone change to "BB" be considered denied and closed. Two extensions of time have been granted but the lot split has not been completed. Therefore, Amendment #12 and Z-2594 ("B" to "BB" for Parcel 9) have been marked "Denied and Closed".

This presents somewhat of a problem in that there has already been a thirteenth amendment approved on January 8, 1985. To reflect deletion of Amendment #12, your prints of the current C.U.P. should be marked as follows:

- A. Cross out the "zoned BB" phrase in Parcel 9 on the site plan.
- B. Add the 5' to 8' wall requirement along the north line of Parcel 9, the same as is delineated on Parcel 8 abutting Parcel 1.
- C. Cross out items 3 thru 10 in the Parcel 9 text. Substitute the following:
 3. Density shall not exceed 49 dwelling units.
 4. Access easement on east side of Parcel is to be used jointly by Parcels 6 and 9. No wall is permitted.
 5. thru 13. Same as Parcel 8.

Please call if you have any questions about this change in DP-23.

Louise Olivarez
Senior Planner

LO:blw

cc: Z-2594 file; L/S-0641 file.

Marina Lakes

1. What is the Bell Line shown at west edge of Parcel 5? Was there on #1 CUP
 2. When were the uses on Parcel 5 first established? Has been there at least since #8 amended. Have not checked further back.
 3. Is Brauns a "fast food" restaurant? check Carriage Parkway CUP
↳ allows "restaurants".
No restrictions
Ty-Cen CUP also allows restaurants w/ no restrictions.
- SEPT '84 Pat Kenyon - Weigand.
Brauns wants to buy 100' x 180' of Parcel 5.
112' already sold to Color Tile. Hop Bldg on
own balance (includes existing entrance
driveway and rear of Parcel). 3600 \$ →

bdg proposed. 6,000 sq bdg
existing. Plenty of square
footage still allowed but only
one building allowed.

After discussing with Jack, I
called Pat to tell her an
amendment to the CUP would
be necessary. Use of balance of
Parcel 5 must be specified.

Cautioned her that Parcel 5
now does not allow fast food
franchise type restaurants.

She said Braums had told her
they were not fast-food, franchise.

May 25, 1984

Robert B. Feldner, Superintendent of Central Inspection

Jack H. Galbraith, Chief Planner, Current Plans

DP-23 - MARINA LAKES COMMERCIAL AND RESIDENTIAL C.U.P. Generally located at the southwest corner of Amidon and 21st Street North.

The Board of City Commissioners on May 15, 1984, considered the above captioned C.U.P. Their action was to approve the C.U.P. subject to the following conditions:

- a. Lot splitting of Parcels 8 and 9 within six months from the date of approval by the Board of City Commissioners; or the application be considered denied and closed.
- b. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection, and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- c. Any major changes in this development plan shall be resubmitted to the Planning Commission and to the City Commission for their consideration.
- d. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial and residential development and be binding upon the present owners, their successors and assigns, unless amended.

Please note that prior to the issuance of any building permits, and in accordance with condition "A" above, Parcels 8 and 9 must be lot split.

Attached for your information and files are two approved copies of the C.U.P. If you have any questions concerning this matter, please contact our office.

Jack H. Galbraith
Chief Planner

JHG:ADC:blw
Attachments

RECOMMENDATION FROM METROPOLITAN AREA PLANNING COMMISSION
TO BOARD OF CITY COMMISSIONERS

REQUEST FOR ZONING AND APPROVAL OF AN AMENDMENT
TO COMMERCIAL AND RESIDENTIAL COMMUNITY UNIT PLAN

Z-2594 - ZONE CHANGE FROM THE "B" MULTIPLE-FAMILY DWELLING
DISTRICT TO THE "BB" OFFICE DISTRICT.

DP-23 - APPROVAL OF AN AMENDMENT TO THE MARINA LAKE COMMERCIAL
AND RESIDENTIAL COMMUNITY UNIT PLAN.

The MAPC recommends that the applications be approved.
(see minutes for full motion)

Bayouth moved, Gardner seconded and it carried unanimously.
Moore was not present. Crockett was absent.

- ACTION:
1. Concur with the findings of fact of the Metropolitan Area Planning Commission and approve the zone change and CUP subject to the recommended conditions, and instruct the Planning Department to forward the ordinance for first reading when a lot split application has been approved; or
 2. Return the applications to the Metropolitan Area Planning Commission for reconsideration. The City Commission states the following reasons for its action:

CPO ACTION: CPO Council Area "M" voted 5-0 to recommend approval of the requests.

DATA AND MINUTES

MAPC Hearing Date: 4-19-84

BCC Hearing Date: 5-15-84

AREA DATA:

Acres: DP-23 (Parcel 9) 2.5
Z-2595 2.5

Size: 221' x 396' (irregular)
221' x 396' (irregular)

Reason: To construct an office building.

	<u>Land Use</u>	<u>Zoning</u>
Existing	Undeveloped	"B"
North	Shopping Center	"LC"
East	Office Building	"OC"
South	Single-family, offices, and Arkansas River	"AA" & "BB"
West	Undeveloped	"B"

History: The C.U.P. last amendment was approved June 14, 1983
Z-2332 "B" to "BB" (requested for Parcels 6, 8 and 9)
4-09-81 MAPC Approved for Parcel 6 only
5-05-83 BCC Approved for Parcel 6 only

Applicant: Marina Point Phase III, 1999 North Amidon, Suite 222, Wichita

Protestors: None.

EXCERPT FROM PLANNING COMMISSION MINUTES OF APRIL 19, 1984

LEGAL:

- 6a. Case No. Z-2594 - Marina Point Phase III - Joint Venture requests zone change from "B" to "BB" beginning at the northeast corner of Lot 3, Marina Lakes Fifth Addition to Wichita, Sedgwick County, Kansas, thence south along the east lot line of said lot 396.36 feet, thence west along the south lot line of said lot 156.82 feet, thence northwesterly along the southwesterly lot line of said lot 213.89 feet, thence continuing northwesterly along the southwesterly lot line 40 feet, thence northeasterly to the north lot line of said lot to a point 221.32 feet west of the northeast corner of said lot, thence east along the north lot line of said lot 221.32 feet to the point of beginning. Generally located in an area on the west side of Amidon; and the north side of the Arkansas River.
- 6b. Case No. DP-23 - Marina Point Phase III - Joint Venture requests approval of an amendment to Marina Lakes Commercial and Residential Community Unit Plan for Lots 1, 2 and 3, Marina Lake Fifth Addition to Wichita, Sedgwick County, Kansas. Generally located in an area on the west side of Amidon; and the north side of the Arkansas River.

CHAMBERS pointed out land use, zoning, and showed slides of the general area. He reviewed the following staff report:

COMMENTS:

1. The following should be considered by the Planning Commission in making findings of fact:

In accordance with Section 28.04.190 of the Code of the City of Wichita, an application has been submitted requesting approval of an amendment to the Marina Lake Commercial and Residential C.U.P. The proposed amendment would create Parcel 9 from a portion of Parcel 8 in order to permit the construction of a third office building immediately to the west of the two existing office buildings located on the west side of Amidon and on the north side of the Arkansas River. Associated zone case Z-2594 is requesting "BB" office zoning for new Parcel 9. Proposed uses include offices and associated uses. Maximum floor area for Parcel 9 would be 49,098 square feet.

The number of dwelling units, acreage, density, etc., have been changed in Parcel 8 to reflect the creation of Parcel 9.
2. When "BB" zoning was requested in 1981 for all of Parcels 6, 8 and 9, staff supported "BB" zoning for Parcel 6. Staff felt that it would not be appropriate to establish "BB" zoning from Amidon west to the existing apartments on the west side of the C.U.P. The C.U.P. approved in 1981 permitted the area between the river and the lake to be developed with apartments. Staff still feels that residential uses are appropriate for that area and would not support additional requests for office uses. However, in view of the existing uses to the north and east it seems that a third office building would not be an inappropriate use for Parcel 9.
3. A recommendation of approval by the Planning Commission should be subject to the approval of the associated C.U.P. and to lot-splitting within six months from the date of approval by the City Commissioners, or the case be considered denied and closed; and that the ordinance establishing the zone change not be published until the lotsplit has been recorded with the Register of Deeds.

4. Should the Planning Commission determine that the proposed C.U.P. is appropriate, the following are recommended conditions of approval:
- a. Lotsplitting of Parcels 8 and 9 within six months from the date of approval by the Board of City Commissioners, or the application be considered denied and closed.
 - b. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
 - c. Any major changes in this development plan shall be resubmitted to the Planning Commission and to the City Commission for its consideration.
 - d. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial and residential development and be binding upon the present owners, their successors and assigns, unless amended.

DISCUSSION:

CHAMBERS stated that the applicants are desirous of constructing a third office building on this site. In order to do that, they need "BB" zoning and need to amend the C.U.P. He pointed out that this area was previously included in a request for "BB" zoning as was Parcel 6 to the west. At that time, staff felt that that was too much "BB" zoning and just the front portion of this area was approved. He said that staff concurs with this request, but would not support any additional "BB" zoning or office buildings in this area. CHAMBERS said that staff had been contacted by Engineering about the need to insure that the lift station for this area was adequate. Staff has discussed that with the applicant and feel that it can be resolved when the lot split is processed.

GARDNER asked why staff would not be supportive of additional office use at this site.

CHAMBERS responded that staff felt that the third office building would generate quite a bit of activity, and that apartments along the river and lake would still be the most appropriate use for the balance of the area.

GARDNER stated that there had been little development around Marina Lakes for a number of years for a variety of reasons and whether the site is more appropriate for apartments or condominiums or offices was an item that could be debated. He said that he was uncomfortable with the idea that it would not accommodate more offices. There is access to a major arterial and as long as the applicants can provide adequate parking and a decent site plan, he did not find it objectionable.

CHAMBERS added that CPO Council Area "M" recommended 5-0 that the requests be approved.

ALAN McHENRY, architect representing the applicant, commented that the apartments will be built in the near future. The plans have been turned in and approved. What they want to do was to trade the remaining 50 apartments for the office building because it is the current market and seems the best possible use for the land.

BAYOUTH stated that staff made a comment about the entrance being too small. He asked Chambers to clarify the statement.

CHAMBERS said that he made a comment that the area between the lake and the river was narrow. The entrance is a major entrance and the Traffic Engineer has indicated that there is adequate capacity.

WILSON asked McHenry what he meant about trading the apartments for the office building.

McHENRY said that presently there are 198 apartments permitted. They were trading 50 apartments for the office building. This is a figure they arrived at with the Traffic Engineer as having the same approximate traffic load.

There was no one present in opposition to the application.

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the commercial character of the area; the commercial and office uses and zoning to the north and east; the suitability of the subject site for development with offices, and the recommendation of approval by CPO Council Area "M"; I move that we recommend to the governing body that the zone change be approved subject to the approval of the associated C.U.P. and to lotsplitting within six months from the date of approval by the City Commissioners, or the case be considered denied and closed and that the ordinance establishing the zone change not be published until the lot split has been recorded with the Register of Deeds; and that the associated C.U.P. be approved subject to the following conditions:

- a. Lotsplitting of Parcels 8 and 9 within six months from the date of approval by the Board of City Commissioners, or the application be considered denied and closed.
- b. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- c. Any major changes in this development plan shall be resubmitted to the Planning Commission and to the City Commission for its consideration.
- d. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial and residential development and be binding upon the present owners, their successors and assigns, unless amended.

Bayouth moved, Gardner seconded and it carried unanimously. Moore was not present. Crockett was absent.

April 20, 1984

Mr. Alan McHenry
1318 Stackman
Wichita, Ks. 67203

Re: Z-2594 - "B" to "BB" &
DP-23 - Amendment to Marina
Lakes Commercial & Residential
C.U.P.

Dear Mr. McHenry:

At its regular meeting on April 19, 1984, the Metropolitan Area Planning Commission considered the above-captioned cases. The action of the Planning Commission was to recommend that the zone change be approved subject to the approval of the associated C.U.P. and to lotsplitting within six months from the date of approval by the City Commissioners, or the case be considered denied and closed and that the ordinance establishing the zone change not be published until the lotsplit has been recorded with the Register of Deeds. In addition, the Planning Commission recommended the approval of the associated C.U.P. subject to the following conditions:

- a. Lotsplitting of Parcels 8 and 9 within six months from the date of approval by the Board of City Commissioners, or the application be considered denied and closed.
- b. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.

- c. Any major changes in this development plan shall be resubmitted to the Planning Commission and to the City Commission for its consideration.
- d. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial and residential development and be binding upon the present owners, their successors and assigns, unless amended.

Please submit 10 copies of the C.U.P. to our office by May 3, 1984 so that subject cases can be scheduled for consideration by the Board of City Commissioners at their regular meeting on May 15, 1984, this meeting to be held in the City Commission Meeting Room, First Floor, City Hall, 455 North Main, Wichita, Kansas. We would remind you that Planning items are considered after all other matters of business.

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

Sincerely yours,

Jack H. Galbraith
Chief Planner

JHG:sd

cc: Marina Point Phase III, 1999 North Amidon, Suite 222, Wichita 67203

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION DATE April 19, 1984

TO Jack Galbraith, Chief Planner--Current Plans

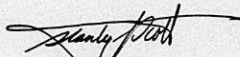
FROM Stanley J. Scott, CP Coordinator

SUBJECT DP-23/Z-2594: West Side of
Amdon, and North Side of
Arkansas River

On Wednesday, April 18th, CPO Neighborhood Council "M" considered the captioned case, a request to amend the Marina Lakes Commercial and Residential Community Unit Plan and a zone change from "B" Multiple Family Dwelling District to "BB" Office District. After discussion, the Council voted 5-0 to recommend approval of the zone change and C.U.P. amendment subject to MAPD staff comments.

Alan McHenry, agent, was present to describe the request and respond to questions from the Council. No area residents or property owners were in attendance. Council members were provided the notice to adjoining property owners, a map of the area and MAPD staff comments.

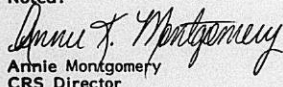
Please provide the Council's recommendation to the MAPC and City Commission when DP-23 and Z-2593 are considered.



Stanley J. Scott
CP Coordinator

SJS:sm

Noted:



Arnie Montgomery
CRS Director

RECEIVED

APR 19 1984

METROPOLITAN PLANNING

ROUTE _____

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT

Z-2594 - ZONE CHANGE FROM THE "B" MULTIPLE-FAMILY DWELLING DISTRICT
TO THE "BB" OFFICE DISTRICT

8
DP-23 - APPROVAL OF AN AMENDMENT TO THE MARINA LAKE COMMERCIAL
AND RESIDENTIAL C.U.P.

MAPC HEARING DATE: 4-19-84

Acres: DP-23 (Parcel 9) 2.5 Size: 221' x 396' (irregular)
 Z-2595 2.5 221' x 396' (irregular)

Reason: To construct an office building.

	<u>Land Use</u>	<u>Zoning</u>
Existing	Undeveloped	"B"
North	Shopping Center	"LC"
East	Office Building	"OC"
South	Single-family, offices, and Arkansas River	"AA" & "BB"
West	Undeveloped	"B"

History: The C.U.P. last amendment was approved June 14, 1983
Z-2332 "B" to "BB" (requested for Parcels 6, 8 and 9)
 4-09-81 MAPC Approved for Parcel 6 only
 5-05-83 BCC Approved for Parcel 6 only

Applicant: Marina Point Phase III, 1999 North Amidon, Suite 222, Wichita

COMMENTS:

1. The following should be considered by the Planning Commission in making findings of fact:

In accordance with Section 28.04.190 of the Code of the City of Wichita, an application has been submitted requesting approval of an amendment to the Marina Lake Commercial and Residential C.U.P. The proposed amendment would create Parcel 9 from a portion of Parcel 8 in order to permit the construction of a third office building immediately to the west of the two existing office buildings located on the west side of Amidon and on the north side of the Arkansas River. Associated zone case Z-2594 is requesting "BB" office zoning for new Parcel 9. Proposed uses include offices and associated uses. Maximum floor area for Parcel 9 would be 49,098 square feet.

The number of dwelling units, acreage, density, etc., have been changed in Parcel 8 to reflect the creation of Parcel 9.

2. When "BB" zoning was requested in 1981 for all of Parcels 6, 8 and 9, staff supported "BB" zoning for Parcel 6. Staff felt that it would not be appropriate to establish "BB" zoning from Amidon west to the existing apartments on the west side of the C.U.P. The C.U.P. approved in 1981 permitted the area between the river and the lake to be developed with apartments. Staff still feels that residential uses are appropriate for that area and would not support additional requests for office uses. However, in view of the existing uses to the north and east it seems that a third office building would not be an inappropriate use for Parcel 9.

3. A recommendation of approval by the Planning Commission should be subject to the approval of the associated C.U.P. and to lot-splitting within six months from the date of approval by the City Commissioners, or the case be considered denied and closed; and that the ordinance establishing the zone change not be published until the lotsplit has been recorded with the Register of Deeds.
4. Should the Planning Commission determine that the proposed C.U.P. is appropriate, the following are recommended conditions of approval:
 - a. Lotsplitting of Parcels 8 and 9 within six months from the date of approval by the Board of City Commissioners, or the application be considered denied and closed.
 - b. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
 - c. Any major changes in this development plan shall be resubmitted to the Planning Commission and to the City Commission for its consideration.
 - d. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial and residential development and be binding upon the present owners, their successors and assigns, unless amended.

CASE NO. Z-2594 ASSOC. CASE NO. DP-23

166	Notice to Adjoining Property Owners mailed on 4-6-84, for MAPC meeting to be held 4-19-84.
3	One each to Applicants and Agent.
3	One each to CPO, Karen Crook, Don Schneider

172	TOTAL

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION
CITY HALL, TENTH FLOOR, 455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688

April 5, 1984

NOTICE TO ADJOINING PROPERTY OWNERS:

NOTICE IS HEREBY GIVEN that on Thursday, April 19, 1984, said meeting beginning at 1:30 p.m., the Wichita-Sedgwick County Metropolitan Area Planning Commission, in the City Commission Meeting Room, City Hall, First Floor, 455 North Main Street, Wichita, Kansas will consider an application for amendment of the MARINA LAKES COMMERCIAL AND RESIDENTIAL COMMUNITY UNIT PLAN, for property legally described as follows:

CASE NO. DP-23

Lots 1, 2 and 3, Marina Lake Fifth Addition to Wichita, Sedgwick County, Kansas. Generally located in an area on the west side of Amidon; and the north side of the Arkansas River.

The Development Plan of this area, originally approved on April 4, 1967, and last amended on June 14, 1983, has been resubmitted as required under the Community Unit Plan provisions of Section 28.04.190 of the City Zoning Ordinance of the City of Wichita. The Development Plan is on file in the Planning Department Office, Tenth Floor, City Hall, 455 North Main, Wichita, Kansas, and is available for public information and review.

The revised Development Plan now on file proposes to create new Parcel 9 immediately to the west of the two existing office buildings on the west side of Amidon Avenue, on the north side of the Arkansas River. Associated Zone Case Z-2594 is requesting "BB" Office Zoning for Parcel 9. Proposed uses include offices and associated uses.

The hearing of the proposed amendments to this Development Plan, as provided in Section 28.04.190 of the City Zoning Ordinance of the City of Wichita, is to be held and the same will there be discussed and considered by said Wichita-Sedgwick County Metropolitan Area Planning Commission. Those persons interested in this matter will be heard at that time.

The Citizens Participation Organization (CPO) neighborhood council will consider this case in the immediate future for the purpose of making a formal recommendation to the MAPC and BCC. If you have an interest in this case, you are encouraged to express your opinions at your CPO Council meeting. The date, time and location of the CPO meeting may be obtained by calling 268-4516.

Additional information concerning this case may be obtained from the Planning Department, 10th Floor, City Hall, or by calling 268-4421.

Robert A. Lakin
Secretary

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT

March 28, 1984

TO: Robert B. Feldner, Superintendent of Central Inspection
FROM: Art D. Chambers, Senior Planner
SUBJECT: DP-23 - MARINA LAKE COMMERCIAL AND
RESIDENTIAL C.U.P. Generally located
at the southwest corner of 21st Street
and Amidon.

A copy of a proposed amendment to the above referenced C.U.P. is attached for your review and comment. The only change proposed is to create parcel 9 in order to allow the construction of an office building. A maximum floor area of 49,098 square feet would be permitted.

We would appreciate receiving your comments regarding access, traffic, etc., by Wednesday, April 4, 1984. If you have any questions, please call.

Art D. Chambers
Senior Planner

ADC:blw

cc: Mike Lindebak, City Engineer
Bill McKinley, Traffic Engineer

*amendment to
DP-23
Marina Lake
Commercial
& Residential
CUP*

APPLICATION FOR COMMUNITY UNIT PLAN
(PLANNED RESIDENTIAL OR COMMERCIAL DEVELOPMENT)
FOR PROPERTY LOCATED WITHIN THE LIMITS OF THE
CITY OF WICHITA, KANSAS

This is an application for a Community Unit Plan - Planned Development. The form must be completed and filed at the Planning Department, Tenth Floor, City Hall, 455 North Main Street, Wichita, Kansas, in accordance with directions on the accompanying instruction sheet. AN INCOMPLETE APPLICATION CANNOT BE ACCEPTED.

1. Name of applicant or applicants and/or their agent or agents.

a. Applicant Mainra Point First, Second and Third Ltd. Partnerships

Address 1999 N. Amidon, Suite 222 Phone 832-0840

Agent Alan McHenry

Address 1318 Stackman Phone 265-1872

b. Applicant Marina Point Phase III - Joint Venture

Address 1999 N. Amidon, Suite 222 Phone 832-0840

Agent Alan McHenry

Address 1318 Stackman Phone 265-1872

c. Applicant _____

Address _____ Phone _____

Agent _____

Address _____ Phone _____

(Use separate sheet if necessary for names of additional applicants).

2. a. The applicant hereby requests Community Unit Plan approval on property

zoned B and legally described as Lot(s) Marina Lakes

Fifth Addition, Block(s) _____,

_____ Addition.

(If appropriate, metes and bounds description may be provided in the space below or on an attached sheet.)

use for legal Lots 1, 2 and 3, Marina Lake Fifth Addition, Wichita, Sedgewick County Kansas

2. b. There are 9.0 acres (round to nearest tenth) in the above described property.

T9-330-3

MAP 5349D

Zoning N LC

F&F

OC

WB

ARKANSAS RIVER

Revised 8/80

MAPC

4/11/89

3. The general location is (use appropriate section)

*use for gen loc 1
In an area
on the west side
of Amidon
north side of
the Arkansas River*

a. at the _____ corner of _____
and _____; or
on the West _____ side of Amidon _____ (Avenue,
Street) between the river _____ (Avenue, Street) and
the lake south of 21st _____ (Avenue, Street).

4. I (we), the applicant(s), acknowledge receipt of the instruction sheet explaining the method of submitting this application. I (we) realize that this application cannot be processed unless it is completely filled in and accompanied by a current abstractor's certificate as required in the instruction sheet.

By _____ Authorized Agent (if any) By [Signature] Authorized Agent (if any)

By _____ Authorized Agent (if any) By _____ Authorized Agent (if any)

5. OFFICE USE ONLY

This application was received at the Planning Department at 443
(AM, PM) on Mar 21, 1984 (Day, Month, Year). It has been checked and found to be complete and accompanied by required documents and the appropriate fee of \$ 200 *minor amendment*.

[Signature] Name
Sen. Planner Title

() Published in The Daily Record on ~~June 14~~, 1984 (One Time)

OFFICIAL NOTICE

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

NOTICE IS HEREBY GIVEN that on Thursday, *April 19*, 1984, said meeting beginning at 1:30 p.m., the Wichita-Sedgwick County Metropolitan Area Planning Commission, in the City Commission Meeting Room, City Hall, First Floor, 455 North Main Street, Wichita, Kansas, will consider an application for amendment to the *Marina Lake Commercial* RESIDENTIAL COMMUNITY UNIT PLAN, for property legally described as follows:

D-33 get legal from application

The Development Plan of this area, originally approved on *April 4, 1967* and amended on *June 14, 1973*, has been resubmitted as required under the Community Unit Plan provisions of Section 28.04.190 of the City Zoning Ordinance of the City of Wichita. The Development Plan is on file in the Planning Department Office, Tenth Floor, City Hall, 455 North Main, Wichita, Kansas, and is available for public information and review.

The revised Development Plan now on file proposes to create a new Parcel 9 immediately to the west of the two existing office buildings on the west side of Limon Avenue, on the north side of the Arkansas River. Associated B zone case Z-2 --- is requesting "BB" Office zoning for Parcel 9. Proposed uses include offices and associated uses.

The hearing of the proposed amendments to this Development Plan, as provided in Section 28.04.190 of the City Zoning Ordinance of the City of Wichita, is to be held and the same will there be discussed and considered by said Wichita-Sedgwick County Metropolitan Area Planning Commission. Those persons interested in this matter will be heard at that time.

WITNESS MY HAND AND SEAL this 14th day of ~~June~~, 1984.

Robert A. Lakin, Secretary
Wichita-Sedgwick County
Metropolitan Area Planning
Commission

(SEAL)

UPDATE AND AMEND
OWNERSHIP LIST #318525

We hereby extend the foregoing ownership list of the property owners within a 1000 foot radius of:

Lots 2 and 3, Marina Lake Fifth Addition,
Wichita, Sedgwick County, Kansas

And amend captioned property to include:

Lot 1, Marina Lake Fifth Addition, Wichita,
Sedgwick County, Kansas

as shown by the last deed of record on file in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 27th day of January, 1984, at 7:00 o'clock A.M., without change except:

<u>Property Description</u>	<u>Property Owner</u>	
The South 18 feet of Lot 33, all of Lots 35, 37 & 39, and the North 6 feet of Lot 41, Block A, Victoria Park Addn.	Allen L. Nance Jeanne E. Nance 1922 N. Meridian	67203
Lot 38, Block 1, Womer's 6th Addn.	Walter H. Martz Joan Martz 2108 Bella Vista	67203
Lot 4, Block 2, Womer's 6th Addn.	Walton W. Hodges Cynthia J. Hodges 2216 W. 18th St.	67203
Lot 14, Block 2, Womer's 6th	Ronald D. Fisher Joanne E. Fisher 2133 Bella Vista	67203
Lot 25, Block 3, Womer's 6th	Larry D. Gaston 2201 W. 18th St	67203
A tract in the NE $\frac{1}{4}$ of Section 12, Twnsp. 27 South, Rge. 1W; Beg. 830' north of the SE corner thereof; then west 207.44'; then NELY 111' more or less to a point 188.88' west of the east line of the NE $\frac{1}{4}$; then east 188.88' to the east line of the NE $\frac{1}{4}$; then South 110' to beginning..	John C. McKay Lutisha A. McKay 1937 N. Meridian	67203

Additional Property:

Property Owner

The North 70 feet of Lot 29,
& the South 2 feet of Lot 30,
Block 2, Third Westborough Place

Harry O. Hatfield
Opal E. Hatfield
1717 N. Clarence Ave. 67203

Lot 30. except the South 2 feet,
Block 2, Third Westborough Place

George T. Cubbon
1725 N. Clarence 67203

Lots 1,3 & 5, Woodrow Ct., Ford &
Cranes Addition

Mark D. Opliger
Shirley A. Opliger
1856 Woodrow Court 67220

Lots 7,9 & 11, Woodrow Ct., Ford &
Cranes Addition

Sam Schwien
Lutie Schwien
1848 Woodrow Court 67220

Lots 13,15 & 17, Woodrow Ct., Ford &
Cranes Addition

Gerald B. Beat
Grace M. Beat
1842 Woodrow Court 67220

Lots 19 & 21, Woodrow Ct., Ford &
Cranes Addition

Monsanto Flavor/Essence, Inc.
800 N. Lindbergh Blvd.
St. Louis, MO

Lot 1, Womer's 4th Addition

Martin E. Johnson
Rozella M. Johnson
1730 Clarence 67203

Lot 2, Womer's 4th Addition

J. George Klein
Maxine W. Klein (dec'd)
1716 N. Clarence 67203

Lot 1, & the North 9 feet of Lot
2, Block 1, Womer's 5th Addn.

Lewis A. Smith
Delores G. Smith
1702 N. Clarence 67203

Lot 7, Block 1, Womer's 5th Addn.

G. George Farnsworth
Doris C. Farnsworth
1703 N. Charles St. 67203

Lot 8, Block 1, Womer's 5th

Fred S. Lillibridge
Betty L. Lillibridge
1711 N. Charles St. 67203

Lot 9, Block 1, Womer's 5th

Doris O. Carter
1719 N. Charles St. 67203

Lot 1, Block 2, Womer's 5th

Leonard F. Dickeson
Marjorie R. Dickeson
1722 N. Charles St. 67203

Lot 2, Block 2, Womer's 5th

Chris D. Collins
Bonnie J. Collins
1712 N. Charles 67203

Lot 3, Block 2, Womer's 5th

L. Winston Rogers
Joy M. Rogers
1702 N. Charles 67203

*all on
this
page
are
additional
parcels*

PAGE 3

Additional Property:(cont.)

Property Owner

Lot 4, Block 2, Womer's 5th	Rudolph E. Stephen Mary E. Stephen 2518 W. 24th St. North 67204
Lot 8, Block 1, Cook's River Ranch Addition	Eugene L. Jones Lorraine C. Jones 1825 Woodrow Court 67220
Lot 9, Block 1, Cook's River Ranch Addn.	Theodore J. Asmann Vickie D. Asmann 1815 Woodrow Court 67220
Lot 10, Block 1, Cook's River Ranch Addn.	Elaine A. Patterson Veralnd M. Patterson 1805 Woodrow Court 67220
<i>all over range</i> The NWly 2 feet of Lot 11, and all of Lot 12, Block 1, Cook's River Ranch	Jeffrey V. Baxter Martha L. Baxter 1824 Lisa Lane 67203
Lot 11, except the NWly 2 feet, Block 1, Cook's River Ranch	Paul J. Andree Dorothy C. Andree 1814 Lisa Lane 67203
Lot 8, Block 2, Cook's River Ranch	C. Eugene McGinnis Peggy A. McGinnis 1825 Lisa Lane 67203
Lot 9, Block 2, Cook's River Ranch	James C, Hayden 965 Denmark 67212
Lot 10, Block 2, Cook's River Ranch	W. Boyd Evans Beverly A. Evans 1817 Lisa Lane 67203
Lot 11, Block 2, Cook's River Ranch	Charley Floyd Thomas (dec'd) Marjorie C. Thomas 1813 Lisa Lane 67203
Lot 12, Block 2, Cook's River Ranch	D.F. Pratt 1811 Lisa Lane 67203 Bonnie Pratt 1811 Lisa Lane 67203 Bessie Pratt 1809 Lisa Lane 67203

PAGE 4

Additional Property(cont.)

Property Owner

That part of the Southwest Quarter
of Section 7, Twp. 27 South, Rge.
1 E, lying East of the East line of
Womer's 5th Addition, and North of the
South line of Womer's 5th Addition,
extended Eastward

City of Wichita
455 N. Main 67202

THE SECURITY ABSTRACT & TITLE CO., INC.

By *Curtis Timmons*
Vice President

Order No:329721
Update of:318525
nb

2.2506

DP-23

OWNERSHIP LIST

Lot	Block	Addition	Property Owner
1	-	Marina Lake Addition	✓ Mid Kansas Federal Savings and Loan Association, 230 S. Market, 67202
2	-	"	X Kiser, Inc., ⁶⁸²⁻³³³⁷ Address Unknown returned
1	-	Marina Lake 3rd Addition	✓ Riverbend Associates Ltd., 3203 Lee Parkway, Dallas, Texas, 75219 returned AND ✓ Monarch Riverbend Partners Ltd., Suite 160, 1000 Quail, Newport Beach, California, 92660 (notice of interest in property filed)
1 beg. at the - NW corner; then south along the west line 175 ft.; then east 339.74 ft. to the SW corner of lot 2 Marina Lake Addn.; then north along lot line common to said Lot 2 in Marina Lake Addn. and said Lot 1 in Marina Lake 4th Addn. 165 ft. to the north line of said Lot 1; then west to beg.		Marina Lake 4th Addition	X Clear Lake Inc., Address Unknown ⁷⁹⁴⁻³⁷⁶⁴ <i>no address listed in phone book or cross-reference for phone number (Must be in Marina Lake Shopping Center)</i>
1 except that - part described immediately above		"	✓ Midwest Properties Inc., c/o Robert Poley, 35 Essex St., Hackensack, New Jersey (improvements only) 07601 AND D Clear Lake Inc., Address Unknown (land only)
2	-	"	✓ Clear Lake Inc., Address Unknown
East 112 ft. of the north 200 ft. of 3		"	✓ Colortile Supermart Inc., 2211 W. 21st St., 67203
3 exc. the east 112 ft. of the north 200 ft.		"	✓ Harry D. Bledsoe, 11800 W. Highway 54, 67209 AND ✓ Resthaven Gardens of Memory Inc., 11800 W. Highway 54, 67209 AND ✓ Victor B. Eisenring, 4700 W. 21st St., 67212
1	-	Marina Lake 5th Addition	✓ Marina Point Second Limited Partnership, Suite 222, 1999 Amidon, 67203
2	-	"	✓ Marina Point First Limited Partnership, Suite 222, 1999 Amidon, 67203

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
3	-	Marina Lake 5th Addition	✓ Marina Point Phase III Joint Venture, Suite 222, 1999 Amidon, 67203
1	-	Marina Lake 6th Addition	Midwest Properties, Inc., c/o Robert Poley, 35 Essex St., Hackensack, New Jersey (improvements only) AND Clear Lakes, Inc., Address Unknown
1	-	Indian Hills 4th Addition	✓ H. Marvin Bastian, 62 Norfolk Dr., 67206 AND Frank M. Kessler (Deceased)
1	1	Lester Turley Addition	✓ Leonard C. Cumley & Peggy L. Cumley, 3915 Cornelison, 67203
3	1	"	✓ Richard L. Ruddell & Sherry L. Ruddell, 1949 N. Meridian, 67203
4	1	"	✓ Marsha Robinson, 1945 N. Meridian, 67203
22, 24, 26 & 28	B	Victoria Park Addition	✓ George R. Delaney & Marlene K. Delaney, 1941 N. Meridian, 67203
South 18 ft. of 33, all of 35, 37 & 39, and the north 6 ft. of 41	A	" <i>see new list</i>	✓ Allen Lavern Nance & Judy A. Nance, 1922 N. Meridian, 67203
1	A	Friesen Addition	✓ Clifford T. Vice & Cherylen K. Vice, 1946 N. Meridian, 67203
2	A	"	✓ Robert L. Clough & Viola A. Clough, 1950 N. Meridian, 67203
3 & 4	A	"	✓ Laverna T. Shaw, 1959 N. Sedgwick, 67203
1 & 2	-	Delaney Addition	✓ Oren Delaney & Winifred F. Delaney, 1942 N. Meridian, 67203
3	-	"	✓ James L. Pickett & Marjorie M. Pickett, 1947 N. Sedgwick, 67203
1	-	Carl E. Jones Addition	✓ Carl E. Jones & Katherine I. Jones, 1929 N. Sedgwick, 67203

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
1	-	R.L. Sloan Addition	✓ Ronald L. Sloan & Kathie J. Sloan, 1921 N. Sedgwick, 67203
1	-	Widdeos Addition	✓ Elven V. Widdeos & E. Bernice Widdeos, 1911 N. Sedgwick, 67203
15	11	Benjamin Hills 2nd Addition	X Henry Y. Geen & Jayne L. Geen, <u>Address Unknown</u>
4	12	"	✓ Barbara Holt Castro, 2420 Benjamin, 67204
5	12	"	✓ Administrator of Veterans Affairs, 901 George Washing- ton Blvd., 67211
6	12	"	✓ Arthur P. Arteaga a/k/a Arthur Peter Arteaga & Armida H. Arteaga, 2207 N. Richmond, 67204
7	12	"	✓ Emmet E. Hall & Lois Hall, 2364 Cardinal Dr., 67204
5	13	"	✓ Clifford R. Muhlenbruch & Ruth D. Muhlenbruch, 2228 N. Richmond, 67204
6	13	"	<i>Copy</i> Administrator of Veterans Affairs, 901 George Washing- ton Blvd., 67211
7	13	"	✓ Rex A. Hughes & Marsha J. Hughes, 2208 N. Richmond, 67204
8	13	"	✓ Clinton D. Kliewer & Denise A. Kliewer, 2209 Marigold, 67204
9	13	"	✓ George E. Crockett & Vera Jean Crockett, 2219 Marigold, 67204
10	13	"	✓ Everett J. Dean & Anna L. Dean, 2229 Marigold, 67204
2	14	"	✓ Charles E. Pauler & Alma L. Pauler, 2222 Marigold, 67204
3	14	"	✓ Granville B. Summitt & Judith A. Summitt, 2206 Marigold, 67204
4	14	"	✓ Anna McLean, 2359 McLean Blvd. NW, 67204
5	14	"	X Norman E. Allerheiligen & Dorothy W. Allerheiligen, <u>Address Unknown</u> AND ✓ Mid Continent Homes, 928 S. Broadway, 67211 (notice of interest in property filed)

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Part of Block 16 in Benjamin Hills 2nd Addn. & part of Lot 3 in Sweetbriar Addn. beg. at the SW corner of Block 16; then east 150 ft.; then north at right angles 184 ft.; then west to the west line of Lot 3; then swly along the west lines of Lot 3 & Block 16 to beg.	-	Benjamin Hills 2nd Addition & Sweet- briar Addition	✓ Reiss & Goodness Inc., 2160 W. 21st St., 67203 AND ✓ Rage, a Partnership, 2160 W. 21st St., 67203
Part of 3 beg. at the NW corner; then east 346.76 ft. to the NE corner; then south 300 ft. to the SE corner; then west 325.2 ft. to the SW corner; then north to a pt. which is 116 ft. south of the north line of Lot 3; then west to the east line of Sweetbriar Lane; then nely along said east line to beg.	A	Sweetbriar Addition	✓ Don S. Peters, 285 S. Dell- rose, 67218 AND ✓ Walter W. Jones, 4807 E. Waterman, 67218
1.	1	Cook's River Ranch Addition	✓ Vic Cheng-I Shen & Jacqueline Shen, 2628 Cornelson, 67203
2	1	"	✓ Everett C. Moss & Delpha A. Moss, 1827 W. 18th St., 67203
3	1	"	✓ Wayne M. Armstrong & Zelma D. Armstrong, 1809 W. 18th St., 67203
4	1	"	✓ Robert L. Whitesell & Alta L. Whitesell, 1805 W. 18th St., 67203
5	1	"	✓ Jim B. Fulbright, 1855 Wood- row Ct., 67203
6 exc. the south 1 ft.	1	"	✓ Harlan B. Dixon & Phyllis J. Dixon, 1845 Woodrow Ct., 67203
South 1 ft. of 6 & all of 7	1	"	✓ Robert H. Jackson & Dorothy E. Jackson, 1835 Woodrow Ct., 67203
13	1	"	X Tom A. Fowler & Ingri L. Fowler, <u>Address Unknown</u>
14	1	"	✓ Phillip R. Purinton & Patricia A. Purinton, 1832 Lisa Lane, 67203

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
15	1	Cook's River Ranch Addition ✓✓	Albert H. Nelson III & Patricia Ann Nelson, 1836 Lisa Lane, 67203
16	1	" ✓✓	David J. Hanson & Cynthia L. Hanson, 1840 Lisa Lane, 67203
2 & 3	2	" ✓✓	Arlene V. Root, 1847 Lisa Lane, 67203
4 & 5	2	" X	C.W. Bragg Co. Inc., Address <u>Unknown</u>
6	2	" ✓	James H. Lange & Zelma I. Lange, 1833 Lisa Lane, 67203
7	2	" ✓	Christine J. Cleary, 1829 Lisa Lane, 67203
Part of Block 1, Lakeview Estates and all of Lot 1 and part of Lots 2 and 6, Block A, Lakeview Estates 2nd Addn., described as beg. at a pt. 126.7 ft. west of the NE corner of said Block 1; then west 640.29 ft.; then south 158.71 ft.; then west 158.71 ft. to the west line of said Block 1; then south along the west line of said Block 1 and said Lot 6 in Block A, 1348.07 ft. to the lot corner common to said Lots 5 and 6 in Block A; then east parallel with the lot line common to said Lots 5 and 6 in Block A, 98 ft.; then north parallel with the west line of said Lot 6 in Block A, 487 ft. more or less to the south line of said Lot 2 in Block A extended west; then east along said south line extended 1000 ft. more or less to a pt. 375 ft. west of the SE corner of said Lot 2 in Block A; then north parallel with the east line of said Lot 2 in Block A, 265.55 ft. to the north line of said Lot 2 in Block A; then west 143.84 ft.; then north along the east line of said Lot 2 and Lot 1 in Block A and said Block 1, 587.36 ft. to a pt. 125 ft. south of the NE corner of Block 1; then west parallel with the north line of said Block 1 129.33 ft.; then north 125 ft. to beg.		Lakeview Estates Addition & Lakeview Estates 2nd Addition ✓✓	Lakeview Development Co., c/o Ritchie Paving, 1900 Amidon, 67203 AND Regis Homes Inc., Address <u>Unknown</u> (escrow agreement) X

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Lot 2, Twin Lakes Office Park & that part of Lots 2, 3, 4 and 6, Lakeview Estates 2nd Addition, & part of Lot 1, Twin Lakes Office Park described as beg. at the NE corner of said Lot 2, Block A, in Lakeview Estates 2nd Addn.; then south along the east line of lots 2 and 3 in Block A to the SE corner of Lot 3 in Block A; then west along the south line of lots 3 & 4 in Block A to the SE corner of Lot 1 in Twin Lakes Office Park; then west along the south line of said Lot 1, 335.06 ft. to the pt. of curvature of a curve to the left, having a radius of 60 ft.; then swly along said curve 73.86 ft. to the NE corner of Reserve B in Twin Lakes Office Park; then west 159.3 ft. more or less to the NW corner of Reserve B; then nwly along the swly line of Lot 1 66.42 ft.; then nely with a deflection angle to the right of 80°06'30" 270 ft.; then northerly with a deflection angle to the left of 26°27'20" 81.95 ft.; then nely with a deflection angle to the right of 26°27'20" 106.49 ft. to the north-east line of Lot 1; then nwly and northerly along the northeast line of Lot 1 298.93 ft. to a pt. 98 ft. east of the west corner common to Lot 1 and Lot 6, Block A; then north, 98 ft. east of and parallel with the west line of said Lot 6, Block A, 487 ft. more or less to the south line of said Lot 2, Block A, extended west; then east along said south line extended, 1000 ft. more or less to a pt. 375 ft. west of the SE corner of Lot 2, Block A; then north parallel with the east line of Lot 2, Block A, 265.55 ft. to the north line of Lot 2, Block A; then east along said north line to the pt. of beg., except that part included in Twin Lakes, a condominium		Lakeview Estates 2nd Addition & Twin Lakes Office Park Addition	✓ Foxborough, a general partnership, 1884 The Alameda, San Jose, California, 95126
1 except that part thereof described immediately above		Twin Lakes Office Park	✓ Lakeview Development Co., c/o Ritchie Paving, 1900 Amidon, 67203

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
1 beg. at the front corner common to lots 1 & 2; then nely along line common to lots 1 & 2 125 ft.; then swly to a pt. on the front line of lot 1, 1.5 ft. nwly from pt. of beg.; then swly 1.5 ft. to beg.	1	Womer's 6th Addition	✓✓ Donald L. Miller & Johnita D. Miller, 1950 N. Sedgwick, 67203
1 exc. that part described immediately above	1	"	✓✓ Hubert L. Edwards & Virginia C. Edwards, 1958 N. Sedgwick, 67203
2 exc. the south 2 ft.	1	"	D ✓ Donald L. Miller & Johnita D. Miller, 1950 N. Sedgwick, 67203
South 2 ft. of 2 & all of 3	1	"	✓✓ Charles A. Beattie & Margaret R. Beattie, 1940 N. Sedgwick, 67203
4 & the north 25 ft. of 5	1	"	✓ Thomas D. Beard & Ruth Ann Beard, 1930 N. Sedgwick, 67203
South 50 ft. of 5, & the north 50 ft. of 6	1	"	✓✓ Ralph G. Twyman & Wilma R. Twyman, 1920 N. Sedgwick, 67203
South 25 ft. of 6, & 7 exc. the south 4 ft.	1	"	✓✓ Cecil M. Gleason & Frances L. Gleason, 1912 N. Sedgwick, 67203
South 4 ft. of 7	1	"	✓✓ Robert J. Kernohan & Beverly J. Kernohan, 1902 N. Sedgwick, 67203 <i>returned</i>
8	1	"	✓✓ Woodland United Methodist Church, 1606 Payne, 67203

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
15 & the south 10 ft. of 16	1	Womer's 6th Addition	✓✓ Marc L. Webb & Gwen D. Webb, 1901 N. St. Clair, 67203
North 3 ft. of 16, & lot 17 exc. beg. at the NE corner; then west to the NW corner of said lot; then south along rear line of said lot 1 ft.; then east to beg.	1	"	✓✓ Donald E. Winkler (Deceased) & Hazel Claire Winkler, 1921 N. St. Clair, 67203
North 65 ft. of the south 75 ft. of lot 16	1	"	✓✓ Ellen C. Hiatt, 1911 N. St. Clair, 67203
Part of lots 17 & 18 described as beg. at the front corner common to said lots; then northeasterly along front line of lot 18 75.7 ft. to the NE corner of lot 18; then northwesterly 159 ft. to a pt. on the rear line of lot 18, said pt. being 6 ft. south of the NW corner of lot 18; then south along the rear line of lots 18 & 17, 130 ft. to a pt. 1 ft. south of the NW corner of lot 17; then east 130 ft. to beginning	1	" <i>Returned - unknown</i>	X Harold Belt & Alice Belt, 1931 N. St. Clair, 67203
Lot 19 exc. beg. at the front corner common to lots 19 & 20; then westerly along front line of lot 19 10 ft.; then northwesterly along a line radial to the front line of lot 19 186.3 ft. to the intersection of southerly extension of westernmost line of lot 20; then north along said line 32.45 ft. to the line between lots 19 & 20; then southeasterly 210 ft. to pt. of beg.	1	Womer's 6th Addition	✓✓ Joe P. Steven & Sandy A. Steven, Address Unknown 1301 So. Maize Rd. 67209

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
19 exc. that part of said lot described immediately previous	1	Womer's 6th Addition	✓ S.H. Womer & Esther J. Womer, 2252 Bella Vista, 67203
Part of lot 18 described as beg. at the front corner common to lots 18 & 19; then northwesterly 162 ft. to rear corner common to lots 18 & 19; then south along rear line of lot 18 6 ft.; then southeasterly 159 ft. to beg.	1	"	<i>Handwritten</i> ✓ Joe P. Steven & Sandy A. Steven, Address-Unknown
Part of lot 20 described as beg. at the front corner common to lots 20 & 21; then westerly along front line of lot 20 10 ft.; then northwesterly on a line radial to the front line of lot 20 218.1 ft. to the rear line of lot 20; then easterly to the rear corner common to lots 20 & 21; then southeasterly 208 ft. to beg.	1	"	<i>Handwritten</i> ✓ Fred L. Coslett & Patricia L. Coslett, 2242 Bella Vista, 67203
Lot 20 exc. that part described immediately above	1	"	<i>Handwritten</i> ✓ S.H. Womer & Esther J. Womer, 2252 Bella Vista, 67203
All of lot 1 22, & that part of lot 21 beg. at the front corner common to lots 21 & 22; then westerly along front line of lot 21 15 ft.; then northerly on a line radial to the front line of lot 21 167 ft. to the rear line of said lot; then southeasterly 20 ft. to the rear corner common to lots 21 & 22; then southerly 122 ft. to beg.	1	"	✓ Charles R. Culbertson (Dec- eased) & Lucille Culbertson, 2232 Bella Vista, 67203
Lot 21 exc. that part described immediately above	1	"	<i>Handwritten</i> ✓ Fred L. Coslett & Patricia L. Coslett, 2242 Bella Vista, 67203

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
All of lot 23 & part of lot 24 described as beg. at the front corner common to lots 23 & 24; then easterly along the front line of lot 24 15 ft.; then northerly on a line radial to the front line of lot 24 136.4 ft. to the rear line of lot 24; then northwesterly to the rear corner common to lots 23 & 24; then southerly 139 ft. to beg.	1	Womer's 6th Addition	✓ Gale D. Black & Sara L. Black, 2224 Bella Vista, 67203
Lot 24 exc. that part described immediately above	1	"	✓ Charles K. Eby & Jean C. Eby, 2212 Bella Vista, 67203
Part of lot 25 described as beg. at the southwesterly corner; then easterly along the front line of lot 25 50 ft.; then northerly on a line radial to the front line of lot 25 125 ft. to the rear line of said lot 25; then northwesterly to the northwesterly corner of lot 25; then southerly 126 ft. to beg.	1	"	"
Lot 25 exc. that part described immediately above; together with Lot 26 exc. the east 10 ft.	1	"	✓ John W. Long & Rebecca L. Long, 2200 Bella Vista, 67203
East 10 ft of lot 26 & all of lot 27	1	"	✓ Hubert M. Snell & Shirley E. Snell, 2186 Bella Vista, 67203
All of 28, & part of 29 described as beg. at the front corner common to lots 28 & 29; then sely along the front line of lot 29 25 ft.; then nely on a line radial to (next page)	1	"	✓ Harold G. Glidden & Carol E. Glidden, 2180 Bella Vista, 67203

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
the front - line of lot 29 147 ft. to a point on the rear line of lot 29; then westerly 28 ft. to the rear corner common to lots 28 & 29; then southwesterly 144 ft. to beg.			
Part of lot 29 described as beginning at the front corner common to lots 29 & 30; then westerly along the front line of lot 29 65 ft.; then northeasterly on a line radial to the front line of lot 29 to a point on the rear line of lot 29; then easterly 72 ft. to the rear corner common to lots 29 & 30; then southwesterly to beg.; together with all of lot 30	1	Womer's 6th Addition	✓✓ Pinckney R. Wheeler & Leona F. Wheeler, 2168 Bella Vista, 67203
31	1	Womer's 6th Addition	✓✓ H.P. Lent, Jr. & Ruth S. Lent, 2162 Bella Vista, 67203
All of lot 32; & part of lot 33 described as beg. at the front corner common to lots 32 & 33; then southeasterly along the front line of lot 33 41 ft.; then northeasterly on a line radial to the front line of lot 33 134.2 ft. to the rear line of lot 33; then northwesterly along the rear line of lot 33 48 ft. to the rear corner common to lots 32 & 33; then southwesterly 130 ft. to beg.	1	"	✓✓ Gilbert D. Tatman & Jacqueline M. Tatman, 2154 Bella Vista, 67203
Lot 33 exc. that part lying westerly of a line beg. 41 ft. east of the SW corner of lot 33 & running to a point on the north line of said lot 48 ft. east of the north- west corner thereof	1	"	✓✓ Ralph A. Klose & Doris J. Klose, 2142 Bella Vista, 67203

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Part of lot 34 described as lying west of a line beg. 51 ft. east of the SW corner of said lot & running to a point 61.2 ft. east of the NW corner	1	Womer's 6th Addition	<i>Def</i> Ralph A. Klose & Doris J. Klose, 2142 Bella Vista, 67203
Lot 34 exc. that part described as beg. at the front corner common to lots 33 & 34; then southeasterly along the front line of lot 34 51 ft.; then northeasterly on a line radial to the front line of lot 34 134 ft. to the rear line of lot 34; then northwesterly along the rear line of lot 34 61.2 ft. to the rear corner common to lots 33 & 34; then southwesterly 142 ft. to pt. of beg.	1	"	<i>✓</i> Ace H. Todd & Dixie L. Todd, 2134 Bella Vista, 67203
Part of lot 35 described as beg. at the front corner common to lots 34 & 35; then southeasterly along the front line of lot 35 61 ft.; then northeasterly on a line radial to the front line of lot 35 130.5 ft. to the rear line of lot 35; then northwesterly along the rear line of lot 35 72 ft. to the rear corner common to lots 34 & 35; then southwesterly 129 ft. to beg.	1	"	"
Lot 35 exc. that part described immediately above; together with all of lot 36	1	"	<i>✓</i> James R. Decker & Patricia P. Decker, 2124 Bella Vista, 67203
37	1	"	<i>✓</i> Clarence J. Katz, 2116 Bella Vista, 67203
38	1	"	<i>✓</i> Luther Fewin & Jane S. Morrissey Fewin, 2108 Bella Vista, 67203

see new list

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
That part of lot 39 lying east of a line beg. at a pt. 150 ft. east of the SW corner of said lot; then north at a right angle to the south line of said lot a distance of 129.31 ft. to the north line of said lot	1	Womer's 6th Addition	✓✓ Clayton Elmer Carpenter (Dec. Marian B. Carpenter, 2010 W. 17th, 67203
Part of lot 39 described as beg. at the SW corner of said lot; then east 150 ft.; then north 129.31 ft. to the north line of said lot; then west 150.5 ft.; then south to beg.	1	"	✓✓ Walter Kay Jabara & Blanche M. Jabara, 2104 Bella Vista, 67203
1	2	" <i>all new lot</i>	✓✓ James L. Pinkerton & Karen J. Pinkerton, 1902 N. St. Clair, 67203
2, & the west 10 ft. of 3	2	"	✓✓ Verne F. Thornton & Bessie E. Thornton, 2236 W. 18th, 67203
3 exc. the west 10 ft.	2	"	✓✓ Roy K. Burton & Betty J. Burton, 2226 W. 18th, 67203
4	2	"	✓✓ Robert E. Dudley & Audrey E. Dudley, 2216 W. 18th, 67203
5	2	"	✓✓ Dwight E. Glenn & Barbara J. Glenn, 2208 W. 18th, 67203
6	2	"	✓✓ Donald L. Ratzlaff & Harriett E. Ratzlaff, 2202 W. 18th, 67203
7	2	"	✓✓ Sam E. Laham & Delia May Laham, 2182 W. 18th, 67203

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
All of lot 8, and part of lot 9 described as beg. at the front corner common to lots 8 & 9; then southeasterly 37 ft.; then northeasterly to rear line of lot 9; then northwesterly along rear line of lot 9 to the rear corner common to lots 8 & 9; then southwesterly to pt. of beg.	2	Womer's 6th Add.	✓ Gerald L. Waters & Delores I. Waters, 2172 W. 18th, 67203
Part of lot 9 described as beg. at the front corner common to lots 9 & 10; then northwesterly 38 ft.; then northeasterly along a line parallel to the lot line common to lots 9 & 10 to a pt. on the back line of lot 9 38 ft. northeasterly from the back corner common to lots 9 & 10; then southeasterly 38 ft. to the back corner common to lots 9 & 10; then southwesterly 134 ft. to pt. of beg.	2	"	✓ Lincoln E. Siler & Marjorie J. Siler, 2152 W. 18th, 67203
Lot 10 beg. at the front corner common to lots 10 & 11; then northeasterly 137 ft. to the rear corner common to lots 10 & 11; then northwesterly along the rear line of lot 10 1 ft.; then southwesterly to a pt. on the front line of lot 10 1 ft. northwesterly of the pt. of beg.; then southeasterly 1 ft. to the pt. of beg.; together will all of lot 11	2	"	✓ Carl G. Kraus & Tina M. Kraus, 2142 W. 18th, 67203
Lot 10 exc. that part described immediately above	2	"	<i>Copy</i> ✓ Lincoln E. Siler & Marjorie J. Siler, 2152 W. 18th, 67203
12	2	"	✓ Willis J. Elliott & Beth E. Elliott, 2132 W. 18th, 67203

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
13	2	Womer's 6th Addition	✓ Matthew J. Horsch & Martha M. Horsch, 2122 W. 18th, 67203
14	2	" <i>all new lot</i>	✓ Paul S. Cole & Rosemary Cole, 2133 Bella Vista, 67203
15	2	"	✓ Wayne A. Brock & Connie J. Brock, 2141 Bella Vista, 67203
All of lot 16, and part of lot 17 described as beg. at the front corner common to lots 16 & 17; then northwesterly along the front line of lot 17 13 ft.; then southwesterly 142 ft. to a pt. on the rear line of lot 17, said pt. being 13 ft. westerly from the rear corner common to lots 16 & 17; then easterly 13 ft. to the rear corner common to said lots; then northeasterly 141 ft. to beg.	2	"	✓ Richard M. Lineham & Doris G. Lineham, 2147 Bella Vista, 67203
Lot 17 exc. that part described immediately above	2	"	✓ William B. McConachie & Rhoda E. McConachie, 2155 Bella Vista, 67203
18	2	"	✓ R.F. Lent, Jr. & Ruth Lent; 2162 Bella Vista, 67203
All of lot 20, & part of lot 19 described as beg. at the front corner common to lots 19 & 20; then southwesterly 140 ft. to the rear corner common to said lots; then southeasterly along rear line of lot 19 1 ft.; then northwesterly 140 ft. to beg.	2	"	✓ Walter L. Groves & Edna L. Groves, 2177 Bella Vista, 67203
Lot 19 exc. that part described immediately above	2	"	✓ Harold Q. Sharpe & Genevieve E. Sharpe, 2171 Bella Vista, 67203

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
21	2	Womer's 6th Addition	✓ Larry L. DeBrot & Linda DeBrot, 2185 Bella Vista, 67203
22	2	"	✓ Kenneth W. Shreve & S. Harlene Shreve, 2193 Bella Vista, 67203
23	2	"	✓ Constance L. Rader, 2201 Bella Vista, 67203
24	2	"	✓ C. Dean Pressnall & Rita A. Pressnall, 2211 Bella Vista, 67203
25	2	"	✓ Clifford W. Larson & Betty R. Larson, 2221 Bella Vista, 67203
26	2	"	✓ Loring E. Smith & Anna B. Smith, 2233 Bella Vista, 67203
27	2	"	✓ Jerome M. Laham & Karen G. Laham, 2243 Bella Vista, 67203
12	3	"	✓ Owen Bates (Deceased) & Florence E. Bates, 2132 W. 17th St., 67203
13	3	"	✓ Henry O. Rockhill (Deceased) & Mae Rockhill, Trustees of the Henry O. Rockhill Family Trust, 2122 W. 17th St., 67203
14	3	"	✓ James W. Rasmussen & Ilse R. Rasmussen, 2112 W. 17th St., 67203
15	3	"	✓ Kenneth Kallail (Deceased) & Lorraine N. Kallail, 2102 W. 17th St., 67203
16	3	"	✓ Donald B. Spurgeon & Marcella F. Spurgeon, 2109 Bella Vista, 67203
17	3	"	✓ Kay Louise Mills, 2111 W. 18th St., 67203
18	3	"	✓ Thomas W. Phillips & Lucille E. Phillips, 2121 W. 18th St., 67203
19	3	"	✓ George W. Bantz & Martha E. Bantz, 2131 W. 18th St., 67203

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
20	3	Womer's 6th Addition	✓ Orvey B. Eklund & Audree M. Eklund, 2141 W. 18th St., 67203
21	3	"	✓ Viola Z. Emley, 2151 W. 18th St., 67203
22 & the east 3 ft. of 23	3	"	✓ Ronald D. Pletcher & Sammie M. Pletcher, 2161 W. 18th St., 67203
West 82 ft. of 23	3	"	✓ John H. Slaymaker & Kathleen S. Slaymaker, 2171 W. 18th St., 67203
24	3	"	✓ Arthur Lovald & Marian Lovald, 2181 W. 18th St., 67203
25	3	" <i>see new list</i>	✓ Lawrence E. Gaston (Deceased) & Marjorie A. Gaston, 2201 W. 18th St., 67203
26	3	"	✓ William W. Edwards & Joan Bond Edwards, 2215 W. 18th St., 67203
27	3	"	✓ Thomas E. Monk & Doris A. Monk, 2225 W. 18th St., 67203
28	3	"	✓ James H. Soper & Bonita W. Soper, 2235 W. 18th St., 67203

Tract

That part of the NW $\frac{1}{4}$ of 7-27-1E lying north of the Arkansas River, except that part platted as Marina Lake Addition, and except Marina Lake 3rd, 4th, 5th and 6th Additions

Property Owner

✓ Clear Lakes Inc., Address Unknown

Tract in the NE $\frac{1}{4}$ of 12-27-1W beg. 830 ft. north of the SE corner thereof; then west 207.44 ft.; then nely 111 ft. more or less to a pt. 188.88 ft. west of the east line of the NE $\frac{1}{4}$; then east 188.88 ft. to the east line of the NE $\frac{1}{4}$; then south 110 ft. to beg.

✓ *see new list* Gary C. McKay & Marta B. McKay, Address Unknown
2220 Burton, 67213

Tract in the NE $\frac{1}{4}$ of 12-27-1W beg. at the NE corner thereof; then south 1000 ft. more or less along the east line of said NE $\frac{1}{4}$ to the left bank of the Arkansas River; then westerly along said left bank to a pt. 430 ft. west of the east line of the NE $\frac{1}{4}$; then north parallel with said east line 1023 ft. more or less to the north line of the NE $\frac{1}{4}$; then east 430 ft. to beg., except that part platted as Indian Hills 4th Addn.

✓ H. Marvin Bastian, 62 Norfolk Dr., 67206
AND
Frank M. Kessler (Deceased)

East 2/3 of a tract described as the north 208.71 ft. of the west 208.71 ft. of the NE $\frac{1}{4}$ of 7-27-1E

✓ Marcus D. Gow, 6601 W. 13th St., 67212

page 18

Tract

That part of the NE $\frac{1}{4}$ of 7-27-1E lying south
& west of the Arkansas River

Property Owner

✓ City of Wichita, 455 N. Main,
67202

We hereby certify the foregoing to be a true and correct list of
the property owners within a 1000 foot radius of

Lots 2 and 3, Marina Lake Fifth Addition,
Wichita, Sedgwick County, Kansas

as shown by the last deed of record on file in the Office of the Register
of Deeds of Sedgwick County, Kansas, on the 11th day of April, 1983 at
7:00 A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By

Mary Dable
Vice-President

Order No. 318525

ge

WICHITA - SEDGWICK COUNTY



METROPOLITAN AREA PLANNING DEPARTMENT

CITY HALL - TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688

RETURN TO SENDER

Important! Notice of Meeting Enclosed

RECEIVED

APR 12 1984

METROPOLITAN PLANNING

ROUTE _____

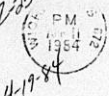
Kiser, Inc.
250 North Rock Road
Wichita, Kansas 67226

KIS 50 100926N1 04/09/84

RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD



2-2594
4-19-84



WICHITA - SEDGWICK COUNTY



METROPOLITAN AREA PLANNING DEPARTMENT

CITY HALL - TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688

Important! Notice of Meeting Enclosed

RECEIVED

APR 11 1984

METROPOLITAN PLANNING

ROUTE _____

Riverbend Associates Ltd. ?
3303 Lee Parkway
Dallas, Texas 75219



2-2594
Return to sender - uncertain of address!!

WICHITA - SEDGWICK COUNTY



METROPOLITAN AREA PLANNING DEPARTMENT

CITY HALL - TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688

RETURN TO SENDER

Important! Notice of Meeting Enclosed

RECEIVED

APR 11 1984

METROPOLITAN PLANNING

ROUTE _____

Robert J. & Beverly J. Kernohan
1902 North Sedgwick
Wichita, Ks. 67203

KER 02 150704N1 04/07/84

RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD



2-2594



WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION
CITY HALL, TENTH FLOOR, 455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688

NOTICE OF PUBLIC HEARING

Case No.: Z-2594
Location: In an area on the west side of Amidon and the north side of the Arkansas River.
Address: N/A
Request: Zone Change from the "B" Multiple Family Dwelling District to the "BB" Office District.

A public hearing to consider the above noted request has been scheduled before the Wichita-Sedgwick County Metropolitan Area Planning Commission (MAPC) on

APRIL 19, 1984

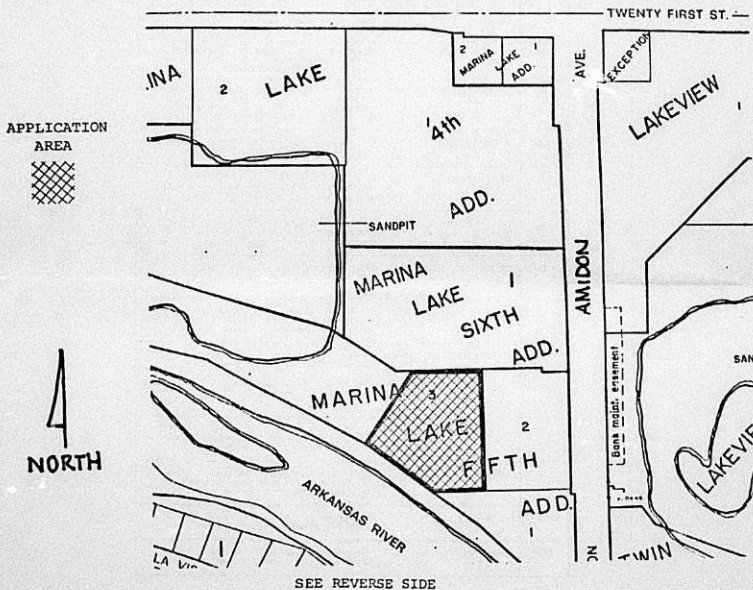
The meeting will begin at 1:30 p.m. in the City of Wichita City Commission Meeting Room, First Floor, City Hall, 455 North Main, Wichita, Kansas.

As an owner or occupant of property in the area, you have the right to appear at the MAPC meeting, either in person or by agent or attorney, to support or oppose this request. If you have no interest or objection to the requested change, you have no obligation to appear at the public hearing.

The Citizen Participation Organization (CPO) neighborhood council will consider this case for the purpose of making a formal recommendation to the MAPC and City Commission. If you have an interest in this case, you are encouraged to express your opinions at your CPO Council meeting. The date, time and location of the CPO meeting may be obtained by calling 268-4516.

If you have any questions or wish additional information, please call 268-4421.

WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION



LEGAL DESCRIPTION OF THE AREA PROPOSED TO BE CHANGED

CASE NO. Z-2594

Zone Change from the "B" Multiple Family Dwelling District to the "BB" Office District

Beginning at the northeast corner of Lot 3, Marina Lakes Fifth Addition to Wichita, Sedgwick County, Kansas, thence south along the east lot line of said lot 396.36 feet, thence west along the south lot line of said lot 156.82 feet, thence northwesterly along the southwesterly lot line of said lot 213.89 feet, thence continuing northwesterly along the southwesterly lot line 40 feet, thence northeasterly to the north lot line of said lot to a point 221.32 feet west of the northeast corner of said lot, thence east along the north lot line of said lot 221.32 feet to the point of beginning. Generally located in an area on the west side of Amidon and the north side of the Arkansas River.

DISTRICT	NAME OF DISTRICT AND USES PERMITTED (FOR COMPLETE REGULATIONS AND EXCEPTIONS - SEE TEXT OF ORDINANCE)
AA	ONE FAMILY DWELLINGS One family dwellings, parks, schools, libraries, golf courses, nurseries, churches
A	TWO FAMILY DWELLINGS Uses permitted in "AA" district and two family dwellings, care homes (5 or less)
RB	FOUR FAMILY DWELLINGS Any use permitted in "AA" or "A" districts and four family dwellings
R-5	GENERAL RESIDENCE DISTRICT Any use permitted in more restrictive districts and multiple family dwellings. Density: 17.5 dwelling units per acre
R-6	GENERAL RESIDENCE DISTRICT Any use permitted in more restrictive districts and multiple family dwellings. Density: 29 dwelling units per acre
B	MULTIPLE FAMILY DWELLING Any use permitted in more restrictive districts and multiple family dwellings, boarding houses, medical offices, hospitals, greenhouses, parking lots. Density: 75 dwelling units per acre
BB	OFFICE DISTRICT Any uses permitted in more restrictive districts any general offices, medical laboratories
OC	OFFICE COMMERCIAL DISTRICT Offices, limited retail and service uses operated within a building, and residential uses as permitted in the "R-5" District
LC	LIGHT COMMERCIAL DISTRICT Any use permitted in more restrictive districts and purely retail business operated in a building
C	COMMERCIAL DISTRICT Uses permitted in more restrictive districts and other uses not offensive because of dust, noise, odor or smoke
E	LIGHT INDUSTRIAL DISTRICT All industrial and commercial uses except those most offensive because of noise, dust, odors and smoke; and except residential uses
F	HEAVY INDUSTRIAL DISTRICT Any use, some conditional upon specific approval of City Commission; except residential uses

D	CENTRAL BUSINESS DISTRICT Those uses permitted in the "C" district and more restrictive districts and other uses not offensive because of dust, noise, odor or smoke
Q	MOBILE HOME Mobile home park when complying with Title 25 of the City Code, schools, churches, parks, day nurseries, home occupations
U	UNIVERSITY Universities, colleges, seminaries and other institutions of learning and related uses
CUP	COMMUNITY UNIT PLAN Commercial-residential. Permits those uses approved as part of a total development plan

Most Restrictive

Least Restrictive

Special Districts

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION
CITY HALL, TENTH FLOOR, 455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688

April 5, 1984

NOTICE TO ADJOINING PROPERTY OWNERS:

NOTICE IS HEREBY GIVEN that on Thursday, April 19, 1984, said meeting beginning at 1:30 p.m., the Wichita-Sedgwick County Metropolitan Area Planning Commission, in the City Commission Meeting Room, City Hall, First Floor, 455 North Main Street, Wichita, Kansas will consider an application for amendment of the MARINA LAKES COMMERCIAL AND RESIDENTIAL COMMUNITY UNIT PLAN, for property legally described as follows:

CASE NO. DP-23

Lots 1, 2 and 3, Marina Lake Fifth Addition to Wichita, Sedgwick County, Kansas. Generally located in an area on the west side of Amidon; and the north side of the Arkansas River.

The Development Plan of this area, originally approved on April 4, 1967, and last amended on June 14, 1983, has been resubmitted as required under the Community Unit Plan provisions of Section 28.04.190 of the City Zoning Ordinance of the City of Wichita. The Development Plan is on file in the Planning Department Office, Tenth Floor, City Hall, 455 North Main, Wichita, Kansas, and is available for public information and review.

The revised Development Plan now on file proposes to create new Parcel 9 immediately to the west of the two existing office buildings on the west side of Amidon Avenue, on the north side of the Arkansas River. Associated Zone Case Z-2594 is requesting "BB" Office Zoning for Parcel 9. Proposed uses include offices and associated uses.

The hearing of the proposed amendments to this Development Plan, as provided in Section 28.04.190 of the City Zoning Ordinance of the City of Wichita, is to be held and the same will there be discussed and considered by said Wichita-Sedgwick County Metropolitan Area Planning Commission. Those persons interested in this matter will be heard at that time.

The Citizens Participation Organization (CPO) neighborhood council will consider this case in the immediate future for the purpose of making a formal recommendation to the MAPC and BCC. If you have an interest in this case, you are encouraged to express your opinions at your CPO Council meeting. The date, time and location of the CPO meeting may be obtained by calling 268-4516.

Additional information concerning this case may be obtained from the Planning Department, 10th Floor, City Hall, or by calling 268-4421.

Robert A. Lakin
Secretary

*

This DP File
Has a Large Drawing
On 35mm Microfilm.

Roll # 1

*

OFFICE COPY
DO NOT REMOVE

Marina Lakes material

July 16, 1976

Mr. Everett C. Fettis
120 South Market
Suite 504
Wichita, Kansas 67202

Re: Amendment to DP-8
Marina Lakes Community Unit Plan

E-1832 Marina Lake Drive, Inc.,
requests zone change from "B"
to "BB" and "LC"

Dear Mr. Fettis:

We have reviewed the proposed amendments to the existing 60 acre (approximate) Community Unit Plan located at the southwest corner of 21st Street North and Amidon, and the following are our comments as well as those of other City Departments.

This plan as submitted is essentially the same request which was denied by the Board of City Commissioners a year ago involving a change from "B" to "LC" on approximately 7.33 acres and from "B" to "BB" on approximately 5.75 acres. Also, you are proposing an additional 118,878 square feet of potential light commercial development or an approximate 30% increase over existing potential "LC" on the Marina Lakes Community Unit Plan.

As I have indicated to you in our previous conversations regarding this matter, these requests parallel those which the City Commission denied a year ago. After reviewing this plan, we do not see any significant changes which would appear to suggest a different decision than that which was rendered a year ago.

The City Commission in approving "LC" Light Commercial for Parcel 5 of Marina Lakes on December 9, 1975, was quite specific in their desire to see a limitation of uses, number of buildings, maximum gross floor area and provision of landscaping. It is my opinion that the applications should be amended to reflect your actual needs and proposals. We recognize that your clients do have existing problems which can best be alleviated through modification of the C.U.P., but when the Board of City Commissioners has indicated policy guidelines in their past actions and comments on other requests in the area, I would urge that your proposals reflect such policy decisions.

Mr. Everett C. Fettis
July 16, 1976
Page 2

In reviewing the past history on these cases, I have identified five areas, which the Board of City Commissioners and adjacent property owners have questioned:

- (1) traffic
- (2) need for additional Light Commercial in the area
- (3) concern over Light Commercial adjacent to the river
- (4) the amount of "LC" Light Commercial proposed for this location as opposed to Twin Lakes
- (5) landscaping adjacent to the river and the lake on subject property

I would like to discuss each of these items and my opinions on them.

(1) Traffic - Certainly the 30% increase in potential "LC" gross floor area as well as an additional 87,705 square feet of "BB" office zoning could severely impact the traffic patterns, the major intersection, and flow over the Amidon bridge if such increases are approved and developed as proposed. On the other hand, if your clients are willing to modify some of the requests to provide some limitation of uses, number of buildings, and amend the C.U.P. in light of their actual plans, I believe the affect on area traffic patterns and the 21st Street/Amidon intersection could be held to a minimum. However, as the Plan is now proposed, the Traffic Engineer and other City staff would be compelled to once again question the traffic impacts anticipated with approval of the application.

(2) Need for additional "LC" in the area - this was a concern specified by the City Commission when they returned your case to the Planning Commission a year ago, as well as a point brought up by neighborhood protestors on numerous occasions. Regarding a question as to vacancies a year ago, John Frieden of Hanson Development Corporation countered this question very well at the last series of hearings by explaining that the existing vacancies were due to a parking problem, which could be alleviated through approval of this application, rather than a lack of demand for the space. Mr. Frieden also stated that according to a study made for his firm that additional parking is needed for Building D which could be located on the application area, but some additional commercial development would be needed to support the parking. In addition, the consultants recommended that building "C" be leased to low traffic generators with a readjustment of parking in front of building "D". The recent location of the furniture store as a low traffic generator in the former grocery store site does appear to help, but again, the parking problems caused by Furr's still exist and have even been compounded by the location of Pogo's in building D.

In my opinion, the approval of some additional "LC" to the south of building D is appropriate to help solve your client's parking problems and I can see the need for perhaps a small commercial building

Mr. Everett C. Fettis
July 16, 1976
Page 3

to help support the additional parking, but there is little justification to extend the "LC" Light Commercial District all the way to the river nor is parcel 8 an appropriate location for the "BB" Office District. I can understand your desire to limit the protest area on these requests, but it would be far better to accomplish such by limiting the size of the "LC" request rather than by requesting the "BB" Office District on an interior parcel with very limited access.

At the last series of hearings before the Planning Commission on this request, you stated that staff was in error in quoting the large square footages on this C.U.P. because the Woolco lease limited the gross floor area below that approved for the parcel and that the commercial development on 21st Street North did not even approach the inflated square footages on the C.U.P. I agree with you on this point and suggest that you reduce the potential floor area permitted on the other parcels to what is existing or proposed for each parcel and that you lower the square footage proposed for parcel #6; if the need is for more parking and some supportive light commercial then the 118,878 square feet on parcel #6 could easily be reduced to a point which, combined with square footage reductions on the other parcels, would involve little if any actual increase in commercial gross floor area for the total Community Unit Plan. No overall increase in commercial gross floor area would certainly strengthen your request.

(3) Light commercial adjacent to the river - Again, I believe that your parking problems and space needs can be resolved without extending the "LC" Light Commercial zoning to the river. I suggest that you submit modified plans which depict the amount of "LC" Light Commercial which your clients actually need and leave the balance of Parcel #6 adjacent to the river in the "B" Multiple Family District. The "B" District does permit off-street parking and that type of buffer combined with adequate landscaping along the river would result in an improved application.

(4) The amount of "LC" proposed for this location as opposed to Twin Lakes -- I have never felt that zoning should be granted on the basis of parity among neighbors in terms of commercial, but area protestors and some members of the City Commission have questioned your need to exceed the Twin Lakes total square footage. In reviewing existing and proposed "LC" Light Commercial potential on all four corners of 21st and Amidon the following square footages are approved or proposed:

<u>C U P</u>	<u>Maximum Commercial Gross Floor Area</u>
Gardners Riverlawn	166,023
Twin Lakes	330,000
Sweetbriar	265,110
Marina Lakes	496,438 (39.4% of LC Total)

Of course, these figures do not even consider the "BB" Office District square footages of which your client's proposals would re-

Mr. Everett C. Fettis
July 16, 1976
Page 4

present some 85.44% of the total office footage on all four corners. It is my opinion that this "parity" issue can best be answered by your client's amending their proposals to that they actually intend to develop and presenting the Planning and City Commissions with a well integrated proposal which can stand on its own merits by offering protection to the area through use limitations, reduced square footages, and riverbank protection.

(5) Landscaping - This application could be greatly improved with submission of a landscape plan for the river and lake with landscaping guarantees to provide the aesthetics and screening which the neighbors to the south and west have previously requested. The provision of landscaping will certainly be one of our recommendations.

In addition to the aforementioned, the following are suggested text changes to improve the Community Unit Plan:

- (1) The uses on parcel #6 shall be limited to what is actually proposed, rather than the open ended "light commercial" phrasing.
- (2) A maximum of one building shall be proposed for parcel #6.
- (3) Amend general provision #2 to read as follows:
"Sign control - Signs as permitted by the zoning district."
- (4) Delete Comment #7 on Parcel #7 as this will be controlled by amended general provision #1.
- (5) The net area for the lake should be included in one of the adjacent parcels or described as a separate parcel.
- (6) Add a general provision #7 to read as follows:
"Fire lane easements shall be provided in accordance with Section 15.01.055 of the Code of the City of Wichita."
- (7) Amend the area requested for "LC" in parcel #6 to provide for appropriate protection and buffering of the river.
- (8) Provide a landscape plan and guarantees for landscaping adjacent to the river and the lake.
- (9) Amend the curb cuts depicted on 21st Street North to depict the six existing and/or proposed curb cut for a total not to exceed seven.
- (10) Depict the setbacks referred to in statement #5 of Parcel #8 as none are shown on the plan.
- (11) Please be advised that screening (a wall) shall be required on the west edge of parcel #3 if such is developed for office use. Screening walls shall be depicted on the C.U.P. in a manner which is clearly legible.

Mr. Everett C. Fettis
July 16, 1976
Page 5

(12) Incorporate in the wording of General Provision #2 that a landscape plan for Parcels 1, 4, 6, and 8, indicating the location, type, and specifications of planting materials shall be submitted for approval of the Planning Department and Board of City Commissioners, prior to the issuance of any building permits on these parcels.

(13) Statement #4 on Parcel #1 should be changed to read:

"Maximum building height 65"

NOTE: This other wording appears to be needless and we would even recommend that the proposed height be reduced to 35' if possible.

These are most of the comments we have at this time. We are asking that the "BB" Office District requested on parcel 8 be eliminated and that the "LC" request on parcel 6 be substantially reduced to accommodate one new building with the balance of the parcel being used for parking with substantial landscaping as a buffer along the river.

We are available to meet with you and your client to discuss our comments, if desired. We have tentatively scheduled these cases before the Planning Commission on August 19, 1976, and it is necessary that we receive 15 amended copies of the C.U.P. by Monday, August 2, 1976, in order to meet that date.

If you have questions regarding this matter, please do not hesitate to call.

Sincerely yours,

Jack Galbraith
Chief Planner

JHG:MM:bh

cc: H. D. Bledsoe
1200 South 119th Street, West, 67209

William Korber
Baughman Company, 330 Laura, 67211

EXCERPT FROM PLANNING COMMISSION MINUTES OF FEBRUARY 13, 1975:

- 20a. Case No. Z-1683 - Marina Lake Drive, Inc. requests change from "B" to "LC" for:
A tract in Government Lot 1 in the nw 1/4 of Section 7, Twp. 27-S, R-1-E, described as commencing at the NE corner of said Lot 1; thence south 0°04'05" west along the east line of said Lot 1, 1120.32 feet for a place of beginning; thence north 89°12'55" west, 130 feet; thence north 0°04'05" east 15 feet; thence south 89°56'09" west, 455.06 feet; thence north 54°26'07" west 194.13 feet; thence south 16°00" west to the left (north) bank of the Arkansas River; thence south easterly along said left bank to the east line of said Lot 1; thence north 0°04'05" east 885 feet more or less to the place of beginning. Generally located on the west side of Amidon in an area north of the Arkansas River.
- 20b. Case No. DP-23 (Amendment) - Marina Lake Drive, Inc. requests approval of an amendment to the Community Unit Plan as it relates to the following legally described property: All of Government Lot 1, in the NW 1/4 of Section 7, Township 27 South, Range 1 East, except that part of said Government Lot 1 which has been dedicated for public streets. A portion of the above described property has been platted into Lots 1 and 2 in Marina Lake Addition, Lot 1, Marina Lake Third Addition, Lots 1, 2 and 3 in Marina Lake Fourth Addition, and Lot 1 in Marina Lake Sixth Addition. Generally located at the southwest corner of 21st Street North and Amidon.

GALBRAITH pointed out the area on the map and reviewed the following staff report:

HISTORY

1. Z-0824 and DP-23 were two zone and Community Unit Plan applications for the entire area of the former Dolese sandpit area of approximately 60 acres which the Planning Commission considered in 1967. Approximately 37 acres were requested for "LC" and "C" and 24.5 acres were requested for "B". A Community Unit Plan was submitted for both the commercial and residential parts. The Planning Commission recommended denial, without prejudice; however, after the City Commission heard the case, approximately 8 acres of "LC" and 22 acres of "B" was approved. The situation at that time hinged on the impact of traffic on the arterial system.

On December 12, 1968, the Planning Commission considered an application for an amendment to the CUP and request for an increase of Parcel 1 from 3.57 acres to 9.13 acres of light commercial zoning (Z-1032). Action of the Planning Commission was to recommend denial of both applications. The Board of City Commissioners, however, at their meeting on January 21, 1969, approved both applications, subject to certain conditions. Again, the impact of traffic on the arterial system was a prime consideration. (See attached minutes of November 14, 1968 and December 12, 1968 - Attachments 1 and 2.)

On March 11, 1971, the Planning Commission considered an application for an amendment to the CUP and a request for an increase in the area on Parcel 1 from 9.13 acres to 14.94 acres of light commercial zoning. Action of the Planning Commission was to recommend approval of both requests. This recommendation was concurred in by the Board of City Commissioners on March 30, 1971. (See attached Planning Commission minutes of March 19, 1971, and City Commission minutes of March 30, 1971 - Attachments 3 and 4.)

On January 25, 1973, the Planning Commission considered an application for an amendment to the CUP and a request for an additional amount of light commercial zoning - approximately

7.33 acres and an approximate 5.75 acres of "BB" Office zoning. Action of the Planning Commission was to recommend approval of both requests; however, both applications were denied by the city Commission on March 20, 1973. (See attached Planning Commission minutes of January 25, 1973 and March 8, 1973, and City Commission minutes of February 27, 1973 and March 20, 1973 - Attachments 5, 6, 7 and 8.)

On September 4, 1973, as an off-agenda item, the Board of City Commissioners considered the matter of litigation and zoning relative to Marina Lakes, Inc. The action of the City Commission was to permit the applicant to refile the application without cost, conditioned upon the litigation being ended by dismissal of the suit and payment of the court costs by Marina Lake Drive, Inc.

Based on this action, the zone case and CUP were advertised for hearing and notices mailed without cost to the applicant. Specifically, the applicant requested approximately 7.33 acres of "IC" zoning and an additional 5.75 acres for "BB" Office zoning. On October 11, 1973, the Planning Commission considered and unanimously recommended approval of both requests, however, the City Commission referred the cases back to the Planning Commission for reconsideration. The Planning Commission reconsidered the cases on November 26, 1973, and recommended by a vote of 5 in favor and 1 opposed, the approval of both requests. The action of the City Commission was to deny both applications on December 11, 1973. (See attached Planning Commission minutes of October 11, 1973, and November 26, 1973, and City Commission minutes of October 30, 1973 and December 11, 1973 - Attachments 9, 10, 11 and 12.)

2. The applicant is now requesting a change of zoning from "B" Multiple-family to "C" Light Commercial for a tract of land containing approximately 7.33 acres.

The CUP request proposes the following:

Increase in the size of Parcel 6 from 3.07 acres to approximately 7.33 acres.

Creating a new Parcel 8 approximately 5.75 acres in size with a maximum building height of 65 feet with proposed uses to include high rise apartments, townhouses, and garden apartments at a density not to exceed 18 dwelling units per acre.

Decreasing the size of Parcel 7 from 22.49 acres to 12.79 acres and a decrease in the proposed number of dwelling units from 335 to 219.

Increasing the permitted square feet of retail space by 159,825 for a total of 544,385.

It should be pointed out that the plan as submitted in 1973 proposed a floor area ratio for Parcel 6 of .35 or a total of 111,878 square feet. The proposed floor area has now been substantially increased to .50 for a total of 159,825 square feet.

3. The past history reflects intensive discussion relative to this shopping center location and related traffic projections. Traffic volumes on 21st Street and through the 21st-Amidon intersection have continued to increase as in evidenced by the following traffic counts.

	Actual ADT 1970	Actual ADT 1972
Amidon north of 21st Street	16,069	16,065
Amidon south of 21st Street	14,673	14,904
21st Street east of Amidon	13,659	17,278
21st Street west of Amidon	8,832	12,141

The increase in these traffic counts on 21st street in 1972, in part, must be attributed to the improvement of the street and the new bridge across the Arkansas River.

The Traffic Engineering Division advises that their latest 24-hour traffic count on Amidon in the vicinity of the Marina Lakes Shopping Center entrance were taken on Saturday, October 26, 1974. At that time traffic volumes on Amidon recorded 11,397 vehicles southbound and 10,574 vehicles northbound for a total Amidon count of 21,971.

They also advise that in checking their continuous traffic count station located just south of the Big Arkansas River bridge on Amidon, average day of the week traffic counts ranged from a low of 15,516 in January to a high of 21,113. Average Saturday counts ranged from a low of 17,826 in July to a high of 25,168 in December. The highest day counts ranged from a low of 19,759 to a high of 27,563 in December.

They also advised that they had completed a study in early November which indicated the warrants for signalization of Marina Lakes entrance to Amidon and have advised the developer that he should consider a private contractor for installing this signal in the near future.

4. Arguments have been made in the past that regardless of increased traffic, the west side of Amidon deserved a comparable amount of "LC" zoning as granted to Twin Lakes to the east. The square footage of retail space now proposed for the west (544,385) now compares with the 330,000 previously approved for Twin Lakes.
5. As the existing "LC" is generally the same on both sides of Amidon, any consideration of extending "LC" zoning should be based on the submission of justification for additional need of services. Some office zoning and development exists to the east, the most compatible uses would be for Parcel 6 to be developed for professional offices.
6. Although the area now designated as Parcel 8 was originally proposed for townhouses and garden apartments, the proposed uses now include high rise apartments with a maximum height of 65 feet. Taking into consideration the newly constructed townhouses to the west, the high quality single-family homes across the River and the shallowness of the Parcel, it would appear questionable as to the feasibility or compatibility of high rise apartment construction on this parcel.
7. Visual qualities and the view of the rear of the existing buildings on Marina Lakes from the residential area south of the River were discussed by the City Commission in 1973. They suggested that proper coordination and beautification of Marina Lakes be considered to meet the needs of the property owners in the area. The plan now states that "A landscape plan for Parcels 6 and 8, indicating the location, type, and specifications of planting materials, shall be submitted to the Planning Department for approval prior to the issuance of any building permits on these parcels."
8. Should the Planning Commission recommend the approval of the zone change request and the amendments to the CUP, the following conditions would be consistent with other approved CUP's:

- a. The platting of Parcels 6 and 8 within one year from the date of approval by the Board of City Commissioners, or the zone case be considered denied and closed.
- b. Amend General Provision #1 to read as follows: "Sign Control: Signs as permitted by the zoning district."
- c. Delete comment #7 under Parcel 7 as this will be controlled by amended G.P. #1 above.
- d. Add a General Provision #7 to read as follows: Fire lane easements shall be provided in accordance with Section 15.01.055 Code of the City of Wichita.
- e. Under Parcel 8 add the following: "8. A Homes Association Agreement providing for the maintenance of non-public common areas, parking areas, private drives, community facilities, lake, fence, etc., shall be submitted with the final plat for Parcel 8 provided the dwelling units are to be owner occupied.
- f. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- g. Any major changes in this development plan shall be re-submitted to the Planning Commission and to the City Commission for its consideration.
- h. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for development and be binding upon the present owners, their successors and assigns, unless amended.

EVERETT FETTIS, attorney for the applicants, spoke in support of the requests, and said that two years ago in connection with rezoning in the Marina Lakes area, a petition was signed by about 400 residents in the general area, expressing approval of the change to "LC". Further, a half dozen letters were submitted from real estate people and developers recommending the need for additional commercial in the Marina Lake area, and approval of this requested zone change would round out the Marina Lake area for development.

FETTIS related that his client has never had an interest in the apartment area west of the lake (Parcel #7), and is only seeking the "LC" requested (Parcel #6), and an amendment for Parcel #8 as included in the CUP, to provide for highrise apartments.

It was the opinion of FETTIS that the claim of traffic increase is not valid particularly, because there will be free flow of traffic throughout the entire CUP area, and a private roadway will be located along the south line next to the River from Amidon and extending west to Meridian and north to exit on 21st Street.

As for open space, FETTIS said there will be 80% open space in the entire CUP, and that landscaping will be provided according to the specifications previously submitted to the City Commission and Planning Commission.

FETTIS next referred to the comparison of square footage as shown in the staff report, and suggested that when comparing amounts of light commercial, other areas of the City should be considered also, and not just this intersection. For example, at

Rock Road and Kellogg, 1,500,000 square feet of floor space has been approved, while Marina Lake and Twin Lakes combined amounts to only slightly over 500,000. Also, approval of this request would total 69 acres of "LC" at this intersection, while at Kellogg and Rock Road there are 184 acres of "LC".

As for increased traffic, FETTIS maintained that the addition of additional businesses in this location will not necessarily affect the traffic in proportion to the increase, because by development of subject area, it will round out the shopping services and make additional services available to people who already shop in the centers at 21st and Amidon. He did not consider it valid to suggest that this will generate additional traffic in connection with total development, but really will only provide additional facilities for shoppers already doing business at the centers.

FETTIS brought out the fact that this Commission has voted three times on this issue, recommending approval twice by a unanimous vote and the third time with only one dissenting vote.

In further discussion, it was pointed out that the major entrance to subject tract is opposite the entrance into the office and parking lot on the east side of Amidon, and that open space must be 70% of the "LC" because under a CUP, ground coverage by structures is limited to 30%. GRAGERT did not consider the 70% as open space when it could be used for parking. He asked if the group interested in riverfront development had responded in any way to this development plan, and GALBRAITH said they had not to his knowledge.

H. D. CHITWOOD, 2500 Columbine, spoke as Chairman of the recently organized Two Rivers Neighborhood Association, and people stood to indicate their opposition to the request. CHITWOOD said they are compelled to go the organization route because of the persistence of developers in petitioning for zoning and amendments to the CUP. He said two of the Committee Chairmen of the organization would speak with respect to concerns on traffic and land use.

CHARLES EBY, 2212 Bella Vista (south of the River), said his principal concern was related to the quality of the development and the increased traffic which can be expected. He thought the developer was entitled to receive a reasonable return on his investment, but since the area is already zoned for apartments, and the apartments in Twin Lakes seem to be doing well, was in favor of similar development on the application property. He said the residents are proud of the Twin Lakes development and glad to have it as a part of the neighborhood, but were not particularly proud of the Marina Lake development.

EBY next referred to traffic, and stated that while the applicant is entitled to a return on his investment, questioned who would pay for a solution to additional traffic problems which would be created by additional light commercial development.

EBY next related the fact that there are 200,000 square feet of floor area occupied and 30,000 square feet already zoned, and if the present request is approved, this would result in 550,000 square feet, which would almost triple the amount of square feet that is already developed on Marina Lake alone.

He commented that maybe additional "LC" will not generate traffic in direct proportion to the increase, it is bound to generate at least some more. He said that after opening of the Woolco Store, traffic on McLean from the south increased from 14,000 vehicles per day to 21,000, which he considered very substantial.

As a resident of the area, EBY referred to the investment which he and others in the area have in their homes, and yet they must have Marina Lake, a rather unattractive center where the upkeep and maintenance is not good.

If there is a need for more "LC" zoning, EBY suggested the applicant make use of the 100,000 potential square feet in the center not now developed. He maintained that there are 10 different areas in the center which could be occupied by various shops, and also, he has been told by the Manager of the store, that the grocery store will be leaving the Center.

EBY also referred to the availability of space in the Sweetbriar Center and the Atlantic Thrift Building on the northwest and northeast corners of this intersection, and stressed the fact that there is actually a tremendous amount of vacant light commercial space at this intersection. He also referred to the fact that other centers are suffering from lack of tenants, Eastgate, as an example.

In closing remarks, EBY hoped the area would be developed with attractive apartments which would be lucrative to the applicant as well as desirable to the residential neighborhood.

When questioned by one of the Commissioners, EBY said the riverbank has not been beautified.

EDITH LEFLER, 2520 North Richmond, pointed out that the Level of Service for traffic movement at this major intersection now is E, where one must wait through four or more cycles. She said it was her understanding that if this is granted, an additional signal will be installed at the entrance to Amidon, which would impede traffic even more, because it would make three traffic lights on Amidon between the north end of the bridge and 21st Street.

DAN PHELAN, 2243 Cardinal, felt there has been no change in this area to justify a change in zoning since the last consideration when the governing body denied a similar request. In fact, he claimed, more and more of the presently zoned commercial space is becoming available daily or weekly, and the developer cannot justify this additional request for light commercial zoning on the basis of need. Nor can it be justified by comparing the area to the light commercial in Twin Lakes, since it is already more than that zoned in Twin Lakes, which has been the regular plea over the past several years.

In consideration of the many residents of the general area, PHELAN asked that the request be denied, and when asked if he would approve the zoning if the additional "LC" could be justified by need, PHELAN said he would not - that apartment development would be more beneficial. He referred also to the increase in vehicles which could be anticipated if this is approved.

H. D. BLEDSOE, representing the applicants, pointed out the free flow of traffic through the CUP by tracing on the plan the several private roads in the CUP, and the fact that it would be freeflowing from Amidon to 21st Street through the Center. He maintained this was much better and a different situation than at Twin Lakes, where there are only two ways of exiting from the Center.

BLEDSOE next referred to the petition submitted in connection with the previous request, which petition contained between 400 and 500 names of people in the area, who had indicated their opposition to more apartment development, and a preference for light commercial.

As for who is going to pay for possible street improvement as a result of increased traffic, BLEDSOE pointed out that property owners of the Marina Lake area have dedicated and paid for improvement of the right turn lane from 21st Street onto Amidon, while in a similar situation on 13th Street, the City at large absorbed the cost. BLEDSOE also pointed out that when subject property was owned by Dolose Brothers, the west half of Amidon right-of-way had never been paid for by them, so it was paid for by the then owners of the area to the extent of \$18,000, although the Twin Lakes Center has never paid for its portion. Further, instead of putting

an entrance from Marina Lake opposite the one from Twin Lakes onto Amidon, the City required that it be moved down to the south end, yet in less than a year a new traffic signal was installed at the Twin Lakes outlet. In the development of Marina Lake, a private roadway will be provided by the Marina Lake development the full length of their development on the west side of Amidon from 21st Street to the bridge. In summary of this particular point of streets, BLEDSOE said three lanes have been provided, all at the expense of the property owner.

BLEDSOE next spoke with respect to the beauty of the development of the Marina Lake Center, and displayed an architect's drawing of the original proposal, which was very attractive. At the time of initial plans and request for zoning, however, only a small portion was approved for light commercial, and the developer had no alternative but strip development. And any future approvals of rezoning have been piecemeal, so that it has been difficult to actually develop an overall beautiful center.

BLEDSOE referred to the amendment of the Towne East CUP and a recent article by the Traffic Engineer in which it was stated that 60,000 vehicles per day would be added to the traffic at Rock Road and Kellogg if the 20 acres more of "IC" were granted, which would be twice the volume at 21st and Amidon.

On October 26, 1974, traffic was 21,971; and if capacity is 17,000 then the street is running about 125% of capacity right now.

BLEDSOE pointed out further that Seneca and Pawnee is running 141% of capacity and yet the City Commission has indicated it would look with favor on additional "IC" from Pawnee south to I-235.

GRAGERT asked if the free flow traffic would also apply to the highrise area, and Bledsoe said that it would.

BLEDSOE said they are not asking for a change in zoning on Parcel #8, but only to add highrise units to be permitted, and for only 18 units per acre. He pointed out that where the lake bank comes in, they would have the choice of either filling in that area and building on a low scale, or going highrise, and develop marine docks and beautification.

RISING said he would like to hear an appraisal of the traffic situation from the Traffic Engineer, and his recommendation.

PAUL GRAVES, Traffic Engineer, said a count taken in October of 1974, indicated 11,337 vehicles southbound on Amidon and 10,574 northbound, or a total of 21,900, the count being taken at the south entrance (Straw Hat Pizza). Traffic on the driveway itself, ranged from 4,500 to 5,000 at that same time, which would give around 26,000 cars in that location. Based upon the total development, Marina Lake would be something over 544,000 square feet, and if this development does take place, it would surpass Twin Lakes, which is about 330,000 square feet.

GRAVES said they have made many traffic studies in this area as well as for other areas in the City, and that this intersection operates from Level of Service A (which is excellent), during off hours, down to Level of Service D during heavy traffic times where one must wait through three or four signal cycles to clear the intersection.

The entrance at Twin Lakes on Amidon was planned for signalization initially as traffic warranted, and the Center paid for the installation and equipment, but it is owned and maintained by the City. He continued that there is also an agreement to make such an installation across the street when traffic warrants it, and it has now reached that figure, and due to the work load, he has suggested to the Marina Lake Center authorities that they seek outside contract for the installation, which would be the same type of operation as at the Twin Lakes entrance.

GRAVES continued that if development occurs as envisioned, it will add about 5,000 more cars per day on Amidon, but about half will come from other places in the area by shoppers going to more than one store. It was his opinion that during special days (Christmas), the intersection would be overloaded.

When asked what would be necessary to alleviate the traffic situation, GRAVES said several years ago a detailed study was made of this area, and it was concluded that 21st Street would have to be reapproved to six through lanes (three in each direction), plus a double left turn for westbound traffic on 21st Street, plus the existing right turns on all but one corner. It would also necessitate reconstruction of Amidon to a six lane facility, plus necessary turn bays and accel-decel lanes.

SAVINA asked if the 25th Street Thruway would relieve the traffic somewhat, and GRAVES said if it is developed as a limited expressway, it would relieve the load on 21st Street considerably, and the Canal Route would probably intercept some of the K-96 traffic, but doubted that it would have a significant affect.

TOM NAIFEH, 2109 Bullinger, commented that while this intersection has been compared trafficwise to Kellogg and Rock Road, and Pawnee and Broadway intersections, he wanted the Commissioners to realize that traffic congests in this area because of the Rivers and the lack of the usual mile line major streets.

BLEDSOE spoke again, and said that 21st Street was rebuilt only two or three years ago, and that Amidon is only eight years old, and questioned if Amidon was so underbuilt by the City that a property owner cannot use it. He reasoned that too much emphasis is being given to the possibility of approximately 850,000 square feet being developed at this intersection, and yet there is over 1,000,000 square feet approved for "LC" at Kellogg and Rock Road. He stressed again the fact that the Marina Lake developers built the third lane all the distance from 21st Street South to the bridge, as well as the fact that with approval of this request there will be only 69 acres of "LC" on all four corners as compared to 184 at Kellogg and Rock Road.

RISING expressed concern for the "nibbling" or piecemealing of zoning and development in this area, and a desire to make a decision once and for all so that it would not be coming back for consideration from time to time.

BLEDSOE repeated the fact that they previously submitted a landscape plan which had been accepted by the City, and which he would expect to carry out. BLEDSOE contended that as requested is the most logical zoning of all because it is adjacent to light commercial, on a main thoroughfare, has free flow of traffic through the center, and further, he guaranteed that he would never ask for any additional light commercial in the center part (Parcel #8).

GARDENHIRE was confused that there should be a petition signed by over 400 residents of the general area in favor of the change, and yet the Neighborhood Association appears to be opposed.

JOAN SHEARER, 2433 Benjamin Drive, said she had been involved in this matter since 1967, and she understood that when the petition was submitted to residents, it was on the basis of "would you rather have commercial or low cost housing type development" and naturally the residents favored commercial.

BLEDSOE said the petition was obtained in 1973 and he read from the petition wherein it was stated a desire for approval of "LC" so construction could start immediately to provide more shopping facilities.

DAYOUTH wondered if there could be a compromise to result in apartments along the River, so that residents on the south side of the River would not have to look into commercial development.

BLERHOE pointed out that a roadway is planned along the bank, and that the landscape plan calls for beautification.

PHELAN spoke again and inquired why the applicant does not develop the 180,000 square feet potential already zoned. As for the third traffic lane provided from the Marina Lake area, PHELAN considered it a death lane because of the difficulty in using it getting into the Marina Lake area. As for comparisons with other intersections, PHELAN maintained that they are not concerned with what traffic is elsewhere, but in this case, in order to get out of the area, one must usually go through the intersection of 21st and Amidon. As for the River being a buffer, it offers no visual screening, and sound from the shopping center carries much more readily across water.

TAYLOR asked why the floor area had been increased on Parcel #6 from that indicated in 1973. GALBRAITH responded that he could not answer why the applicant had increased the percentage.

GRAGERT indicated that in spite of all the discussion and arguments in favor, he could not accept the theory that "because Joe got it, why can't I", and in defense of the traffic situation, apparently the applicant feels that he is entitled to all the problems of traffic beyond street capacity the same as some other intersections, as well as any benefits, if there are any.

MOTION: That the Planning Commission recommend to the City Commission that these two cases be denied. Gragert moved.

TAYLOR commented that if the initial plan for development of the Marina Lake area had been accepted years ago, it would not have been forced to develop piecemeal and the Commission would not be in its present predicament. She had hoped it was being submitted on the same basis as before, but the increase in floor ratio is of concern to her, and she asked if there might be a possibility it could be adjusted downward.

Gardenhire seconded the above motion.

FETTIS said if the Commission desired that the floor area be reduced back to what it was before, his client would agree to it, which would be 111,878 square feet.

SAVINA considered this a natural commercial center and suggested that development of apartments in the present zoning would actually generate as much traffic as commercial development, and apartment type traffic would go on all night long, while commercial would not.

VOTE ON ABOVE MOTION: Motion lost by a vote of 3 in favor (Gragert, Gardenhire and Bayouth) and 6 opposed (Goebel, Kamen, Rising, Hopper, Taylor and Savina). (Hennessy absent.)

MOTION: That the Planning Commission recommend to the City Commission that Z-1683 be approved, and that the associated Community Unit Plan (DP-23 amendment) be approved, subject to the following conditions:

- a. The platting of Parcels 6 and 8 within one year from the date of approval by the Board of City Commissioners; or the zone case be considered denied and closed.
- b. Amend General Provision #1 to read as follows: "Sign Control: Signs as permitted by the zoning district."
- c. Delete comment #7 under Parcel 7 as this will be controlled by amended G.P. #1 above.
- d. Add a General Provision #7 to read as follows: Fire lane easement shall be provided in accordance with section

COMMISSIONERS PROCEEDINGS

March 11, 1975

17

ZONE CHANGE REQUEST
2-1603 & DP-23

Report from the Metropolitan Area Planning Commission (Case Number 2-1603 and DP-23) in regard to zone change from multiple family dwelling district to light commercial on the west side of Arndon in an area north of the Arkansas River, presented.

Planning Commission recommended that the zone change and Community Unit Plan be approved subject to the conditions reflected in the transmittal documents provided to the Commissioners by the Planning Department.

Note: 24.25% of the property within 200 feet is represented by valid protest petitions which have been filed as provided by law. Therefore, a 4/5ths vote on the part of the City Commission will be required in order to approve the zone change.

Everett Pettis

Everett Pettis, Attorney for the applicant, requested that the zone change be returned to MACC for revision.

Tom Naifeh

Tom Naifeh, homeowner in the area, objected to the zone change. He stated that the residents were not within the 200' eligibility for a protest petition and the business establishments on the east side of Arndon signed the petition as a favor to the neighborhood area.

Dean Ritchie

Dean Ritchie stated that his main objection was the traffic problem and what the zoning would add.

*DONNELL EXCUSED

Joan Shearer

Joan Shearer, representing the Two Rivers Neighborhood Association, presented a group of petitions against the rezoning.

Motion --
carried

Stevens moved to receive and file the petitions. Motion carried 4 to 0.

She further stated there are nine (9) empty business locations in Marina Lakes at this time plus other empty stores in the area. The association was also objecting to the increase in traffic that the zone change would cause.

*DONNELL PRESENT

Motion --

Donnell moved that the application be returned to MACC for reconsideration. The City Commission states the following reasons for its action.

1. With the suggested wording that a transfer of title does not constitute a termination of a plan or any portion thereof, the development of the property shall proceed in accordance with the development plan, any substantial deviation as determined could constitute a violation of the building permit.

2. There has been an inadequate showing of any need or justification for additional IC to serve the area and that the additional IC would impose a totally unreasonable demand on the street and bridge system in the area and if this was granted it would be the first occasion in 20 - 40 years that IC has been granted on a river bank.

3. The Commission suggested that the apartment heights not be waived for partial B.

-- carried

Motion carried 4 to 1. Stevens "no".

- e. Under Parcel 8 add the following: "8. A Homos Association Agreement providing for the maintenance of non-public common areas, parking areas, private drives, community facilities, lake, fence, etc., shall be submitted with the final plat for Parcel 8, provided the dwelling units are to be owner occupied.
- f. Amending the floor area ratio under Parcel 6 to not exceed 35%, or a total of 111,878 square feet.
- g. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- h. Any major changes in this development plan shall be re-submitted to the Planning Commission and to the City Commission for its consideration.
- i. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for development and binding upon the present owners, their successors and assigns, unless amended.

Savina moved, Hopper seconded and it carried by a vote of 6 in favor (Savina, Hopper, Taylor, Goebel, Rising and Kamen) and 3 opposed (Gragert, Gardenhire and Bayouth). (Hennessy absent.)

EXCERPT FROM PLANNING COMMISSION MINUTES OF APRIL 10, 1975:

- 8a. Case No. Z-1683 - Marina Lake Drive, Inc. requests change from "B" to "BE" for:

A tract in Government Lot 1 in the NW 1/4 of Sec. 7, Twp. 27-S, R-1-E commencing at the NE corner of said Lot 1; thence south 0°04'05" west along the east line of said Lot 1, 1120.32 ft. for a place of beginning; thence north 88°12'55" west 130 ft. thence north 0°04'05" east 15 ft.; thence south 89°56'09" west 455.06 ft.; thence north 54°26'07" west 251.68 ft.; thence north 70°56'58" west 959.77 ft.; thence south 12°11'35" west, 282.9 ft. more or less to the left (north) bank of the Arkansas River; thence southeasterly along said left bank to the east line of said Lot 1; thence north 0°04'05" east 895 ft. more or less to the place of beginning, except therefrom a tract described as commencing at the NE corner of said Lot 1; thence south 0°04'05" west along the east line of said Lot 1, 1120.32 ft. for a place of beginning; thence north 88°12'55" west, 130 ft.; thence north 0°05'05" east 15 feet; thence south 89°56'09" west 455.06 feet; thence north 54°26'07" west 194.13 feet; thence south 16°00" west to the left (north) bank of the Arkansas River; thence southeasterly along said left bank to the east line of said Lot 1; thence north 0°04'05" east, 885 feet more or less to the place of beginning;

and change from "B" to "LC" for:

A tract in Government Lot 1 in the NW 1/4 of Sec. 7, Twp. 27-S, R-1-E, described as commencing at the NE corner of said Lot 1; thence south 0°04'05" west along the east line of said Lot 1, 1120.32 ft. for a place of beginning; thence north 88°12'55" west, 130 feet; thence north 0°04'05" east 15 feet; thence south 89°57'09" west, 455.06 feet; thence north 54°26'07" west 194.13 feet; thence south 16°00" west to the left (north) bank of the Arkansas River; thence southeasterly along said left bank to the east line of said Lot 1; thence

north 0°04'05" east 885 feet more or less to the place of beginning. All generally located on the west side of Amidon in an area north of the Arkansas River.

8b. Case No. DP-23 - Marina Lake Drive, Inc. requests approval of an amendment to CUP for the following tract:

All of Government Lot 1, in the NW 1/4 of Section 7, Twp. 27-S, R1E, except that part of said Government Lot 1 which has been dedicated for public streets. A portion of the above described property has been platted into: Lots 1 and 2 in Marina Lake Addition, Lot 1, Marina Lake Third Addition, Lots 1, 2 and 3 in Marina Lake Fourth Addition, and Lot 1 in Marina Lake Sixth Addition. Generally located at the southwest corner of 21st Street North and Amidon.

GALBRAITH pointed out the area on the map and reviewed the following staff report:

Comments

1. The applicant is now requesting a change of zoning from "B" Multiple-family to "LC" Light Commercial for a tract of land containing approximately 7.33 acres, and to "BB" Office, for a tract of land containing approximately 5.75 acres.

The CUP request proposes the following:

Increase in the size of Parcel 6 from 3.07 acres to approximately 7.33 acres.

Creating a new Parcel 8 proposed for "BB" Office zoning, approximately 5.75 acres in size with a maximum building height of 35 feet with proposed uses to include professional offices, townhouses, garden apartments at a density not to exceed 18 dwelling units per acre. The proposed square feet of office space is 125,293 at a ratio of 50%.

Decreasing the size of Parcel 7 from 22.49 acres to 12.79 acres and a decrease in the proposed number of dwelling units from 335 to 219.

Increasing the permitted square feet of retail space by 111,878 for a total of 496,438.

2. Should the Planning Commission recommend the approval of the zone change request and the amendments to the CUP, the following conditions would be consistent with other approved CUP's:
 - a. The platting of Parcels 6 and 8 within one year from the date of approval by the Board of City Commissioners, or the zone case be considered denied and closed.
 - b. Decrease the floor area ratio on Parcel 8 to 35% for office development.
 - c. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
 - d. Any major changes in this development plan shall be re-submitted to the Planning Commission and to the City Commission for its consideration.
 - e. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but ~~said plan shall run with the land for development and be~~

BAYOUTH said he would abstain from voting on this case because he is a landowner in the immediate area.

EVERETT FETTIS, attorney for the applicant, said the request has been amended and he was hopeful that this would be the last time zoning in the Marina Lake area would have to be considered. FETTIS said that after re-examination of the matter, and he thought in fairness to the Commission, it was decided that the particular property involved in the amendment should be considered for "BB" zoning. He said they have no immediate plans for it, but thought it should be considered for "BB" Office zoning at this time.

FETTIS said that while several comments were made at the City Commission hearing concerning a surplus of area already zoned light commercial, they have found from knowledgeable people in the field of development and investments, that there is no excess light commercial property, and he referred to a quotation recently in the newspaper where the manager of the Twin Lakes Center indicated that they had been fortunate at that center because the demand for space exceeds the supply. He maintained that this particular property is most logically suited to further "LC" and "BB" development when one considers the natural barrier of the river and other factors.

When questioned as to whether or not efforts had been made to compromise with those who had appeared in opposition, FETTIS said they have made no effort as there is no real basis on which an agreement can be reached. He said the opposition is entitled to their opinions and he recognized their right to appear and make known their objections; however, he did not feel the results of approval of this request would be as serious as the residents in the area think.

MARY PHELAN, 2243 Cardinal, speaking for the Twin Rivers Neighborhood Association, said there had been no contacts made with any of the residents to meet with the applicant or the attorney. She reported that the association has 73 paid membership families in the area between the Big and Little Rivers, 15th and 25th Streets North, and that a protest petition containing 426 signatures has been filed with the City Commission asking that this request be denied. Reasons given for their opposition were the serious traffic volume increase which would occur; the fact that there are presently vacant buildings in the Marina Lake area; the applicant in the past has pleaded for as much "LC" zoning as at Twin Lakes, and now the present zoning in the Marina Lake area is in excess of the "LC" at Twin Lakes, and yet the applicant is requesting 111,000 square feet more of potential floor area. PHELAN also indicated a desire for protection of the riverbank as a natural resource. Further, the quality of the present buildings in the Marina Lake Center have not been an asset to the neighborhood.

PHELAN pointed out, too, that while the applicant assured the Commission at the previous meeting that there would be no further requests for zoning than that requested at that time, the request has now been amended to request more, even before the original application was considered by the City Commission.

MARY BELLUMO, 2245 Bullinger, said they in the area are in favor of growth, but that it should be orderly, and they feel an investor is entitled to a reasonable rate of return on his investment, but in this case, such has already been reached, and she considered this request unreasonable which, if approved, would result in an unreasonable rate of return on the investment at the expense of the neighborhood, and she did not consider that such an action would be fair. BELLUMO stated they were in favor of apartments as long as they are not more than 35 feet in height. She said they felt that an office building would generate more traffic than apartments, and apartments are needed much more than commercial and office buildings.

MOTION: That the Planning Commission recommend to the City Commission that Z-1683 be approved for "LC" and "BB" as requested, and that the amended DP-23 be approved, subject to the following conditions:

- a. The platting of Parcels 6 and 8 within one year from the date of approval by the Board of City Commissioners; or the zone case be considered denied and closed.
- b. Decrease the floor area ratio on Parcel 8 to 35% for office development.
- c. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- d. Any major changes in this development plan shall be resubmitted to the Planning Commission and to the City Commission for its consideration.
- e. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for development and be binding upon the present owners, their successors and assigns, unless amended.

Savina moved.

HENNESSY asked what else the property could be useable for if not as requested, and KAMEN assumed that it could be used as now zoned.

Taylor seconded the above motion for the sake of discussion.

Hopper arrived.

GALBRAITH brought out the fact that the staff report had suggested a reduction of the gross square footage of floor area for the "BB" parcel and the fact that the attorney for the applicant had not spoken concerning this fact. FETTIS said he would agree to such reduction if the staff felt it should be done.

GOEBEL asked how the acreage of light commercial at this corner compared with that at the other three corners. GALBRAITH said he had not checked specifically, but recalled that at Twin Lakes there is approximately 330,000 square feet of approved floor area and if this request is approved it would result in approximately 496,000 square feet of floor area in the Marina Lake Center.

CHAIRMAN KAMEN brought out the fact that apartments could possibly create more traffic than "LC" inasmuch as there could be more traffic day and night whereas commercial traffic would be more or less limited to daylight hours.

VOTE ON ABOVE MOTION: Carried by a vote of 6 in favor (Savina, Taylor, Hopper, Goebel, Kamen, and Hennessy) and 1 opposed (Gardenhire). Bayouth abstained and Gragert and Rising were absent.

COMMISSIONERS PROCEEDINGS

1925

April 29, 1975

<p>ZONE CHANGE REQUEST Z-1683 & DP-23</p>	<p>Report from Metropolitan Area Planning Commission (Case Number Z-1683 & DP-23) in regard to zone change from "B" to "BH" and "LC" and approval of amendment to DP-23: area generally located on the west side of Amidon in an area north of the Arkansas River, presented.</p>
<p>Recommendation</p>	<p>Planning Commission recommended approval subject to the conditions as outlined in the/MAPC Minutes provided to the City Commissioners. NOTE: Valid protest petitions of 13.16% have been submitted. The percentage is not sufficient to require a 4/5ths vote on the part of the City Commission in order to approve the zone change.</p>
<p>Chief Planner</p>	<p>Chief Planner reviewed the application and stated that the matter was readvertised and reheard and amendments made. He reviewed the proposed development and density involved and the changes to the development plan. He pointed out that previously the percentage of protests exceeded 20%, however, the applicant area has now been enlarged and has reduced that percentage.</p>
<p>Motion --</p>	<p>Shanahan moved that the application be returned to the Metropolitan Area Planning Commission for its reconsideration. The following reasons being that "LC" is determined to be inappropriate land use policy for this area adjacent to the river and the Planning Commission should take this into consideration for any future zoning applications, including this application.</p>
<p>Comm. Donnell</p>	<p>Commissioner Donnell expressed the opinion that if the river is part of the City boundary then the City Commission or some Body should have jurisdiction or a vote when land comes up for zoning along the river to represent the public. He requested that the Planning Commission submit a policy determining if the amount of frontage represented on this petition is appropriate for the kind of setbacks along the river in its entirety, what would be ideal setbacks along the river and how to protect the river from development so it can be used by the public at large.</p>
<p>Amendment to motion carried</p>	<p>Peters moved an amendment to the motion that no further amendments be accepted on this application and this application be completed and any additional amendments or desires on the applicants part should be filed as a new application. Amendment carried 4 to 0.</p>
<p>-- carried -</p>	<p>Main motion as amended carried 4 to 0.</p>

EXCERPT FROM PLANNING COMMISSION MINUTES OF June 12, 1975:

- 10a. Case No. Z-1683 - Marina Lake Drive, Inc. requests change from "B" to "BB" for: (See excerpt of minutes of April 10, 1974 for legal description.) And change from "B" to "LC" for: (See excerpt of minutes of April 10, 1974 for legal description). Generally located on the west side of Amidon in an area north of the Arkansas River.
- 10b. Case No. DP-23 (Amendment) - Marina Lake Drive, Inc. requests approval of an amendment to the Community Unit Plan as it relates to the following described property: (See excerpt of minutes of April 10, 1974 for legal description). Generally located in an area on the west side of Amidon in an area north of the Arkansas River.

GALBRAITH pointed out that the Commission has considered these two applications twice before (in February and April of this year). (See minutes of those two meetings for original discussion and action. He pointed out the area being considered, noting specifically that the request for "LC" would be an additional 111,000 square feet of gross leaseable area, and that the request for "BB" is to accommodate development of townhouses, garden apartments and offices to a maximum height of 35 feet.

GALBRAITH recalled that on the two previous hearings, the Planning Commission had recommended approval, subject to several conditions, but that the City Commission has again referred the cases back for reconsideration as they felt that "LC" might not be appropriate adjacent to the River.

The question was raised as to ownership of the riverbank and how far back from the River it extends. GALBRAITH reported that the River is in public ownership (Federal Government) and that the riverbank location varies, depending on the low bank line, high bank line, and that such is indicated as platting along the river occurs and at that time a dedication is granted for purposes of river beautification, flood control, maintenance, etc.

In further discussion of the reason for return of this matter by the City Commission, it was brought out that one of the City Commissioners was interested in the Planning Commission submitting a policy determination as to the amount of frontage represented on this petition and how much is appropriate for setbacks along the river in its entirety, so that the river would be protected from development and thus could be used by the public at large. GALBRAITH said the staff is presently reviewing this matter and would have a policy statement later, but at this time would have no recommendation aside from the present policy of acquiring necessary dedications and establishing a minimum setback at the time of platting. The Chairman agreed that there is not sufficient information available at this time for the Planning Commission to make such a recommendation.

In the discussion, it was brought out that at the time of platting, a determination is made by the Flood Control Office as to how much easement is needed for maintenance and that it could vary from 30 to 50 feet, and in some instances in the city along a drainage channel as much as 100 feet and more has been required (Central and Rock Road).

BERETT FETTIS, attorney for the applicant, said that every time a zone change in the Marina Lake Center has been considered, new questions have been raised as to the appropriateness of the request. In view of the policy statement just read by the Chairman, FETTIS said he would go into details with his presentation since this would be the only way it would be available to the City Commission, since the applicant cannot make presentations there unless denied the opportunity at the Planning Commission hearing.

FETTIS said it appears four points have been brought up at this time - traffic, feasibility as to the need for more "LC"; whether or not there should be commercial adjacent to the River; and concerns

FETTIS questioned the previous statement on the part of the staff that with approval of the light commercial requested by the above application there would be something like 500,000 square feet of gross leaseable area. He related that since the last meeting, he had investigated and determined that there is a total of approximately 379,290 square feet. He pointed out that while the CUP indicates 195,000 square feet for the Woolco Store, the lease permitted only 175,000 square feet; the service station at the corner under the CUP was allowed 6,750 square feet, while only 2,500 is so utilized; another business in the center utilizes only 5,500 square feet although 7,200 was allowed. The property along 21st is permitted 59,340 square feet, yet only 20,000 is so utilized, but there is more area behind the 21st Street frontage which is available for commercial development.

As for traffic, FETTIS brought up that the neighbors in this area have appeared and presented protests both to this Commission and the City Commission; likewise, on behalf of the applicant, petitions containing 400 or 500 names of people in the area have been presented in favor of the request. Some of the residents of the general area, however, do feel that any more light commercial zoning will add considerably to traffic in the area. He said the neighbors have every right to protect their neighborhood and speak in that behalf, but one must consider beyond what someone feels and judge which is the overriding consideration in making a determination of this nature. FETTIS felt that it is recognized by all that people should be permitted to make the best economic use of their property so long as it does not infringe upon the rights of the public.

FETTIS explained that initially, the owners of the Twin Lakes Center did not file a protest to the above applications, and they were the only ones eligible to file a legal protest; however, they did appear in opposition at the first hearing before the City Commission, indicating that their appearance was at the request of the neighborhood residents. At that time, one of the City Commissioners pointed out that they had appeared in opposition to earlier requests for rezoning in Marina Lakes because of the traffic congestion matter. FETTIS continued that it was his understanding that Ritchies (owner of Twin Lakes) also have an interest in Towne East at Rock Road and Kellogg, at which intersection the traffic is considerably more than at Amidon and 21st, and yet apparently there was no concern for traffic related to Towne East Center.

FETTIS said that the City Traffic Engineer has taken a position in opposition to the above applications, and figures obtained from his office indicate that the average daily traffic in 1970 on Amidon was 14,600; in 1972, 14,900 and in 1975, 15,127. These figures, he felt, did not indicate a significant increase from 1970 to 1975. During the period of time the bridge was opened on 21st Street west of Amidon, there has been considerable development, which has increased traffic on that street considerably. In addition, the Woolco Store was developed in Marina Lakes during this period of time, and all of these developments contribute substantially to additional traffic problems.

FETTIS said he had obtained traffic count figures from the City Traffic Engineer's office, which figures are relied on by the public in making their own projects. He reported that the latest counts provided by the office with respect to 21st and Amidon are as follows: Amidon, south of 21st, 15,271; north of 21st, 15,794; 21st, east of Amidon, 17,207; and west of Amidon, 13,052. For sake of comparison, he reported that the count on U. S. 54 west of West Street was 18,463, and east of West Street was 30,451; west of I-235 it was 37,577. He pointed out that there are other intersections in the City which, according to the traffic count figures, show more capacity than at 21st and Amidon. He said that in 1972 the volume at 21st and Amidon was only 85% of the design capacity of the intersection; while at West Street and Central it was 131% of design capacity; at Seneca and Pawnee considerably more than design capacity, and at Douglas and Broadway it indicated 152% of the design capacity, and yet the Fourth Financial Center was allowed to be built without apparently any question or consideration of the traffic volume.

FETTIS asked the Commission to keep in mind also that subject request is not at the principal intersection. He pointed out also that since the compilation of the figures within the last year, right turns are permitted on red signals which he estimated increased traffic flow by 15 to 255 and has considerable impact on the movement of traffic.

FETTIS introduced Maurice Martin from Topeka, who was Director of the Kansas State Highway Department for four years and head of the Federal Housing Administration in Kansas for five years, and asked him to speak concerning traffic generated by apartments as compared to that generated by light commercial development.

MAURICE MARTIN said that his past experience has given him an insight into some of the traffic problems that are created by new developments, such as being proposed at subject location. He related an incident in Topeka when he was associated with the Highway Commission, on 25th Street, where the average daily trips amount to about 15,000 to 16,000 and although the staff of the Commission recommended that access be limited so that there could be no further development along the street, the Highway Commission overruled the recommendation and allowed access, and since that time there have been two major shopping centers developed along the route and lots of other business.

As an illustration of the vast difference of ideas in various parts of the country, MARTIN said that in San Francisco, a six lane highway has just been completed with limited access that carries 128,000 vehicles per day.

MARTIN stated also that he has been involved in building large apartment complexes over the State of Kansas, and they have found that during peak traffic periods, apartment complexes generate more congestion than many commercial areas in that commercial area traffic is usually spread over the entire day. He agreed with the previous statement that the right to make right turns on a red light has alleviated traffic movement somewhat. He suggested that accel/decel lanes in areas such as being considered are very helpful in handling traffic also.

FETTIS commented that it has been suggested several times that there is no need for additional "IC" because of the vacancies in the present light commercial development. He reminded the Commission that they have been furnished about six letters from various realtors in the City attesting to the fact that there is need for additional commercial development in this particular area. While it is true there are vacancies, FETTIS said he had asked John Frieden, representing Hanson Development Company which has a 99 year lease on a major part of the Marina Lake Center, to offer his comments.

JOHN FRIEDEN of Topeka, representing Hanson Development Company, displayed a survey showing their portion of the Center and existing buildings. He pointed out that Building A is the location of the Woolco Store; Building B is the location of the former supermarket (vacant at this time); and that they are negotiating with a furniture store for this space; Building C has five spaces with two occupied; Building D has 10 spaces with two occupied. FRIEDEN related that the problem in leasing is not because of lack of demand, but because of the traffic and parking congestion at this particular point in the Center, and the demise of the food market was contributed specifically to the very serious problem of parking and traffic congestion. He pointed out that the affect on the Center is very serious and it is regrettable because this is an outstanding location and millions of dollars have been invested.

In their efforts to reach a solution, FRIEDEN said they have hired experts within the last six months to analyze the situation and make recommendations so far as parking and traffic, or whatever can be done to improve the Center and lead to the leasing of their spaces. The experts have made three recommendations.

FRIEDEN said it has been suggested that parking in front of Building D be adjusted and possibly to lease Building C space to low traffic generation tenants, and create additional parking behind Building D, which would be on a part of the application area.

FRIEDEN said that with the approval of this application, parking could be provided behind Building D; that they have contemplated trying it, but without some commercial development to the back, it would be extremely difficult to attract parkers there. He said for this reason they are in favor of the application and have entered into an agreement with the applicant whereby they are permitted a free flow of traffic between the properties as well as reciprocal parking privileges. He felt that what has happened in the Center is a tragedy, but that he believed it could be remedied as outlined above. He stated that he represents Hanson Development Company in about 35 centers west of the Mississippi River and that while there are difficulties, none are as serious as this one. He felt that if this application is approved, they could have all their space leased within 60 days, as it is an excellent location, and the approval of this request would greatly benefit the Hanson Company as well as the area.

RISING asked Frieden how he knew that the applicant would not develop his property in such a way that the anticipated parking arrangement would not be beneficial to the Hanson Development Company. FRIEDEN said their agreement is in writing, and he would assume the owner of the application area would develop his property in a reasonable and feasible manner, otherwise he would have the same problem as being experienced by Hanson Development Company now. He said he does have some idea of what is planned by the developer and it is satisfactory with his company. In further discussion, and in looking back, FRIEDEN felt that the entire area could have been better, if planned and developed as a unit which was prior to his representation of the Hanson Development Company. He related that the first application for zoning he understood, was with access to Amidon in line with the Twin Lakes opening, which was felt to be the most appropriate location; however, the owners of Twin Lakes offered objection and the entrance was moved farther south toward the present D Building, which eliminated a great deal of parking right in front of the building. He felt, however, that with the adjustment of the parking and additional parking provided on subject area, most of the problems so far as leasing space would be eliminated.

When asked if access to the Center at the central point (across from Twin Lakes), would really make a great deal of difference. FRIEDEN said that according to the traffic experts his company has employed, it would.

JACK MCGUIRE, 8930 Suncrest, related his experience in operating a liquor store in this center. He said he opened the middle of December in 1973, which was three months before the opening of the supermarket and 5 months prior to Furr's Cafeteria. His business was growing and he had high hopes; however, with the coming of the cafeteria and in view of the business and related parking generated by the cafeteria, the supermarket failed and his business was reduced to the point that it became uneconomical to operate and he closed it in February of this year. During his time of operation of his store, MCGUIRE noted that the entrance to the center should have been in the center opposite the entrance to Twin Lakes. He considered this a must for any center, and in subject center, he pointed out that it was impossible for customers of the supermarket to park anywhere close to the store because of the parking generated by the cafeteria.

FETTIS spoke again, pointing out the discussion by the City Commission and its concern for commercial development along the River. He pointed out the numbers of commercial activities along the River particularly in the downtown area (i.e., Southwest Grease, etc.). Also, the fact that in subject request, it is planned to provide a private street along the south side of this property (along the north side of the River). In addition, landscaping of the area will be provided, and it was his opinion that there is no legitimate reason for

complaint so far as beautification of the River. He continued that the first mistake was made when zoning was not granted as first requested, when the requested CUP and zoning embraced the total Marina Lake area. At that time, there was opposition from others in the area, and the result was a strip of "LC" along 21st Street and since, additional zoning has been granted as a result of several applications. He maintained that if the development and zoning had been approved as originally requested, then the subsequent problems so far as zoning, development and the predicament of Hansons and McGuire would not have occurred. He considered it only reasonable to finish up the zoning by approval of this request.

TAYLOR was skeptical about this applicant being willing to solve the problem for Hanson so far as parking, when it conceivably could make their own parking facilities questionable.

FETTIS answered that Mr. Frieden has reviewed the number of vacancies which his company has and the applicant and Hanson favoring additional light commercial and have agreed on a method of alleviating the parking and traffic situation which they feel will in the result in leasing of the vacant spaces. He said his client has agreed that there will be free flow of traffic through the area and such agreement will be in writing, and will provide for mutual parking on the others property. When questioned further, FETTIS pointed out that his client is limited to 30% coverage of land and that there will be 70% of the area left for parking; further, it is possible that the total allowable floor area, if this is approved, of 11,000 square feet, may not actually be built, and any structures erected will be based on a use for that structure. FETTIS said his client will be responsible for the entire development of subject property, and so far as an agreement for parking, FETTIS pointed out that it was done in the development of Cobblestone Alley at Rock Road and Central.

HENNESSY pointed out some difficulty experienced by the supermarket at the Mall on East Harry so far as adequate or convenient parking, and that a change in access to Harry had improved the condition, and the supermarket at that location now is apparently successful.

LAKIN said that the Assistant Traffic Engineer for the city is present to discuss how traffic and the intersection were handled. He continued that in the past there have been numerous hearings before this Commission and other Commissions or Committees concerning the traffic in this area and the original granting and subsequent expansion of light commercial zoning. An engineering report was submitted on behalf of the applicant, and also one submitted by the City Traffic Engineer. Essentially, an entrance was not placed in line with the Twin Lakes entrance on Amidon, based on the Traffic Engineer's recommendation that the two access points to Amidon be offset to avoid as much as possible, the backing up of traffic to interfere with the movements taking place at 21st and Amidon, which he did not mean to infer that such could not be changed, and LAKIN said he was based on extensive engineering and written reports. LAKIN said there are pros and cons, but since the original action so far as planning for this area, additional zoning has been granted which naturally has resulted in more traffic. As for the claim that if the entire area could have been approved for zoning originally, it could have been developed as a unit, he pointed out that at the time policy decisions were made based on information available at that time - right or wrong, and with every piece of development that has occurred since, the problem has been aggravated.

LAKIN said if the Commission is to become involved in a complete re-examination of this area, then perhaps the Traffic Commission should have an opportunity to consider the situation.

OLIVER ANDERSON, 2219 Bullinger, representing the Twin Rivers Neighborhood Association (between the Little and Big Arkansas Rivers, 15th and 25th Streets), spoke in opposition. He related that pre-

viously a protest petition containing 426 names of property owners in the area (not within 200 feet, however), which would be affected, had been filed, and he again presented reasons for opposition. First, light commercial has not been granted along the Riverbank in recent years in accordance with efforts to preserve and protect the natural beauty of the River; traffic is a big concern and he related the difficulties encountered in moving in or out of the general area and the fact that most of the residential area is hemmed in by the two Rivers, the Flood Control Project and I-235, and the street pattern being such as it is, necessitates that in most cases a motorist must pass through the 21st Street/Amidon intersection. A third concern is related to the land use, and he pointed out that this Center already has more square feet of leaseable floor area than Twin Lakes and if this request is approved, they would have about 495,000 square feet as compared to 330,000 square feet in Twin Lakes. He maintained that on the basis of need, it is impossible to justify more commercial zoning, especially when one considers the fact that there is still empty light commercial area in Sweetbriar Center and the fact that the Atlantic Thrift Store has recently closed at the northeast corner of 21st and Amidon.

ANDERSON said it was the feeling of his group that townhouses and garden apartments would be more compatible with this area than additional light commercial and he asked that the request not be approved. It was his opinion that the developer should be controlled so far as the providing of adequate landscaping and screening to protect other areas and the development in this center has not taken advantage of the River itself.

ANDERSON said residents of the area have appeared at various meetings since 1967 to oppose light commercial zoning in Marina Lake and it was their report that the application be denied and thus end the necessity for frequent appearances.

GOEBEL did not like the statement that they opposed any light commercial zoning in the Marina Lake Center, and questioned why they would pick on just this one spot and this one developer, and not any other area within the jurisdiction of the neighborhood group.

GALBRAITH reported that in checking again the square footage, the staff report for the April 10, 1975 meeting is in error, that this request for amendment of the square feet of retail space would increase the potential total to 452,563 rather than 496,438 square feet. He further commented that the original figure included the area for Parcel 5 which proposed medical offices rather than retail sales.

McKINLEY said that the traffic flow indicated above is correct as shown on their maps. He said they were collected over a 3 year period, however, they were compiled after the gathering of counts for the latter part of 1973, all of 1974 and the first part of 1975. Some counts are for one or two days at a time, and the accuracy is about 20%.

BILL McKINLEY, Assistant Traffic Engineer, said they had submitted a report to the developer with regard to the continuous counter station located on Amidon just south of the bridge, and the count runs as high as 27,563 (Monday before Christmas), and in April 1975 on a Friday and Saturday, there were several counts of 20,100, 20,500 and the average was 22,000, so it is substantially more than the 15,000 figure quoted earlier in this meeting. He reported that traffic on 21st Street since the opening of the bridge, has also increased considerably.

MOTION: That the Planning Commission again recommend the approval of the zone change request, and the approval of the amendment to the CUP, subject to the following conditions:

- a. The platting of Parcels 6 and 8 within one year from the date of approval by the Board of City Commissioners; or, the zone case be considered denied and closed.
- b. Decrease the floor area ratio of Parcel 8 to 35% for office development.
- c. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- d. Any major changes in this development plan shall be resubmitted to the Planning Commission and to the City Commission for its consideration.
- e. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for development and be binding upon the present owners, their successors and assigns, unless amended.

Hennessey moved and Savina seconded.

TAYLOR did not feel the Commission had considered all the questions raised by the City Commission and felt the motion might be premature if this Commission does not consider the possibility of lessening the initial request in order that something might be accomplished.

CHAIRMAN KAMEN said it was pretty evident as many times as the application has been before the Commission that they do not desire to ask for any less than the original request. FETTIS said they do not propose to make any amendments to the request.

TAYLOR said that while she has in the past voted for this application, she now has mixed emotions, particularly with respect to the relationship of the parking between subject area and the Hanson Development Company property adjoining and the hope that parking and congestion of traffic will be solved by approval of this amendment to the CUP and zoning. She thought it just might make matters more complicated by approval of the requests.

GOEBEL said he did think additional parking on subject property would make a difference so far as leasing other space in the present structures, but even if the zoning is approved now, the Commission would have a chance to consider the actual design of the development when it is platted.

LAKIN pointed out that the CUP being considered at this time is as far as this Commission will be able to see the actual development, and that location of buildings is not purported to be exact at this time. He said the plan does provide for a private drive and not a public street along the river, and that this access will be considered at the time of platting.

LAKIN further stated that the Department of Law has recently ruled for the City Commission that as long as a subdivision conforms to the text and does not violate the City Code, the City Commission is honor bound to approve it, and he assumed such a decision was based on statutory authority.

SAVINA asked if the drive along the riverbank would be a part of the provisions of the CUP, and LAKIN said it is provided in the CUP which provides access through the site and it will be at the top of the bank within a very few feet of the top of the berm.

As to the width of the drive, LAKIN said he assumed it would be 18 to 24 feet, depending on the parking layout, and that such would be determined at the time of platting. He did not think it wise to try to "pin down" the developer now as to the driveway, and that such can be adequately controlled at the time of platting and issuance of building permits so far as structures are concerned. He said the parking layout has to be approved by the Traffic Engineer before a permit can be issued.

SAVINA asked Fettis if he would be adverse to having a driveway width specified along the river road. FETTIS agreed that such would be done at the time of platting anyway.

VOTE ON MOTION: Carried by a vote of 5 in favor (Hennessy, Savina, Goebel, Hopper and Kamen) and 3 opposed (Taylor, Rising and Gragg). Gardenhire and Bayouth were absent.

COMMISSIONERS PROCEEDINGS

2170

July 1, 1975

ZONE CHANGE
west side Amidon
Z-1683 & DP-23

Z-1683 and DP-23 - zone change from multiple family dwelling district to office and light commercial on the west side of Amidon in an area north of the Arkansas River presented.

Planning Commission recommends that the zone change request be approved and the amendment to the CUP be approved subject to platting of parcels 6 and 8 within one year, a decrease in the floor area ratio for office development in parcel 8 and other standard platting conditions, and more specifically set out in the Planning Commissions minutes of June 12, 1975.

It is noted that this is the third consideration of this request by the City Commission.

Jack Galbraith

Jack Galbraith, Chief Planner, reviewed the zone change request and outlined the proposed CUP amendment in detail which would allow for additional "LC" adjacent to Amidon between the present commercial area and the river and "BB" office district to the west. He pointed out that in March this application was considered and a 24% protest petition was filed by the property owners directly to the east. When it was returned to the Planning Commission the plan was amended and "BB" zoning was requested for the one tract. Protest petitions were again filed and were calculated to be 13.16% which does not require a 4/5 vote to approve this change.

Discussion

Discussion was had regarding the necessity for additional parking.

Everett Fettis

Everett Fettis, attorney for the applicant, stated in answer to the Commission that agreement had been reached between the applicant and Hanson Development Company regarding the free flow of traffic between the area to the north and the south and throughout the Marina Lakes Center and further, that mutual parking will be allowed on the "LC" area being requested and the area to the north. He also stated that Hanson Development Company representative had previously indicated that if the area to the south was developed for apartments as presently zoned there would be no chance in the future to solving the traffic flow problem nor their additional parking needs.

Jack Galbraith

Mr. Galbraith pointed out that the request, if approved, will allow for 111,000 square feet of additional retail floor area which will also require parking space. He pointed out that an access and utility easement along the west side of Amidon north from the southern access point will provide for traffic flow into the area. He also stated that control can be made for parking there at the time of platting and location of the building.

Everett Fettis

Mr. Fettis stated that they would be agreeable to a 100 foot setback from the north line of the requested "LC" area.

Shanahan's motion

Shanahan move that the application be denied.

Stevens' motion

Stevens moved a substitute motion that the zone change and CUP be approved as recommended by the MARC subject to the recommended conditions and the Planning Department be instructed to forward the ordinance for first reading when the plat is forwarded to the City Commission showing a 100 foot setback south from the north line of the requested "LC" area.

Comm. Casado

Commissioner Casado stated that he could only support 50,000 square feet of retail floor area in order to provide more parking area.

COMMISSIONERS PROCEEDINGS

July 1, 1975

2171

Mr. Fettis in ans. to Comm. Stevens	In answer to inquiry by Comm. Stevens, Mr. Fettis stated that 50,000 square feet for retail area would be acceptable if the balance would be allowed for office construction. Mr. Fettis also stated that the triangle on the south of the access road could be zoned "BB" rather than "LC".
Casado's motion	Casado moved an amendment to the substitute motion that the light commercial be limited to 50,000 square feet in Parcel 6 and "BB" office space be granted for the balance.
H. D. Bledsoe	H. D. Bledsoe stated that they would landscape the area as required by the Planning Commission or they would use their own landscape design. He stated that 50,000 square feet of retail area would be satisfactory as well as deleting the "LC" on the triangle portion.
Joan Shearer	Joan Shearer, 2433 Benjamin Drive, recommended that the Commission deny the request at this time and the Commission establish a policy for development along the river before further zoning is granted.
Comm. Donnell	Commissioner Donnell stated that he could not vote to approve the "BB" zoning along the river as he would like to see a total area development plan without much increase in light commercial zone.
Paul Graves	In discussing the traffic generation, Paul Graves, Traffic Manager, stated in answer to inquiry by the Commission that "BB" office district would generate about 20 trips a day while apartment development would generate 8.
Casado's motion-- --failed	Commissioner Casado's amendment failed 2 to 3. Donnell, Shanahan, Peters, "NO".
Discussion	Discussion was had regarding maintenance of the river bank area.
Motion-- --carried	Shanahan moved a substitute motion that the question be called on the substitute motion. Motion carried 5 to 0.
Stevens' motion-- --failed	Commissioner Stevens' substitute motion failed 1 to 4. Casado, Donnell, Shanahan, Peters, "NO".
Motion-- --carried	Commissioner Shanahan's original motion to deny the application carried 4 to 1. Stevens "NO".

WICHITA-SEDCWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT

MPPC HEARING DATE: Oct. 9, 1975

Case No. Z-1739 and
DP-23

Request: "B" to "LC" and Amendment
to Marine Lake CUP

Location: South side of 21st Street between Sweetbriar
and Marigold as extended

Reason: "This parcel is a 2.2 acre tract bordered by a lake on the south and west, LC property on the east and controlled access on the north. It cannot be economically developed for any use other than LC. The property has been idle and unused for several years under B zoning classification which is unrealistic in terms of location and characteristics of the subject property. The property meets LC zoning criteria and is located in an approved CUP for which an appropriate modification is being made in conjunction with this application. The owner feels it should be permitted to utilize its land in accordance with its best and most advantageous use."

Acres: 2.2

Size: 300 ft. by 325 ft.

	<u>Land Use</u>	<u>Zoning</u>
Existing	Undeveloped	"B"
North	Single-family & duplex	"AA" & "A"
East	Convenience food, store, restaurants & parking	"LC"
South	Lake	"AA"
West	Lake	"AA"

Street rights-of-way are adequate.
History: History detailed in staff report.

Platted: Yes
Sidewalk: Guaranteed by petition

HISTORY

Z-0824 and DP-23 were two zone and Community Unit Plan applications for the entire area of the former Doles sandpit area of approximately 60 acres which the Planning Commission considered in 1967. Approximately 37 acres were requested for "LC" and "C" and 24.5 acres were requested for "B". A Community Unit Plan was submitted for both the commercial and residential parts. The Planning Commission recommended denial, without prejudice; however, after the City Commission heard the case, approximately 8 acres of "LC" and 22 acres of "B" was approved. The situation at that time hinged on the impact of traffic on the arterial system.

Page 2 - Case No. Z-1739 and
Case No. DP-23
October 9, 1975

On December 12, 1968, the Planning Commission considered an application for an amendment to the CUP and request for an increase of Parcel 1 from 3.57 acres to 9.13 acres of light commercial zoning (Z-1032). Action of the Planning Commission was to recommend denial of both applications. The Board of City Commissioners, however, at their meeting of January 21, 1969, approved both applications, subject to certain conditions. Again, the impact of traffic on the arterial system was a prime consideration. (See attached MAPC minutes of November 14, 1968, December 12, 1968, January 9, 1969, and BCC minutes of January 21, 1969 - Attachments 1-A, 1-B, 1-C, and 2.)

On March 11, 1971, the Planning Commission considered an application for an amendment to the CUP and a request for an increase in the area on Parcel 1 from 9.13 acres to 14.94 acres of light commercial zoning. Action of the Planning Commission was to recommend approval of both requests. This recommendation was concurred in by the Board of City Commissioners on March 30, 1971. (See attached Planning Commission minutes of March 19, 1971, and City Commission minutes of March 30, 1971 - Attachments 3 and 4.)

On January 25, 1973, the Planning Commission considered an application for an amendment to the CUP and a request for an additional amount of light commercial zoning - approximately 7.33 acres and an approximate 5.75 acres of "BB" Office zoning. Action of the Planning Commission was to recommend approval of both requests; however, both applications were denied by the City Commission on March 20, 1973. (See attached Planning Commission minutes of January 25, 1973 and March 8, 1973, and City Commission minutes of February 27, 1973 and March 20, 1973 - Attachments 5, 6, 7 and 8.)

On September 4, 1973, as an off-agenda item, the Board of City Commissioners considered the matter of litigation and zoning relative to Marina Lakes, Inc. The action of the City Commission was to permit the applicant to refile the application without cost, conditioned upon the litigation being ended by dismissal of the suit and payment of the court costs by Marina Lake Drive, Inc.

Based on this action, the zone case and CUP were advertised for hearing and notices mailed without cost to the applicant. Specifically, the applicant requested approximately 7.33 acres of "LC" zoning and an additional 5.75 acres for "BB" Office zoning. On October 11, 1973, the Planning Commission considered and unanimously recommended approval of both requests, however, the City Commission referred the cases back to the Planning Commission for reconsideration. The Planning Commission reconsidered the cases on November 26, 1973 and recommended by a vote of 5 in favor and 1 opposed, the approval of both requests. The action of the City Commission was to deny both applications on December 11, 1973. (See attached Planning Commission minutes of October 11, 1973 and November 26, 1973, and City Commission minutes of October 30, 1973 and December 11, 1973 - Attachments 9, 10, 11 and 12.)

On February 13, 1975, the MAPC considered and recommended approval of a request to amend the CUP and change the zoning on Parcel 6 (adjacent to Amidon), to the "LC" Light Commercial District (Z-1683); however, the Board of City Commissioners returned the case to the MAPC for reconsideration. An amended request was considered twice more by the MAPC, which recommended approval of the application; however, on July 1, 1975, the Board of City Commissioners denied the request for additional "LC" Light Commercial zoning. (See attached MAPC minutes of February 13, 1975; April 10, 1975; June 12, 1975; and City Commission minutes of March 11, 1975; April 29, 1975; July 1, 1975 - Attachments 13-17.)

Staff Comments

1. The applicant is now requesting a zone change from the "B" Multiple Family District to the "LC" Light Commercial District on a 2.2 acre tract listed as Parcel 5 on the CUP, and the CUP amendment as submitted proposes increasing the maximum building height on Parcel 5 from 35 feet to 65 feet, with a change in the proposed uses for Parcel 5 from "medical offices" to "light commercial per ordinance, except public garages, body or fender shops, public parking or storage lots will not be permitted." The proposed gross floor area is 43,875 square feet.

Since the filing of the applications, the applicant's attorney has advised by letter that they are agreeable to the 35-foot height limitation and are changing the proposed uses to reflect "light commercial per ordinance."
2. The primary issue relating to this application is the further "strip zoning" of 21st Street North. At present, the "LC" District extends to Sweetbriar Street on the north side of 21st Street and to the east side of subject property on the south side of 21st. From that point west until the southwest corner of 21st and McComas, there is no additional commercial zoning and quality single family and two family residences are located directly across from subject property on the north side of 21st. The granting of this request could reasonably be expected to trigger the pattern which has occurred in other parts of the City, such as South Seneca, whereby the street ultimately becomes stripped out and non-compatible uses are introduced adjacent to single family homes.
3. Although there is some merit to the argument that the lake to the west of subject property provides an excellent buffer, the unrestricted spread of commercial uses to subject property will ultimately lead to other applications on the north side of 21st as has occurred elsewhere in the City. The original intent of the Community Unit Plan concept was to provide for well planned and well organized development, and was not to promote strip zoning on a larger scale. To accomplish the intent, it is necessary to provide specific use limitations, landscaping, intensity controls and other amenities in order to lessen the impact of

large scale developments. The uses permitted in the "LC" District range from those, such as drive-in restaurants whose external effects are incompatible with residential neighborhoods, to other uses, such as financial institutions, offices or studios, which can be a buffer or transition area between residential and more intensive uses.

If the number of buildings was limited to one and if specific use limitations were proposed by the applicant in the text of the CUP, the potential for strip zoning represented by this application could be substantially reduced. The applicant, however, has proposed that the full range of light commercial uses be permitted on subject property.

4. The impact of this request on traffic flows in the area could either be negligible or major, depending on the uses permitted, but the "strip zoning" of 21st Street to the west will further overload and impact the major intersection of 21st and Amidon. All of the arguments on traffic generations and congestion have been substantially presented in the past and are found in previous minutes.
5. Inasmuch as there have been a number of additions and amendments to the Code of the City of Wichita since this CUP was last approved in March, 1971, the following additions or changes should be made on the plan:
 - a) Amend general provision #1 to read as follows: "Sign control - Signs as permitted by the zoning district."
 - b) Delete comment #6 under Parcel #7 as this will be controlled by amended G.P. #1 above.
 - c) Add a general provision #7 to read as follows: "Firelane easements shall be provided in accordance with Section 15.01.055 Code of the City of Wichita."

The applicant's attorney has advised in his letter that he isn't certain as to whether they can alter provisions other than those specific conditions relating to Parcel #5 contained in this application, as these changes would affect other parcels not owned by his client.

6. This is the sixth amendment proposed for the Marina Lake CUP since 1968 and as a result of deletions, additions and amendments, the texts for individual parcels are out of order, notations are in the margins, and in some instances the text is difficult to read. The intent of any plans is to provide accurate, concise information in a legible form and the applicant should be required to have the CUP redrawn in order to provide clear, legible copies.
7. If the Planning Commission determines that the request for "LC" zoning is proper, consideration should be given to requiring a specific use list so as not to continue the effect of strip type of commercial uses. The following conditions should be considered:

Page 5 - Case No. Z-1739 and
Case No. EP-23
October 9, 1975

- a) Amend the text of Parcel #5 to specifically limit the uses permitted, such as office buildings, medical clinics, financial institutions, laboratories, and studios.
 - b) Provide that the number of buildings shall not exceed one.
 - c) The applicant shall provide clear legible copies of the CUP, with the text of the parcels being in order.
 - d) General Provision #2 shall be amended to provide a waiver of the screening and landscaping requirement on the south and west lines of Parcel #5.
-

21A+B

2606 Bob White
Wichita, Kansas 67204

October 8, 1975

Wichita - Sedgwick County
Metropolitan Area Planning Commission
104 South Main
Wichita, Kansas 67202

Re: Case No. Z-1739 - Zone Change from "B" Multiple-Family Dwelling District to "LC" Light Commercial District, Lot 3, Marina Lake 4th Addition, Sedgwick County, Kansas.

and

DP-23 - All of Government Lot 1, in the NW/4 of Sec. 7, Twp. 27S, R1E, except that part of said Government Lot 1 which has been dedicated for public streets.

Gentlemen:

Surely the time has come when enough is enough. It can hardly be said that the manner in which the southwest corner of 21st Street North and Amidon has been developed has enhanced the area. From early proposals for the development of the area and architectural sketches of a proposed development which took advantage of the natural beauty and development potential of the sandpit in the area, this development has deteriorated to the type of cheap commercial development normally found adjoining and only appropriate to a major commercial highway. While this type of commercial development may arguably be appropriate to the immediate area of a major intersection such as 21st and Amidon, it should not be allowed to extend farther away from the intersection into established residential areas.

As the development of the area now exists, Sweetbriar Street is the western boundary of the commercial development at the corner of 21st and Amidon. To the west of Sweetbriar on the north side of 21st Street are some very nice single-family



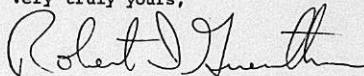
MAPC
Page Two
October 8, 1975

dwellings with a few very nice two-family dwellings. The farther west you go from Sweetbriar, the nicer and more expensive the homes become. The above proposal that Lot 3 be rezoned to light commercial would allow the same type of cheap commercial development to be placed on the south side of 21st Street immediately across from some rather nice homes.

My additional fear is that once an initial step is made by the Planning Commission to allow commercial development to escape west from its present confines it will each time be easier for the developer to argue that 21st Street should be zoned completely commercial on both sides. This would have an extremely deleterious effect on the neighborhood to the north of 21st Street because, although 21st Street is admittedly a busy thoroughfare, there is a substantial amount of quality residential development on both sides of 21st which should not be done away with in favor of commercial development.

Although I do not believe that very many of my neighbors have actually taken the trouble to write you, I am aware from discussions I have had with a number of them that they share my views and we all urge you to deny these two requested changes.

Very truly yours,



Robert I. Guenther

Two Rivers Neighborhood Association

2243 Cardinal Drive
Wichita, Kansas 67204
October 7, 1975

Mr. Harlan Kamen
5517 Polo
Wichita, Kansas

Dear Mr. Kamen:

A Marina Lakes rezoning request will again appear on the agenda for the MAPC meeting on Oct. 9. The developers of Marina Lakes continually submit zoning changes to LC and the residents of the neighborhood have from 1967 consistently opposed these efforts to increase commercial activity in this area.

As chairman of the Two Rivers Neighborhood Association committee on traffic and zoning, I assure you, the residents of this area are opposed to this rezoning for the following reasons:

- (1) Traffic congestion. Our area is uniquely hemmed in by the two rivers, the flood control project and the I235 by-pass. Traffic has increased with each new LC rezoning approval, the intersection of 21st and Amidon has been rebuilt several times, 21st has been widened, traffic signals installed and still there are unreasonable delays in traffic movement for several blocks of the intersection.
- (2) No need for more commercial activity. Marina Lakes has several vacancies at the present time, Atlantic Mills is vacant and Sweetbriar has vacancies. The area has sufficient LC zoning to accommodate all the needed goods and services. To approve additional LC zoning would benefit only the speculator land owner, and would not benefit the present business operators, or the neighborhood residents.
- (3) Additional LC strip zoning on 21st, West of Amidon would be detrimental to the existing home owners on 21st Street directly North of the parcel under consideration. These residents purchased homes in a residential area and should not be harmed by rezoning for speculators profit. Multiple family dwelling is the most appropriate use for the remaining property on 21st Street.

We would appreciate your support by rejecting the proposal for additional LC zoning in the Marina Lakes area.

Sincerely,

Oliver R. Anderson
Oliver R. Anderson, Chairman
Traffic and Zoning Committee

RE: AGENDA ITEM NO. 21a & b

WICHITA-SEDCWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT

MPEC HEARING DATE: Oct. 9, 1975

Case No. Z-1739 and
DP-23

Request: "B" to "LC" and Amendment
to Marine Lake CUP

Location: South side of 21st Street between Sweetbriar
and Marigold as extended

Reason: "This parcel is a 2.2 acre tract bordered by a lake on the south and west, LC property on the east and controlled access on the north. It cannot be economically developed for any use other than LC. The property has been idle and unused for several years under B zoning classification which is unrealistic in terms of location and characteristics of the subject property. The property meets LC zoning criteria and is located in an approved CUP for which an appropriate modification is being made in conjunction with this application. The owner feels it should be permitted to utilize its land in accordance with its best and most advantageous use."

Acres: 2.2

Size: 300 ft. by 325 ft.

	Land Use	Zoning
Existing	Undeveloped	"B"
North	Single-family & duplex	"AA" & "A"
East	Convenience food, store, restaurants & parking	"LC"
South	Lake	"AA"
West	Lake	"AA"

Street rights-of-way are adequate.
History: History detailed in staff
report.

Platted: Yes
Sidewalk: Guaranteed by
petition

HISTORY

Z-0824 and DP-23 were two zone and Community Unit Plan applications for the entire area of the former Dolese sandpit area of approximately 60 acres which the Planning Commission considered in 1967. Approximately 37 acres were requested for "LC" and "C" and 24.5 acres were requested for "B". A Community Unit Plan was submitted for both the commercial and residential parts. The Planning Commission recommended denial, without prejudice; however, after the City Commission heard the case, approximately 8 acres of "LC" and 22 acres of "B" was approved. The situation at that time hinged on the impact of traffic on the arterial system.

Page 2 - Case No. Z-1739 and
Case No. DP-23
October 9, 1975

On December 12, 1968, the Planning Commission considered an application for an amendment to the CUP and request for an increase of Parcel 1 from 3.57 acres to 9.13 acres of light commercial zoning (Z-1032). Action of the Planning Commission was to recommend denial of both applications. The Board of City Commissioners, however, at their meeting of January 21, 1969, approved both applications, subject to certain conditions. Again, the impact of traffic on the arterial system was a prima consideration. (See attached MAPC minutes of November 14, 1968, December 12, 1968, January 9, 1969, and BCC minutes of January 21, 1969 - Attachments 1-A, 1-B, 1-C, and 2.)

On March 11, 1971, the Planning Commission considered an application for an amendment to the CUP and a request for an increase in the area on Parcel 1 from 9.13 acres to 14.94 acres of light commercial zoning. Action of the Planning Commission was to recommend approval of both requests. This recommendation was concurred in by the Board of City Commissioners on March 30, 1971. (See attached Planning Commission minutes of March 19, 1971, and City Commission minutes of March 30, 1971 - Attachments 3 and 4.)

On January 25, 1973, the Planning Commission considered an application for an amendment to the CUP and a request for an additional amount of light commercial zoning - approximately 7.33 acres and an approximate 5.75 acres of "BB" Office zoning. Action of the Planning Commission was to recommend approval of both requests; however, both applications were denied by the City Commission on March 20, 1973. (See attached Planning Commission minutes of January 25, 1973 and March 8, 1973, and City Commission minutes of February 27, 1973 and March 20, 1973 - Attachments 5, 6, 7 and 8.)

On September 4, 1973, as an off-agenda item, the Board of City Commissioners considered the matter of litigation and zoning relative to Marina Lakes, Inc. The action of the City Commission was to permit the applicant to refile the application without cost, conditioned upon the litigation being ended by dismissal of the suit and payment of the court costs by Marina Lake Drive, Inc.

Based on this action, the zone case and CUP were advertised for hearing and notices mailed without cost to the applicant. Specifically, the applicant requested approximately 7.33 acres of "LC" zoning and an additional 5.75 acres for "BB" Office zoning. On October 11, 1973, the Planning Commission considered and unanimously recommended approval of both requests, however, the City Commission referred the cases back to the Planning Commission for reconsideration. The Planning Commission reconsidered the cases on November 26, 1973 and recommended by a vote of 5 in favor and 1 opposed, the approval of both requests. The action of the City Commission was to deny both applications on December 11, 1973. (See attached Planning Commission minutes of October 11, 1973 and November 26, 1973, and City Commission minutes of October 30, 1973 and December 11, 1973 - Attachments 9, 10, 11 and 12.)

On February 13, 1975, the MAPC considered and recommended approval of a request to amend the CUP and change the zoning on Parcel 6 (adjacent to Amidon), to the "LC" Light Commercial District (Z-1683); however, the Board of City Commissioners returned the case to the MAPC for reconsideration. An amended request was considered twice more by the MAPC, which recommended approval of the application; however, on July 1, 1975, the Board of City Commissioners denied the request for additional "LC" Light Commercial zoning. (See attached MAPC minutes of February 13, 1975; April 10, 1975; June 12, 1975; and City Commission minutes of March 11, 1975; April 29, 1975; July 1, 1975 - Attachments 13-17.)

Staff Comments

1. The applicant is now requesting a zone change from the "B" Multiple Family District to the "LC" Light Commercial District on a 2.2 acre tract listed as Parcel 5 on the CUP, and the CUP amendment as submitted proposes increasing the maximum building height on Parcel 5 from 35 feet to 65 feet, with a change in the proposed uses for Parcel 5 from "medical offices" to "light commercial per ordinance, except public garages, body or fender shops, public parking or storage lots will not be permitted." The proposed gross floor area is 43,875 square feet.

Since the filing of the applications, the applicant's attorney has advised by letter that they are agreeable to the 35-foot height limitation and are changing the proposed uses to reflect "light commercial per ordinance."

2. The primary issue relating to this application is the further "strip zoning" of 21st Street North. At present, the "LC" District extends to Sweetbriar Street on the north side of 21st Street and to the east side of subject property on the south side of 21st. From that point west until the southwest corner of 21st and McComas, there is no additional commercial zoning and quality single family and two family residences are located directly across from subject property on the north side of 21st. The granting of this request could reasonably be expected to trigger the pattern which has occurred in other parts of the City, such as South Seneca, whereby the street ultimately becomes stripped out and non-compatible uses are introduced adjacent to single family homes.
3. Although there is some merit to the argument that the lake to the west of subject property provides an excellent buffer, the unrestricted spread of commercial uses to subject property will ultimately lead to other applications on the north side of 21st as has occurred elsewhere in the City. The original intent of the Community Unit Plan concept was to provide for well planned and well organized development, and was not to promote strip zoning on a larger scale. To accomplish the intent, it is necessary to provide specific use limitations, landscaping, intensity controls and other amenities in order to lessen the impact of

large scale developments. The uses permitted in the "IC" District range from those, such as drive-in restaurants whose external effects are incompatible with residential neighborhoods, to other uses, such as financial institutions, offices or studios, which can be a buffer or transition area between residential and more intensive uses.

If the number of buildings was limited to one and if specific use limitations were proposed by the applicant in the text of the CUP, the potential for strip zoning represented by this application could be substantially reduced. The applicant, however, has proposed that the full range of light commercial uses be permitted on subject property.

4. The impact of this request on traffic flows in the area could either be negligible or major, depending on the uses permitted, but the "strip zoning" of 21st Street to the west will further overload and impact the major intersection of 21st and Amidon. All of the arguments on traffic generations and congestion have been substantially presented in the past and are found in previous minutes.
5. Inasmuch as there have been a number of additions and amendments to the Code of the City of Wichita since this CUP was last approved in March, 1971, the following additions or changes should be made on the plan:
 - a) Amend general provision #1 to read as follows: "Sign control - Signs as permitted by the zoning district."
 - b) Delete comment #6 under Parcel #7 as this will be controlled by amended G.P. #1 above.
 - c) Add a general provision #7 to read as follows: "Firelane easements shall be provided in accordance with Section 15.01.055 Code of the City of Wichita."

The applicant's attorney has advised in his letter that he isn't certain as to whether they can alter provisions other than those specific conditions relating to Parcel #5 contained in this application, as these changes would affect other parcels not owned by his client.

6. This is the sixth amendment proposed for the Marina Lake CUP since 1968 and as a result of deletions, additions and amendments, the texts for individual parcels are out of order, notations are in the margins, and in some instances the text is difficult to read. The intent of any plans is to provide accurate, concise information in a legible form and the applicant should be required to have the CUP redrawn in order to provide clear, legible copies.
7. If the Planning Commission determines that the request for "IC" zoning is proper, consideration should be given to requiring a specific use list so as not to continue the effect of strip type of commercial uses. The following conditions should be considered:

Page 5 - Case No. Z-1739 and
Case No. DP-23
October 9, 1975

- a) Amend the text of Parcel #5 to specifically limit the uses permitted, such as office buildings, medical clinics, financial institutions, laboratories, and studios.
- b) Provide that the number of buildings shall not exceed one.
- c) The applicant shall provide clear legible copies of the CUP, with the text of the parcels being in order.
- d) General Provision #2 shall be amended to provide a waiver of the screening and landscaping requirement on the south and west lines of Parcel #5.

(e) *A planting screen 10' in property line do not obscure line
of vision*

13000000

Attachment

Page 13
11-14-68 #1-18

16. S/D 68-111 - Final plat of JABARA ADDITION, generally located on the northwest corner of Murdock and West Street.

MOTION: TROUT moved, KRATZER seconded and it carried unanimously that the Planning Commission recommend to the Board of City Commissioners that this plat be approved, subject to:

1. Approval of the plat is subject to approval of the associated zone case Z-1032.
2. The 8-foot utility easement adjacent to the west line of the plat shall be increased to 10 feet in width.
3. Indicating a 5-foot utility easement adjacent to the north line of the plat.
4. The applicant shall install or guarantee the installation of a sidewalk adjacent to West Street; the total estimated construction cost to be in the amount of \$660.
5. The applicant and/or his engineer shall submit to M. S. Mitchell of the Maintenance Division of the Department of Public Works, a lot grading and drainage plan for subject property. A letter shall be obtained from M. S. Mitchell stating that satisfactory plans have been approved, and a copy of said letter shall be submitted to the Planning Department.
6. Recording within 30 days after approval by the Board of City Commissioners.

ZONING

New Cases

17a. Case No. Z-1037 - Clear Lakes, Inc., et al. request change from "AA" to "IC" for a tract beginning at a point 50 feet west and 400.15 feet south of the northeast corner of Government Lot one in the Northwest Quarter of Section 7, Township 27 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence south parallel to the West easement line of Amidon Avenue 330 feet; thence west 675 feet to a point 730 feet south of the center line of 21st Street; thence north at right angles,

250 feet; thence west at right angles, 460 feet to a point 480 feet south of the center line of 21st Street; thence north at right angles 130 feet; thence east at right angles 460 feet; thence south at right angles 50 feet; thence east 675 feet at right angles to the point of beginning.
Generally located on the south side of 21st Street between Amidon and Meridian.

- 17b. Case No. DP-23 - Clear Lakes, Inc., et al. request approval of an amendment to Marina Lake CUP, as related to property legally described as follows: DP-23 - A tract beginning 75 feet west and 75 feet south of the northeast corner of the northwest quarter of Government Lot 1, Section 7, Township 27 South, Range 1 East of the 6th P.M.; thence south 275 feet; thence east 25 feet; thence south 1515 feet more or less; thence northwesterly and westerly along the left bank of the Arkansas River to the west line of Lot 1; thence north along the west line of said Lot 1 to a point 50 feet south of the northwest corner of said Lot 1; thence east to a point 395 feet west and 25 feet north to the point of beginning; thence south in a southeasterly direction 90 feet more or less to a point 15 feet north to the point of beginning; thence east 30 feet; thence south 15 feet; thence east 275 feet to the point of beginning. Said legal description includes Marina Lake 1st and Marian Lake 2nd Additions, and an area on the west being platted as Marina Lake 3rd Addition. Generally located on the south side of 21st Street between Amidon and Meridian.

BLEDSON said he would abstain from voting and excused himself from the Commission table.

LAKIN pointed out the area on the map and reviewed the following staff report:

History

DP-23 and Z-0824 were two zone and Community Unit Plan applications for the entire area of the former Dolese sandpit area of approximately 60 acres. Approximately 37 acres were requested for "LC" and "C" and 24.5 acres were requested for "B". A Community unit plan was submitted for both the commercial and residential parts. The Planning Commission recommended denial, without prejudice; however, after the City Commission heard the case, nearly 8 acres of "LC" and 22 acres of "B" was approved. The situation at that time hinged on the impact of traffic on the arterial system.

1. Existing land use

Application area and adjoining Marina Lake CUP - vacant, restaurants, service station and ATB (auto supply, tire and battery) store. Adjacent: North - Sweetbriar CUP, service station, medical offices; West - vacant, lake and proposed apartments; South - vacant, river, single-family dwellings; East - Twin Lakes Shopping Center and Atlantic Mills.

2. Requested Changes - Basic issues involved are:

1. Increasing Parcel #1 (at the northeast corner of the tract, from 3.57 acres to 9.13 acres of light commercial zoning.
2. Eliminating basic controls (maximum gross leasable area and maximum building height) on parcels 1 and 4.
3. Increasing allowable sign heights from 30 feet to 45 feet.
4. Increasing the number of access points to the development from both 21st Street and Amidon.

As noted in the history above, the general question of shopping center location has been investigated in depth, including traffic analysis. The following has occurred in the area:

1. Twenty-fifth Street bridge over the Little Arkansas River now open - no perceptible difference in 21st Street or Amidon traffic volumes noted or expected.
2. Twenty-first Street west of Amidon now is designated as an arterial in the Transportation Plan. Part is now being constructed. The balance, including a new bridge over the Big Arkansas River scheduled for 1970. Full effect is unknown but increased traffic volumes on 21st Street and through the 21st Street-Amidon intersection are anticipated.
3. Amidon being reconstructed with additional channelization both north (not started) and south of 21st Street (almost complete).
4. Traffic projections by Burgwin and Martin, the applicant's previous consultant for 1967 (ADT) being substantially surpassed in 1968.
1968

	Burgwin & Martin 1967 Projected ADT	Actual ADT 1968
Amidon, north of 21st	11,970	15,530
Amidon, south of 21st	11,580	11,474* (1966)
21st, east of Amidon	10,940	13,200
21st, west of Amidon	7,700	8,260

*1966 - Only available figure

5. Partial strip type development has occurred on 21st (Parcel 4), additional facilities in Sweetbriar, Twin Lakes and River Bend, in accordance with CUP's approved prior to original consideration of Marina Lakes.
 6. Granting of "BB" Office zoning on south of Twin Lakes complex. Note: This replaces "B" Multiple-family which also allows offices (medical and dental).
3. General Statement on Zoning and Shopping Centers

1. Similar tracts of land should be treated similarly. However, this does not necessarily mean equal amounts. All authorities, including the Urban Land Institute, will state that shopping centers and zoning therefor is different and unique from other zoning districts and uses. A regional center on one corner does not per se create a demand for three additional regional centers. Shopping centers are located on the basis of markets. We cannot, and will not, say the center proposed is or is not economically feasible. However, the former policy (now abandoned) of the Planning Commission that market studies be made as the basis for requesting shopping center approval was, and still appears to be valid. The Urban Land Institute, whose membership is business men in the shopping center and development business, has this to say:

"A shopping center does not in itself generate new business; it distributes existing business and provides for growth. As each new center opens, its business volume comes in part from the central business district and in part from other suburban shopping areas. Until the increases in population and the re-adjustments in shopping habits catch up, additional

retail facilities are justified only by actual increments in population and purchasing power.

"Each new center should be justified on the basis of purchasing power available to it and by gauging the nature of its competition. Without fully taking into consideration the competition both existing and potential, a new center may find itself in competition with all existing retail facilities now serving the population, as well as with any new shopping center that might be built later to serve the same trade area. As Roy Drachman says, "Make a market study before talking seriously about building a shopping center."

"This last observation raises the issue of competition between shopping centers. It also raises a danger signal for competing centers which seemingly are justified, but are basing their supporting purchasing power on duplicate statistics.

"The fact remains that there is just so much spendable income in any municipality or locality. Whether there are too many shopping centers or whether over-development of retail facilities is taking place depends on how thinly the total available spendable income of the community may be divided. Conditions and circumstances indicate that no arbitrary answer can be offered for the arithmetic number of shopping centers that are justified. This conclusion is reached because commercial development follows purchasing power. The growth of the suburbs and the redistribution of commercial areas in urban renewal, plus the changing methods of merchandising and the great convenience of shopping by car, lie behind the phenomenon of the planned shopping center.

"Yet shopping centers can be overdone. The concept has caught on to the extent that nearly every entrepreneur wants to develop a shopping center. In some cities of the country, construction has gone ahead so fast that shopping centers represent a highly competitive business. In such places, the competition is between centers themselves, not between the centers and the established neighborhood or downtown retailers. This competition, combined with high capital costs, means that the developer is allowed to make few mistakes if he

hopes to survive. The philosophy that "if a little is good then a lot is better" does not apply when it comes to putting too many stores or shopping centers too close to each other in one area.

"In the rulebook of the Community Builders Council, caution is the first principle of procedure.

"As Paul Ambrose, Council member from Denver, observes: The economic justification for a shopping center whether it be large or small can only be reached by market analysis. This is a process of expert evaluation of the market to be served, taking into consideration existing retail facilities, future competition and the proposed center, all as related to the purchasing power of the community. It should include detailed knowledge of existing retail businesses and their volumes, estimates of the impact of future competition, the impact of the proposed center and whether or not the community can support all these facilities. It should not contemplate running the other fellow out of business. Overdevelopment of retail facilities often leads to very marginal operations for all. The new center is only justified when existing retail facilities are not adequately serving the market."

2. Compatibility and effect on adjacent uses of land. The proposed changes do not significantly affect any adjacent land uses. Commercial exists north and east. South and southwest is residential (proposed) separated by a lake. Such a buffer would appear satisfactory.
3. Zoning once established needs some overriding reason to justify a change once the governing body makes its legislative determination. In other words, are there sufficient changes in fact or conditions to consider a change. If not, the previous decision should stand.
4. Maximum gross floor areas (GFA) and a maximum height are valid controls and should be retained. All recent CUP's have had such controls. GFA has ranged, however, from .30 to .50 of parcel area. Height should be retained to control shopping centers and their appearance when located near or in residential areas. The GFA is a control on maximum development which can be accommodated (e.g., sewer, water, streets) in a given area.

If no control is to be used, then the market is the only control (cost of parking structure and business vs. returns), irrespective of effect on the community. These controls at least for planning purposes are absolutely necessary.

5. Sign control based on actions of the City Commission upon recommendation of Public Works, is not too critical. Nearly all controls established on East Kellogg to date have been waived or modified. This gives rise to an exercise of whose sign is higher than the next sign. The Planning Department believes that discretion should be used and that sign control is basic to the appearance of the community. It should be noted that all signs in this area have been able to comply with current regulations and CUP's and are 30 feet or less.

Traffic

Comments from both the City Engineer and Traffic Engineer have been received. Other than relatively minor adjustments and guarantees on drives and fencing, the following appear significant:

1. The access on Amidon was acquired from the original owners, the Dolese Co., by the City for the price of paying the cost of paving which would normally be assessed to the west, plus installing fencing. The release of access and provision of additional medial breaks should be on the basis of compensating the City for the cost of paving and interest on the bonds and the cost of any additional reconstruction necessitated thereby. This is in line with action taken by the Planning Commission on Sweetbriar and Twin Lakes (reconstruction costs).
2. The critical and major problem is the 21st Street and Amidon intersection. Because "LC" generates traffic far and above other uses, even offices and apartments, the ability to move traffic through the intersection without creating congestion and a poor level of service is the key as to whether more "LC" should be approved.

The Traffic Engineer advises that although not desirable, the intersection can be made to work - but at a price. For additional "LC", Amidon will have to be widened from 4 to 6 moving lanes, plus channelization at the intersection and all entrances. Double left turn lanes will

be needed on 21st east of Amidon. The extent of the Amidon treatment would need to extend from north of Sweetbriar (between there and 25th Street North) to the bridge across the Big Arkansas River. This will necessitate right-of-way of 120 feet to 132 feet, depending on location of entrances and turning lanes. Existing right-of-way is 80 feet and 125 feet.

If the zoning is approved and satisfactory arrangements or compensation for existing rights and for reconstruction, the main entrance off of Amidon to Marina Lakes should be designed around the suggestions made for Case II Treatment in the Burgwin & Martin Report, e.g., off setting (not opposite) main entrances to Twin Lakes and Marina Lakes without signalization. The proposal for direct opposite entrances to both Marina Lakes and Twin Lakes even with signalization is unsatisfactory due to the proximity to 21st and the heavy demand of south bound traffic from the east.

In discussions with City staff, funds to accomplish such an improvement (no estimate of costs have been made) are not available unless other CIP projects are set aside.

The City cannot afford to make an error with this intersection. Amidon, due to the two rivers and flood control, is the only north-south street available. It is like no other area in town. No alternates are available. The downtown has many more streets, hence more capacity with twice as much retail space where this area with half the downtown retail area must rely on only two streets. The margin for error is getting thin and if it is misjudged then not only does the City lose, but so will all the commercial ventures in the area when the street system breaks down.

Conclusion

Conditions have not changed significantly from known previous proposals. Those that have changed will tend to further load the intersection of 21st and Amidon. The governing body has already made the decision on the issue of additional light commercial vs. increased cost to the public for reconstruction of the 21st Street and Amidon intersection. It is recognized that the City has an obligation to provide basic arterial construction as a function of implementing the Comprehensive Plan. However, unless the applicant, as others in this area have done and have been required to do, underwrites the basic costs (land and reconstruction) of

those facilities above and beyond the normal arterial construction standards required to service additional development, it is recommended that the application not be approved.

However, in the event the Planning Commission and the governing body have in the last two years, changed their position on the public policy; and thus wish to approve the application or part thereof, then it is requested that action on the CUP be deferred two weeks and the applicant, his architect or attorney, resubmit the CUP drawings with the following adjustments:

1. Provide a maximum gross floor area figure for Parcels 1 and 4 not to exceed 40% (parking deck may be excluded).
2. Provide a maximum building height for Parcels 1 and 4.
3. For Parcel 1:
 - a. Adjust setback line between Parcels 1 and 3 on the 21st Street side. Additional stripping of 21st Street is now irrelevant due to the form development is now taking.
 - b. Extend the Amidon setback across the face of Parcel 1.
 - c. Resolve whether the maximum fill line is to remain or move to the parcel line.
 - d. Provide a service road connection from the offset entrance (which would be south of the Twin Lake entrance) to the south portion of Parcel 1.
 - e. Provide additional right-of-way and guarantee for construction of roadways and relocated drainage facilities. Grant a storm sewer easement as needed.
 - f. Move the fencing on Amidon as indicated by the City Engineer.
 - g. Add the following language to provide for a parking structure on Parcel 1:

Setbacks shall be as indicated on the Plan, but shall not refer to any floor of the parking structure. In no event shall any floor of the parking structure exceed a maximum of 8 feet above the grade of Amidon and any such

floor of the parking structure above the grade of Amidon shall maintain a minimum 100-foot setback.

4. For Parcel 4:
 - a. Adjust fill line to coincide with action taken in Parcel 1.
5. Delete medial drawings from CUP and delete detail of access opening construction. Locate by distance.
6. Add to general provisions:

The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the Plan or any portion thereof, but said Plan shall run with the land for commercial and residential development and be binding upon the present owners, their successors and assigns, unless amended.
7. Add to Parcel 2:

Canopies may extend into, and gasoline pumps may be placed in the 35-foot building setback a distance not to exceed twenty (20) feet.
8. If heights are to be raised for signs, add a provision that all signs above 30 feet are to be approved by the Board of City Commissioners after recommendation by the Director of Public Works has been submitted.

VINCENT BOGART, attorney for the applicants, pointed out principally for those to whom notices were sent within 1000 feet of the original CUP, that the requested zoning and amendment to the original CUP, affects only a portion of the entire CUP area, but that under the regulations, all of those within 1000 feet of the original CUP were notified by mail current applications. He pointed out that at the intersection of 21st Street and Amidon, Sweetbriar was the first CUP, Twin Lakes (1964) and Marina Lakes (subject property) in 1967, and that all have requested several amendments to their originally approved CUP. One change on the Twin Lakes CUP represented an increase of "LC" zoning of about the same area as now being requested in Z-1037. He commented that in the original Marina Lakes CUP more "LC" was requested than was subsequently granted. His client now has the financing as well as proposed uses for development of subject area

including the amendment being proposed.

BOGART referred to the staff suggestion that a market analysis was desirable and reminded the Commission that any such requirement was determined to be unnecessary and of no value so far as whether additional "LC" was logical in an area; this policy being determined several years ago when a CUP for Rock Road Improvement Company was considered. Reference was made by BOGART to the fact that development at subject intersection has developed about as indicated in a private market analysis made in 1964. BOGART continued that the City has gone to great length to encourage new industrial development by granting industrial revenue bonds, but that his clients are prepared to develop subject property and have such construction go on the tax rolls immediately. He noted that it has been estimated that 20% of Boeing's payroll is to out-of-County employees and that one out of every 6 cars at Twin Lakes is out-of County. He considered the development as proposed would add to the non-residents shopping at the subject area in general. BOGART referred to the talk about a City sales tax and the fact that if such is passed a center such as proposed would increase the amount of revenue to be derived from such a source.

BOGART noted that if "LC" is to be granted anywhere, what better place is there than where streets are constructed with such in mind, where the demand has already been established, where financing is available, and where the developer desires to build one of the finest centers in the State. In respect to the staff's comment that there must be some overriding reason to justify a change once zoning takes place, BOGART felt that such might be true in the initial establishment of zoning but is not applicable in this case where light commercial development has already occurred. BOGART felt that shopping centers should receive equal treatment, and in this area the original Twin Lakes CUP has been amended to allow 6 acres more of light commercial zoning.

BOGART referred to the maximum gross leasable area involved, and said that this is 30% regardless of the net area, e.g., that is the most that can be used for building; then another figure represents the maximum amount of floor area that may be utilized in such a building. He said that he had examined most of the CUP's and they contain various wording in this respect -- some say maximum gross area, and Twin Lakes CUP indicates approximate gross floor area, but the figure of 45% has not been utilized until this application was made -- it has always been in square

feet. BOGART continued that the first plan of Twin Lakes called for 438,467 square feet and their actual gross floor area was 300,000 or approximately 70% could be utilized in floor area. He stated that he understands from the Planning Department that this is a figure submitted by the developer and it is a matter of judgment as to whether that figure should be approved. He pointed out that the floor area is going to already be limited because only 30% of the area can be covered by buildings and the limitation as to height of a structure. He felt that there should not be further limitation as to useable floor area, and he recommended that it be 50% in this case of the gross leasable area.

In regard to height construction, the CUP plan limits it to 65 feet in the Ordinance and has been submitted; however the ordinance limits the height to something over 80 feet in Light Commercial and they have asked for an increase of 15% in height from the original CUP. It was his feeling that this would permit better utilization of the open space and recreational area.

BOGART pointed out that they have asked approval of a sign 45 feet in height and while the staff has not necessarily accepted such a height, it has indicated that if anything above 30 feet should be approved by the City Commission upon such recommendation from the Public Works Department.

BOGART next referred to the matter of curb cuts, and pointed out that the one suggested by the staff at the southern portion of the Clear Lakes CUP area, would not be located on his client's property. It is their request that the curb cut be allowed directly across from the one into Twin Lakes since there is a break in the medial there. He referred to the fact that access was condemned at one time along the west side of Amidon and it was his opinion that the cost of condemning was a great deal less than it would be today with the present type of uses in the area, and that the development presently on the west side of Amidon and that proposed by this application would more than reimburse the City through taxes for the cost of condemnation of access and right-of-way. BOGART considered this transaction between the then owner of the property and the City a mistake on the part of the past owner who did not realize the potential for development at this location. He did consider the curb cut requested on Amidon as absolutely necessary for the full utilization of the proposed extension of Light Commercial and he considered it a logical place for such a break to occur.

BOGART pointed out that since the original curb cuts were installed and right-of-way and access was condemned that the Derby service station on the SE corner of the intersection has been given an access to Amidon and the barrier between the Twin Lakes parking lot and the Derby station has been removed so that, in affect, Twin Lakes now has another access to Amidon which is much closer to the intersection of 21st and Amidon than the one his client is requesting.

BOGART continued that if access is given on Amidon as they have requested they prefer it be 550 feet south of 21st Street and that if traffic movement at this point required a signalized intersection, then such could be installed. He pointed out that the City did establish two access points across from one another farther to the south in this area and he reasoned that if such was consistent then the same treatment would be consistent at the curb cut they are requesting. He repeated the fact that the curb cut recommended would not relate to property owned by his client and thus, would be of no value to him.

BOGART referred to the traffic factor, nothing that traffic si created by people and development in this area is drawing people to it, and the City, by reason of promoting the Civic Center and cultural facilities of the City, has attempted to bring people into the city, and if traffic did not increase then the City will not have succeeded in its venture. He pointed out that surely if Boeing increased its facilities and as a result generated additional traffic, surely the Commission would not recommend against expansion of Boeing facilities. He commented that he has heard that this is the finest planned intersection in the City and if that is true then what better place is there to put a development such as proposed. In discussing the traffic problem, BOGART asked the Commissioners to remember that despite that problem, Twin Lakes was allowed additional light commercial zoning, and that Sears Roebuck is expected to expand its facility in Twin Lakes by 70,000 square feet.

BOGART maintained that it is not merely the amount of traffic, be it 12,000 or 15,000, that determines whether or not a commercial area should be established; but it is the market area and to some degree where people want to live. He noted that the 25th Street bridge will tend to increase traffic. He pointed out that this intersection was planned based on the traffic study of 1964, which indicated that traffic would increase as it has. He suggested that what is proposed would be something the northwest area and the entire City would be proud of and would attract people from 75 to 100 miles away. He noted also that it would provide

increased revenue for the City. He admitted that there are traffic problems but considered such is caused by increased growth. He said that no one is more interested in good traffic movement than businessmen in the area and compared the present condition of this area with it 15 years ago when there was no development.

The meeting was recessed for 5 minutes, after which it reconvened in the same Room with the same Planning Commission members present.

HOWARD SCOTT, Consolidated Realty, Inc., agreed that there are traffic problems at times, but commented that there is certain to be such related to a shopping center and he did not think the Commission should consider the traffic at this time as a deterrent to granting of zoning. He continued that as pointed out previously, the land is valueless as long as it is undeveloped, and said that at this time there are tenants, both national and local, ready, willing and able to spend money to build and improve the property.

ANNA McLEAN, owner of the land at Sweetbriar Shopping Center, spoke in support of the request. She felt that it would be of benefit to all merchants in the shopping centers at this location. She inquired what would happen in New York City if development was discouraged because of traffic congestion. She noted also that Houston, Texas has no channelization of traffic or medial strips and yet it is one of the most progressive cities in the country.

CHARLES HARRIS, attorney representing Twin Lakes Shopping Center, spoke in opposition. For the benefit of Commissioners who might not be familiar with the background of subject area, he reviewed some of the previous events. He recalled that 10 or 12 years ago there was not any adequate street facility of any kind serving northwest Wichita, but through continuing efforts on the part of various City officials and departments, McLean Boulevard was extended and over the years to a relatively high standard. During that time there were numerous requests for zoning and access, but access was denied in order to maintain the road for movement of traffic. During the planning of the Boulevard, the City decided not to extend it along the river (northwest of 15th and McLean) but instead to build the bridge over the River at Amidon and north to 21st Street. At that time, subject property was owned by Dolese Brothers and the City made an arrangement with Dolese whereby the City purchased the right-of-way for Amidon and assessed no costs of paving of the street

to Dolese Brothers. As opposed to this arrangement, Twin Lakes on the east side of Amidon, not only dedicated the needed right-of-way for Amidon but were required to pay both the normal and extra assessment for wider paving, and in addition voluntarily limited access to the twin Lakes area.

HARRIS maintained that starting from the beginning there has been a difference between the two areas. He pointed out that this Commission considered the matter of zoning on the Marina Lake area two years ago at which time there was much argument and discussion, and many of the same arguments have been made at this time as were made two years ago.

HARRIS agreed with the staff that after a matter has been thoroughly aired before the Planning Commission and City Commission there should be some change in circumstances to justify a different decision, especially so where the ownership has changed as in this case.

HARRIS pointed out that as indicated in a report made by Burgwin and Martin two years ago, traffic has increased, even beyond their projections, and since that time there has been a further investment by people in the area and increased facilities provided. In the Twin Lakes area there has been the new theater, additional apartments, and he continued that as reported by the staff, this has been a planned intersection, based on certain assumptions and certain background which did not include an allowance for additional light commercial as requested. Reference was made also by HARRIS of the fact that reconstruction of the channelization is in process at this time and that Twin Lakes has agreed to move their southern entrance point slightly to the north at the request of the City. Construction is also taking place on 21st Street to result in a 4-lane divided roadway. Thus, at the expense of both the adjoining business and other adjoining property owners, there has been the expense of reconstruction of this planned intersection. Two years ago when the Burgwin and Martin report was submitted, 21st Street was not mentioned as a major arterial west of Amidon; since that time it is planned to construct a bridge on 21st over the Big River and to extend it across the Big Ditch and interstate I-235, which means there will be more traffic at subject intersection. HARRIS noted that the intersection was originally planned and reconstructed to accommodate that which is there now or that has already been granted.

HARRIS pointed out also that the original request on Marina Lake was not turned down completely, but the applicant was granted 8 acres of light commercial and other area for "B" zoning, yet at this time there is very little development on that area,

so there is still plenty of light commercial zoning at Marina Lake to permit additional retail development.

HARRIS said that while he is representing Twin Lakes in opposition, there are merchants and residents in the area who are also opposed, and it was his belief that all opposition focuses around the problem of traffic movement. HARRIS continued that this area is different from any other intersection in the City because it is "trapped" between the Big and Little Rivers and I-235 and there are only limited ways for ingress and access. He reviewed the fact that there is the Amidon Street bridge and from the west there is 21st Street or I-235 to 25th Street and then to Amidon.

HARRIS felt there would only be two possibilities for relieving this intersection -- a bridge on St. Paul or a new bridge on Garland. He pointed out that the staff report has pointed out that this general area has almost half the retail floor space as the downtown area and all traffic must pass through this one intersection whereas downtown has numerous streets in all directions serving it.

HARRIS continued that the staff has indicated that to handle traffic (if additional access is granted on 21st and Amidon and a 3/4 to 3 million dollar center is constructed as proposed by the applicant) it would necessitate 6 lanes for moving traffic on both 21st and Amidon and will require a double left turn bay. HARRIS stated that not only will there be the cost of construction and right-of-way, but also the area will be torn up and unuseable for an extended period of time. He continued that the staff suggestion that the applicant pay the cost of such improvement appears equitable, he doubted if it would ever come to pass. HARRIS quickly considered the additional right-of-way needed and cost for construction and the serious damage which would occur to both the shopping center and the service station, roughly estimated it would involve at least 1/2 million dollars. It was his suggestion that once the applicant submits detailed plans, the claim will be made that such a requirement should not be made when only a mere 6 acres of additional zoning is involved. HARRIS noted that the staff report indicates the City has no money available for such improvement -- it would mean taking something else out of the present Capital Improvement Program to do this improvement. He questioned, too, whether the City at large should be required to pay even the City's usual share to build an intersection to serve what can be called speculative ventures three times in a 5 to 6 year period.

HARRIS said he agreed with Mr. Bogart's statement that this is a good market area, and it has developed as such because the City has expended substantial sums of money to bring traffic to the area through the construction of McLean Boulevard, the Amidon Street bridge, 25th Street bridge, etcl, and further, the development of Twin Lakes has created a special "draw" to this area. He agreed that there is probably plenty of market in the area but it appeared to him and his client that to permit what is requested would tend to destroy what presently exists.

HARRIS submitted photos showing the traffic congestion at various times at this intersection and noted that certain traffic movements, particularly left turn movements, are already in excess as much as 100% of their efficiency. A brochure of the Twin Lakes area was submitted showing the development originally and later development and it was pointed out that the developers plan a garden type office building on the property recently approved for "BB" rather than a high rise building as previously planned, and that it is expected that there would be less traffic from the garden type offices than from high rise office buildings.

HARRIS referred to the fact that the applicant desires access opposite that of Twin Lakes on Amidon. He stated that this is the main entrance to Twin Lakes from Amidon and that there is a terrific traffic build up there now and to grant entrance to subject property at the same point would result in an intolerable situation. He asked that (if additional zoning is granted), the access to Amidon be in an area farther to the south, and it was his further suggestion that if access is granted to the south, then the applicant construct a service road on their own property the same as is being done on the Twin Lakes area at present.

HARRIS closed his remarks by saying that is is a very special problem area and that various factors have been threshed out in great detail before; there is no justification, no change in circumstances that would justify granting additional light commercial; it was denied previously and it is not any more feasible now than when it was previously turned down.

PAUL GRAVES, Traffic Engineer, showed aerial photographs of the area and reviewed the present street improvements under construction in the area, and referred to more improvements planned for 21st Street to the east of Amidon (Coolidge, Woodrow, etc.).

He then referred to the requested access to Amidon and it was his suggestion that it be located (if granted) about 550 feet south of the present main Twin Lakes entrance. He said that a T intersection has much less vehicular conflict points than a regular intersection such as at 21st and Amidon, and that if and when a signal becomes necessary, traffic moving north or south on Amidon can be more easily accomplished with an off-set intersection than with regular intersection. He maintained that this area is unique and that it is not comparable to Rock Road and Kellogg as someone had inferred and he surmised that there is not any street in Wichita which could handle the traffic volume at this intersection efficiently. GRAVES said it was his suggestion that Amidon be widened to 6 lanes from some point south of 25th Street through the intersection and narrowed down as it goes to the south and that 21st Street west of Amidon be 6 lanes to approximately Meridian and to the east that 21st be reconstructed to 6 lanes beginning at the Little River bridge. He said that his recommendation is based on studies conducted by his Division and the Planning Department staff.

TROUT asked what happened to traffic in going from 6 lanes down to 4, and GRAVES said the key is in the intersection signalization -- where 50% time for east-west and north-south, so need more lanes to store cars and provide more lanes for turns but farther away from the intersection 4 lanes can handle the traffic. TROUT asked if it wouldn't be reasonable to expect less traffic count on Amidon at 21st since the opening of the bridge on 25th Street and GRAVES indicated it would be somewhat higher because of the traffic from the south.

KRATZER referred to traffic on East Kellogg where there are 4 lanes and a medial and asked how it compared with the traffic at the area under discussion.

A recess was declared for changing of tape.

GRAVES stated that 4 lanes with a medial will carry more traffic than 6 lanes without a medial and he pointed out that traffic accidents have practically been eliminated in the section of Kellogg referred to because there are less traffic conflicts and traffic does move more efficiently.

JACKSON referred to the Burwin & Martin report and in the discussion of that report, GRAVES said that what is being contemplated now in number of square feet has approximately the same effect as was discussed before. JACKSON also questioned the feasibility of a T-intersection over a regular intersection.

page 31
11-14-68

GRAVES reviewed the number of conflicts associated with the present access from Twin Lakes to Amidon (2 lanes from the south, 2 lanes from the north and a left turn movement from the north) and pointed out that the number of possible traffic conflicts would be increased to possibly 16 when one considers the traffic movement into and out of an area on the west side of Amidon with an entranceway directly opposite the one at Twin Lakes.

GRAVES pointed out that at present a motorist leaving Twin Lakes has difficulty gaining access to Amidon to go south. He continued that if signals can be placed as much as 550 feet apart, the entire system functions much more efficiently. He felt that to have both access points opposite would necessitate a signalized intersection which he thought would be a deterrant to movement of traffic on Amidon. He stated that if the access points are separated and they both have to be signalized it would also reduce the movement of traffic on Amidon considerably. Graves referred to the access on the west side of Amidon just north of the Little River bridge and the fact that it was placed directly opposite the one to Twin Lakes on the east. He said that it was not expected that there would be the volume of traffic at this point that could not be handled by non-signalized left turn bays.

GOEBEL referred to the need for more through north-south streets and asked if the City had any plans to develop such. He felt that the principal reason the northwest area had been slow to develop was because of the lack of streets, and now the need has developed but still no adequate street system has been provided.

GRAVES noted that 25th Street will handle some traffic to the I-235 bypass, and said there has been some thought of possibly extending Waco in a realignment to tie into Arkansas curving from north of 21st Street. GOEBEL considered it foolish not to plan on opening up other streets, particularly if a bridge should be destroyed there would be less means of ingress and egress to the northwest area. He thought that very likely some people who use 21st or Amidon now would just as soon stay away from them if there was another method of getting to their destination. He felt the Commission should recommend that serious consideration be given to providing more north-south streets as traffic carriers.

DALE KIDWELL, attorney representing Henry's Clothing Company, spoke in opposition. He said their store is directly in front of the access from Amidon and that they are much concerned with the present situation so far as approach from Amidon, and felt that if another access is permitted from the west at this same location they would suffer tremendously in the volume because of the curtailment of the flow of traffic off of Amidon to their store.

ROBERT SCHEER, representing himself and, unofficially, some of the other residents in the area, spoke in opposition. He said they were quite concerned and that he has obtained the signatures of 119 people on a protest petition. He stressed the fact that the traffic in this area is fantastic and felt that the Commissioners probably do not understand just how bad it is or how hard it is to get out

to Amidon or 21st Street from the residential area to the northwest. He said that within the last year when shopping center facilities were increased in the area, the traffic has become unbelievably worse. Mr. SCHEER pointed out that with the construction of medials on the major streets, the residents are required to drive by a grade school in order to gain access to a major street which makes a bad situation so far as safety of children is concerned. He referred to the difficulty now in attempting to get onto Amidon and then to I-235, when one has to make a left turn across four lanes of traffic. He pointed out that their residential area is hemmed in by three busy streets and the River and that their position is almost untenable. Mr. SCHEER commented that this request is by a small group of people with business interest and, while he is in favor of private enterprise, in this particular case it would be stepping on the toes of the residents, not only of those in this area but through increased taxes for everybody in Wichita because of road improvements required. He questioned whether the City should do anything which would increase taxes for the city as a whole so that a small group of people can increase their monetary gains. It was his suggestion that if the developers have money to invest it be done at some other location to provide shopping facilities in an area where needed rather than here.

GOEBEL noted that there was much opposition two years ago when Marina Lake request was first heard and asked why the opposers were not present when Twin Lakes increased their light commercial zoning. It was pointed out that they were not within the official distance to have received notices. Mr. SCHEER said they were opposed to any increase of commercial zoning in the area in general. He commented that when he moved to his home 14 years ago there was no shopping center at all and they were happy when one was built, but they do not need four.

GOEBEL said he wished one would be built in his area since they are taxed far heavier than a residential area, and thus would contribute to the tax revenue and possibly lower the mill levy for all. He continued that a city without commercial or industry is nothing, and he suggested the people in subject area might also consider that with commercial uses, their own taxes might be less.

Mr. SCHEER agreed that Mr. Goebel's statements were probably right, but he did not feel it would make any difference in his taxes whether light commercial was developed in the neighborhood or not. He continued that the number of children in the school in the area has decreased and if the subject area could be developed as apartments or private residences, the school could accept the children. He asked the Commissioners to take into account the people in the neighborhood and to carefully consider this matter from their standpoint in making a decision.

Mrs. A. F. SIMON, a resident in the area, asked how one of the Planning Commissioners (Bledsoe - one of the applicants) could make this application after it was objected to by the residents and was denied two years ago. She asked "Why does he feel that he personally can get this approved?"

TROUT said that Mr. Bledsoe has a right to present an application for rezoning the same as any other citizen. He commented that the Commission frequently has cases on the same area when ownership has changed and that this is not a matter of who is involved so far as he is concerned.

Mrs. SIMON pointed out that Mr. Bledsoe became involved with this property after he became a member of the Commission. TROUT replied that unless one kept his rights to hold property and even seek rezoning, there might be some difficulty in finding people to serve on the Commission. Mrs. SIMON said she hoped the Commission would vote fairly and for the people and not on the basis of friendship.

GOEBEL pointed out that when Marina Lake case was considered before one of the then owners was the Chairman of the Planning Commission at that time. GOEBEL did not see that the Commission could discriminate against one property owner any more than another. GOEBEL said he did not believe Bledsoe bought the property just because he was on the Commission. GOEBEL said that he doesn't pay any attention to whether a man is on the Commission or not.

C. ROBERT BELL, representing Derby Refining Company, said they were concerned because of the possibility of requiring more right-of-way for improvement of the streets and that to require any more from their service station would practically eliminate their use altogether. He said the station has been there a long time and after Amidon was opened it has developed along with the area, it has a high gallonage and it would require a "bunch" of money to acquire it if it came to condemnation or a negotiated sale to the City.

With respect to access to Amidon from this station, Mr. BELL said that the Station was on the east 2/3 of an acre and when Amidon was opened up the City condemned the west 1/3 by ordinary condemnation proceedings (which did not include access) so that the oil company has always maintained that they had access, and through an agreement with the City Commission they do have access but have tried to operate in such a fashion not to add to the problems of the intersection. He said they are always ready to work with the City in resolving any problem that might arise related to this location. He noted that along 21st Street the right-of-way is right up against the station, and to condemn their land would be a real expensive project.

MICHAEL BOLLOMORA, 2245 Bullinger, spoke in opposition. His concern was principally because of the difficulty experienced by residents of the area north of 21st and west of Amidon in gaining access to one of the major streets. He said that they were required to drive through much of the residential area via a zigzag route in order to reach a major street. Also, he was concerned with the fact that much of this traffic must pass by the elementary school and thus is a hazard to the safety of school children.

Mr. BOLLOMORA also indicated that there were already adequate shopping and service type facilities in this area, and asked what could be developed on subject application area that could not be done on light commercial zoning already in the Marina Lakes area.

H. D. BLEDSOE, owner and applicant, spoke in support of his request. He repeated that he does not own the property where the staff has suggested access should be on the west side of Amidon and, therefore, has asked that such access be opposite the one to Twin Lakes on the east side of Amidon. He noted that the consultant's report has indicated the intersection is capable of carrying projected traffic through 1985 which is 16 years hence, and it was his opinion that within 16 years there would probably be many 6-lane major streets in the city. He pointed out that if light commercial is to be denied because of traffic, then there would be no more granted on Broadway, Seneca, Hillside, Kellogg, and other major streets or adjoining shopping centers. He pointed out also that on Rock Road 160 acres of light commercial was granted immediately across the street from a center already established and that it represents more total area than the entire 4 corners of Amidon and 21st Street.

BLEDSOE pointed out that the Burgwin & Martin report was based on a regional center whereas subject application represents only an additional six acres and when such is developed to the fullest, the most they could possibly have would be an additional 400 parking spaces. He stated that at Kellogg and Oliver the traffic count is around 23,000 and that people in that area he felt sure did not like the change. He commented that people in Westlink and Rolling Hills did not like the change when that area was annexed, but that if the City is to grow and prosper we must have changes. BLEDSOE said that at one time West Highway 54 was only two lanes of traffic but that since that time plans have been made for eventually eight lanes of divided traffic. He said that he was at Disneyland recently and that they have 160 acres of parking and about 115,000 people visiting there every day, but when that community built a civic center, it was constructed right across the street from Disneyland. Another example pointed out was the fact that in the Beech traffic analysis report prepared by the

Planning Department, the traffic problem was pointed out but no one would tell Beech they couldn't expand their facilities because of the traffic problem.

Next Mr. BLEDSOE referred to the land values in subject area which he indicated to be from \$750 to \$1,000 per front foot which is a change in values over a few years ago as it was his understanding the sandpit area originally sold for \$48,000. He pointed out that Texaco Company has paid \$80,000 for a service station site at 21st and Amidon which is the most expensive site they have purchased in the State of Kansas and yet only 175 feet away from that there is "AA" zoning. He maintained that as the zoning now exists in the Marina Lake area it is strip zoning in reverse. He maintained that subject property has too much value to remain "AA" zoning or left vacant, and while traffic is a problem it represents people and if the city continues to grow there will be more people. He felt that the traffic problem could be solved but when the day comes that there are no people in the area, then Wichita will be in bad shape.

Referring again to access, BLEDSOE stated that the consultant's suggestion that access points be split on Amidon was based on development of a regional center which is no longer the case -- talking now about only 10 acres on the west side of Amidon. He commented that the zoning had been approved for Marina Lake as originally requested, then a service road could have been built on the private property from the access to the south near the bridge, similar to the service road now being built by Ritchie to serve the Twin Lakes center. He continued that if the entire area is ever so zoned, such a road could then be developed. BLEDSOE felt that if a negative attitude is to be taken then this area or any other area will never grow, and he did not feel that it was reasonable to base approval or disapproval on the traffic situation. He pointed out that downtown traffic did not retard the construction of Wichita Plaza Building, the Garvey Building, etc., and repeated that traffic problems can be solved but if the time ever comes when we don't have people then the City is hurt badly.

CHARLES HARRIS said the fear of Twin Lakes has nothing to do with competition, but when faced with the possibility of condemnation for more street right-of-way they are concerned; it means condemnation costs and raises the question of who is going to pay for it, and it does affect the existing facilities because of right-of-way which might be required from them, (Twin Lakes), but Sweetbriar, Atlantic Mills and the Derby service station. HARRIS said that Twin Lakes does not oppose the establishment of Sweetbriar or Atlantic Mills but that they do believe the staff when they say that to approve this request would make the traffic problem untenable.

Page 37
11-14-68

As to alternate streets, HARRIS agreed there should be some developed but asked that subject area not be garbled up until the City does build those alternate trafficways, and asked that the ability of the present facilities not be destroyed so that it cannot serve the residential and businesses in the area. HARRIS continued that the merchants of Twin Lakes agree that an entrance across from the present one to Twin Lakes will not work, just as the Traffic Engineer has indicated, and even when signalized, it would not operate efficiently.

A five minute recess as declared at 4:20 p.m.

Meeting reconvened with the same members present.

BRANSON reminded the Commission that they went through this same sort of presentation a short time ago and he failed to see what changes have occurred that would justify the Commission taking time to go through it again. He commented that the Commission has stated many times that they spend too much time in zoning and not enough on planning, and he considered subject case a good example of such.

He continued that it appeared to him the only reason the Commission is rehearing this case is because it is claimed land values have increased and he inferred that often when one man makes a dollar, others become involved hoping they can make a dollar, and sometimes everybody ends up with a dime, and he suggested the possibility that the whole area could "hang itself". He commented that if this application is approved, after being denied "LC" in the original request of Marina Lakes, then property directly south will be submitted for rezoning and the Commission will have to listen to the entire presentation again. He felt that when a decision is made by the Planning Commission it should be considered binding unless changes in the area have occurred, and he considered it inconsistent of the Commission to reverse its action many times.

BRANSON referred to the staff report and wondered if Mr. Bledsoe feels that he could live with the requirements suggested. He doubted that enough thought had been given to the cost which would be involved and as to who would pay for a 6-lane road. He said he was not ready to come to a decision at this time and suggested the feasibility of this case being deferred to give time for Mr. Bledsoe to consider the matter of the staff requirements, and perhaps a cost estimate could be developed of what it will cost to change the roads, and he referred to the fact that the roads have been improved several times and businesses and residents in the area are already paying for such improvements. He said that as far as he was concerned he needed more information before he would make a decision, particularly as to cost of changing the roads, who is going to pay for it, and other details.

KRATZER pointed out that children are walking to school all over town amid traffic so he did not consider that factor anything related solely to the area being discussed. He noted that most of the objection does relate to traffic conditions and he stated that at this point he is not ready to the request without some adequate traffic control plan being developed. He doubted that medials were the answer and said he was not sure that the medial strip on Kellogg with four lanes carries more traffic than six would without a medial.

He agreed with BRANSON that perhaps it should be deferred for consideration of costs involved and who is to pay for road improvements. He agreed with the possibility of developing more north-south through streets.

GOEBEL noted that two of the Planning Commissioners are not present at this meeting and he considered it would be unfair to hear just the applicant at a later meeting unless the opposition is given an opportunity for presentation also.

TROUT said two things bother him. In talking about equity of people around the area and their problems, what we are discussing is whether it is going to aggravate the problems or not. He said the question not answered is to what degree the problem of traffic would be affected. He was not sure that this really is a total answer as suggested. Another point brought out by TROUT was whether or not the Commission had ever considered an amendment to only a portion of a previous CUP, which is the case here. He noted that some of the items and facts brought out in this discussion relate to property in the original CUP and not to this amendment related to a portion of the original CUP.

LAKIN said there have been instances where ownerships have changed but never where there was not a working relationship between the various owners involved. He said that it has been the impression of the staff that it was the intention of the Planning Commission and City Commission that there will be single control over the total CUP as approved, irrespective of ownerships or long term leases. He noted that work is being done on the CUP regulations, trying to correct some deficiencies which were brought out in the Mt. Carmel case.

TROUT noted that since a CUP is not a matter of record so far as being recorded at the County Courthouse, he wondered if the applicant was aware of the situation when he purchased subject property. TROUT said it concerned him that this might be the first of something that could occur over and over as related to CUP's.

In discussing the traffic generation with Mr. Graves, it was stated by Mr. Graves that there isn't a great deal of difference between traffic generation of the original proposed regional shopping center and a regular center now being proposed. TROUT said he was attempting to establish the degree of increased traffic if this case is approved, noting that his experience with traffic has been that in spite of every projected figure, it has always been three times as much when the projected date is reached. He commented that it is already a problem at this intersection. He asked Graves if it was

his thought that with the present conditions and no additional traffic added, the road improvements now under construction would be good for 15 years. GRAVES agreed that that was his feeling. GRAVES said that upon completion of all shopping centers at this intersection, the intersection would probably be operating at a level of service of D within two years after the centers are completed. He noted that although they do not know the type of stores which might be developed, it has been determined by past surveys that during the peak traffic hour during the Christmas season, there were seven vehicular trips per 1,000 square feet of commercial development per peak hour. He said that studies on regional centers usually talk in terms of generation rates of from 20 to 40 vehicles per 1,000 square feet per day. He said his comparison was made with similar centers at Denver, Oklahoma City, Tulsa, DesMoines, and Topeka and that they all agreed that the peak traffic at a center coincided with the peak hour traffic on a major street.

When questioned as to the level D service, GRAVES explained in detail the various levels as related to cycling of traffic movements. TROUT asked if the level of service provided now would improve or remain about the same for the period of years discussed. GRAVES said that they are experiencing an average of about 4% increase per year in traffic around certain of the shopping centers -- some as much as 10%. With a nominal 2% increase per year on the street system, within six to ten years there would be a real serious problem, predicated on the total development of all light commercial at the shopping centers in this area. GRAVES said that with the completion of the improvements now being made, he doubted if anyone could find fault with the present operation of the intersection, except for a few minutes at the peak hour overload.

BOGART asked Mr. Graves if he was aware that he is talking about approximately 300,000 square feet, of which 90,000 would be occupied by buildings and about 150,000 square feet total area. GRAVES said that possibly there was some confusion - that he was speaking of some 500,000 square feet of floor space.

TROUT said he was interested in the degree of needed improvement of movement of traffic. Based on six lanes, he asked if it would be good for 12 to 15 years if the level of service is C? Would it be D within a very short time if everything there now is developed, and if so, how much worse? GRAVES stated that if the additional zoning is granted and development takes place and the roads remain the same, and if the T type intersection takes place, he felt the addition of lanes would be mandatory within ten years.

BLEDSON said that the six acres requested built to maximum capacity would only have 128,000 square feet more and surely is not possible that a main street that was developed only four years ago would only handle traffic for another ten years or that 21st Street that is so underbuilt or underplanned won't carry traffic after ten years. He felt that there must be something wrong when only 400 more parking spaces and 128,000 square feet is contemplated.

The original CUP was referred to and various square footable figures discussed.

KRATZER referred to the fact that one of the opponents said he had waited 2½ minutes to get onto one of the arterial streets under discussion, and he asked GRAVES if that was an undue amount or if it compared favorably with similar delays in other areas of the City. GRAVES said he did not know at the moment of anyplace where such might occur -- he thought that possible a wait of a minute or so to get onto Kellogg from a residential street during peak hour movement.

BLEDSON referred to a report made by Mr. Graves to the Planning Commission in which it was indicated that with this additional zoning there would be no need to change the intersection until 1985 which is 16 years away and it is only talking about an additional 90,000 square feet of building.

Reference was again made to the square footage involved and BOGART related the various amendments as related to such and concluded by stating that 135,000 square feet of floor area is involved but only 90,000 square feet would be occupied by buildings.

ROBERT SCHEER pointed out that if this is approved, then subsequent requests would be made for the area to the south and it would lead to other requests and that it was hoped two years ago that the line had been drawn at that time.

MOTION: BRANSON moved and KRATZER seconded that this case be deferred until December 12, 1968, and that no testimony be heard except as requested by the Planning Commission, and the applicant be requested to determine whether he can comply with the requirements suggested by the staff; and that the staff provide a more specific date which they estimate the present street is going to reach its maximum traffic capacity; and that an estimate of costs for widening the street be prepared with a recommendation of who is to pay.

BRANSON said that when the Commission gets that information, it can come to a conclusion but that he can't vote intelligently on this now.

KRATZER, in seconding the motion, asked that Mr. Graves supply the Commission with information concerning the traffic counts. He said that he was concerned with remarks concerning congestion made by the people in the area. He felt that some of the problem has been brought about by construction on 21st but that it must be a situation that is very troublesome.

MOTION CARRIED UNANIMOUSLY.

BRANSON WAS EXCUSED FROM THE MEETING.

18. Case No. DP-32 - Woodlawn Highrise, Inc. requests approval of a Commercial Community Unit Plan on property described as Lot 8, Block 5, McEwen's 6th Addition. Generally located on the northeast corner of Woodlawn and 13th Street.

CHAIRMAN GOEBEL said that a request for deferral of this case has been received and in view of no objections, he declared it deferred until November 27, 1968.

19. Case No. Z-1040 - Anna Hatfield requests change from "AA" to "RB" for the South half of Lot 1 and all of Lot 2, Block D, Yale Heights Addition. Generally located on the southeast corner of 15th and Centry Drive.

GALBRAITH pointed out the area on the map and reviewed the following staff report:

Comments

1. Subject property is zoned "AA" single-family as is that to the north, south, east, and west.
2. The office of Central Inspection has advised that they have issued a cease and desist order as the original single-family residence has been converted to at least two, and perhaps three, dwelling units. The adjacent properties are still maintained as single-family.

3. It is the opinion of the Planning Department that to approve a fourplex classification in an area that is zoned and developed for single-family would not be in the best interest of the neighborhood as it will lead to other requests for medium density classifications and conversions of single-family structures into several dwelling units.

Recommendation:

Based on the foregoing comments, it is the recommendation of the Planning Department that the application not be approved.

GALBRAITH continued that while the Commission has approved duplex zoning for an area of the size of the application area, the usual concern of the Planning Commission and Planning Department has been related to the converting of single-family units into duplexes in this area.

VINCENT BOGART, attorney for the applicant, said that the applicant presently has two dwelling units in the building but there is sufficient area for three and that is why he asked for "RB" zoning; however, when he realized the staff's opposition, he stated that he would withdraw the request for "RB" and amend the application to request the "A" two-family classification. He pointed out various houses in the area which are rented to students presently and stated that while it is a very nice residential area across from Fairmount Park, it would appear reasonable to grant duplex zoning in an area in such close proximity to the University. He felt that a duplex use would not change the character of the community.

FOSTER pointed out that in the "AA" zoning a family could have as many as 4 other people living with them just as long as there was only one kitchen.

MR. AND MRS. M. J. INGRAM, residents in the area, spoke in opposition and pointed out that the property has been in violation of the code for several years, and that it does have at this time three housekeeping units, although it was their understanding that Central Inspection representatives were told that there were only two units. MRS. INGRAM said that they have obtained signatures of 17 of the 22 individuals owning property within 200 feet of subject area, expressing their opposition to the request. She stated that it was all of their desire that the property remain "AA".

- 22a. Case No. Z-1037 - Clear Lakes, Inc., et al. request change from "AA" to "LC" for a tract beginning at a point 50 feet west and 400.15 feet south of the northeast corner of Government Lot one in the Northwest Quarter of Section 7, Township 27 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence south parallel to the West easement line of Amidon Avenue 330 feet; thence west 675 feet to a point 730 feet south of the center line of 21st Street; thence north at right angles, 250 feet; thence west at right angles, 460 feet to a point 480 feet south of the center line of 21st Street; thence north at right angles 130 feet; thence east at right angles 460 feet; thence south at right angles 50 feet; thence east 675 feet at right angles to the point of beginning. Generally located on the south side of 21st Street between Amidon and Meridian.
- 22b. Case No. DP-23 - Clear Lakes, Inc., et al. request approval of an amendment to Marina Lake CUP, as related to property legally described as follows; DP-23 - A tract beginning 75 feet west and 75 feet south of the northeast corner of the northwest quarter of Government Lot 1, Section 7, Township 27 South, Range 1 East of the 6th P.M.; thence south 275 feet; thence east 25 feet; thence south 1515 feet more or less; thence northwesterly and westerly along the left bank of the Arkansas River to the west line of Lot 1; thence north along the west line of said Lot 1 to a point 50 feet south of the northwest corner of said Lot 1; thence east to a point 395 feet west and 25 feet north to the point of beginning; thence south in a southeasterly direction 90 feet more or less to a point 15 feet north to the point of beginning; thence east 30 feet; thence south 15 feet; thence east 275 feet to the point of beginning. Said legal description includes Marian Lake 1st and Marina Lake 2nd Additions, and an area on the west being platted as Marina Lake 3rd Addition. Generally located on the south side of 21st Street between Amidon and Meridian.

The above two cases were continued from the public hearing of November 14, 1968.

BLEDSON said he would abstain from consideration of the above cases and by popular demand of the news media would leave the room.

The Chairman asked the Commissioners if they wanted to hear any more testimony on subject cases. TROUT said that the primary reason for deferral from a previous meeting was for a report concerning traffic and that that report has been submitted to the Commissioners. The Chairman asked if the Commissioners wished to hear any more from the applicants or from the opposition.

VINCENT BOGART, attorney for the applicant, said that while the principal factor for consideration is traffic, discussion should not be limited to the City Traffic Engineer. A traffic engineer is present to speak for the the applicant, and he considered it only fair that the Commission hear what he has to say as well as the city's professional staff.

The Chairman stated that any items on which the Commission requests information, the traffic expert for the applicants would be heard. He again asked if the Commission wanted to hear any more from the applicant or the opposition.

KRATZER suggested that the report requested from the staff be presented, but that if there is anything that was not stated before, it should be presented now.

MOTION: KRATZER moved, GOEBEL seconded and it carried unanimously that the Commission hear the report on traffic requested at the previous meeting and anything else that was not submitted at the previous meeting on the above two applications.

The Chairman asked if the applicant had anything more to add that the Commissioners have not heard.

VINCENT BOGART, attorney for the applicant, introduced Wm. J. Armstrong, a traffic engineer with the consulting firm of Burgwin and Martin, of Topeka, Kansas. He reviewed Mr. Armstrong's qualifications and the fact that Burgwin and Martin has done many studies for various cities and public bodies throughout Kansas as well as other states, including work for the Kansas State Highway Department, the Turnpike Authority, etc.

WM. J. ARMSTRONG recalled that they were involved in doing a study of this same area two years ago and doubted that the Commission would want to delve into the total ramifications of the study, but did proceed to point out their approach to the problem used at that time. He pointed out that two years ago the main concern was

the intersection of 21st and Amidon as related to another shopping center which was developing and how much capacity was available at the intersection. He said their approach at the time was to determine the amount of traffic the center would generate, based on 450,000 square feet, utilizing an accepted generation factor of 20 trips into the center per 1,000 square feet of floor area, and also considering the office space used and apartment usage. He said they projected the traffic that would occur at the opening of the center and studied three different situations where the points of access to the shopping centers would be varied: one was to leave the access points as they were at that time and under this situation found traffic was concentrated at the specific entrance and continued to cause a capacity problem commencing at the entrance. Another situation studied was on Amidon where the main entrance of Marina would be south of the existing entrance to Twin Lakes on the east, creating off-set entrances where anybody traveling between the two centers would have to jog. The third case looked at was to establish opposite entrances on Amidon. The latter was their recommended location for the entrance, in that the entrance to Twin Lakes proper within a few years will require signalization control and it seemed logical to them to make the entrances opposite each other and utilize the one signalization and eliminate any jog of traffic between the two centers.

MR. ARMSTRONG continued that it was their analysis that upon the opening of the Center, the intersection of Amidon and 21st Street would function at a level C., which is considered a desirable level. ARMSTRONG said that their report indicated that upon opening of the Center, there would be nearly 3400 vehicles entering the intersection. He said this was for a time prior to the opening of the 25th Street bridge which he felt would tend to provide some relief so far as traffic build-up at this intersection is concerned. He pointed out that 21st Street is now undergoing improvements that were talked about two years ago, and that improvements do come with progress of a community. ARMSTRONG said that their report two years ago indicated that this intersection could function 20 years hence, but that some special techniques were indicated in the way of improved traffic movements, such as dual left turns at the intersection, etc.

KRATZER asked Mr. Armstrong in which year he predicted the intersection would breakdown to a level F service at the present rate of growth.

Page
12-12-68

ARMSTRONG said they did not make a year-by-year analysis, but that their study indicated that by 1985 the intersection would be operating at capacity, in that there would be a continual backlog of traffic and people waiting to get through even at level E, which is just a shade better than level F, although there are many factors to be considered. He stated that they predicted that by 1985 the service would be at level E generally speaking as the intersection is today, but with some improvements which they felt could be accomplished within the existing right-of-way.

JACKSON asked Armstrong if their study included any possibility of six lanes rather than four and if so, when it was felt six lanes would be required.

ARMSTRONG said that their approach to the study was whether the intersection would handle the traffic at level C upon opening of (the then proposed) Marina Lakes with four lanes as it exists now. Their analysis indicated that it could, and then they tried to determine what might happen by 1985 considering the many variables. He said their original study and conclusions were based on the original proposal of 450,000 square feet (a regional center). ARMSTRONG noted that studies of shopping center traffic indicate that evening shopping peaks for regional centers are from 8 to 9 o'clock if stores are open, where as street traffic peaks between 5 and 6 o'clock, which helps the traffic situation. He pointed out also that on some smaller centers, studies have indicated that this is not true, thus it is another variable.

In response to a question by one of the Commissioners, it was pointed out that Burgwin and Martin study used 20 trip ends to the center and 20 trips away, which corresponds to the 40 vehicles on the street utilized by the city in its analysis.

LAKIN passed out a sheet showing typical traffic generation rates and the rates used in the study for this area. Another sheet was presented showing the percent of increase of traffic on McLean-Amidon during the last four years. He also presented to the Commissioners an information sheet defining the meaning of the A, B, C, D, E and F level of traffic efficiency as related to traffic movement at intersections.

LAKIN reviewed the following staff report:

SUPPLEMENTARY INFORMATION
REQUESTED BY MARC FOR
CASES DB-23 & 2-1037

Amount of Commercial

The existing constructed commercial development in the area (Twin Lakes, Sweetbriar, Atlantic Mills, River Bend and Marina Lakes) is 511,289 square feet of floor area. Assuming 85% of floor area to equal "gross leasable area", this is 447,242 square feet GIA.

The existing approved commercial zoning (as opposed to actual construction) for the same area would allow an additional 415,768 square feet of floor area, or 342,458 square feet gross leasable area.

The applicant has orally revised his application to limit the amount of commercial development to an additional 135,855 square feet of gross leasable area (45% of ground area). This will be referred to as Marina Lakes - Condition II or Marina Lakes II.

Assuming the proposition stated by the applicant to be valid, e.g., conditions have changed by virtue of the increased value of land, then the area south of the applicant's proposal may also be considered as potential commercial (at least to a point south equal to the "ic" at Twin Lakes and to a depth equal to the applicant's). This, if it should occur, would produce 7.06 acres of commercial ground area; and 137,000 square feet of gross leasable area. This area will be referred to as Marina Lakes III.

Traffic Projections

A re-analysis of traffic conditions has been completed to try to answer the following questions:

- 1) When will the traffic, based on: a) existing development; b) authorized development; and c) proposed development, cause the intersection of 21st and Amidon to breakdown?
- 2) Will reconstruction of the street system (including the intersection) provide sufficient capacity for the: a) existing; b) authorized; and c) proposed development?

To do the traffic study, certain assumptions which are variables must be established. These are:

1. Amount of contributing high traffic generators - light commercial. (See preceding for amounts used in computations).
2. Traffic generation rates for light commercial. The same rates, 5 trip ends per thousand square feet of commercial floor area per peak hour off-season traffic, were used as used by both Burgwin & Martin and the Traffic Engineer in the 1967 studies; derived from traffic counts at Twin Lakes and divided by square footage existing at that time.

One may expect, based on national experience, to have a rising rate as the size of the center decreases up to the point that smaller centers generate twice the traffic per 1,000 square feet of floor area as the larger ones. However, for the current computation, the low figure was used and no penalty was assigned to Sweetbriar, Atlantic Mills (discount houses have higher rates), and Marina Lakes.

3. Growth of traffic from existing conditions was computed the same as Burgwin & Martin (1967) at 1% each year. Because growth rates seen higher, a 2% growth line was also computed. Actual growth may be much higher, but should level or flatten out to an overall lower average as the area matures and developable land is used up.
4. Level C of operating efficiency is an appropriate design level and should be public policy. It is recognized that most of the heavily traveled arterial intersections do not operate at this efficiency level.
5. There is a maximum limit on street (and intersection) capacity for at grade street intersections with channelization and still maintaining the ability to serve adjacent property. The next grade of street construction (and capacity) for grade separated intersections. These usually severely limit access to adjacent commercial properties.

6. Street capacity should be, and was, measured and projected on the basis of non-peak season rates and figures, i.e., they were not figured on the ultimate load.
7. Neither signalization of the main Twin Lakes west entrance nor a provision for Marina Lakes II having an opposite entrance was figured in the traffic computations or projections. If signalization is introduced this close to 21st, the capacity of that intersection will be reduced.
- The Traffic Engineer does not feel that he can support either an opposite entrance or signalization at this point. However, the Planning Department feels to provide for safety and convenience and irrespective of the effect on traffic capacity, it will be necessary to formulate policies for the signalization of private drives, such as the Twin Lakes main west entrance. This will remain true whether Marina Lakes II will or will not be granted an entrance opposite the west entrance of Twin Lakes.
8. Any reconstruction necessitated to maintain C level operation should be done in such a manner as to require the minimum rather than the standard or desired right-of-way for such reconstruction. This is to keep the costs to a minimum. The intersection of 21st and Amidon, based on the foregoing assumptions, would not function at the C level at approximately the following years, based on the variables below.

	4 Lane Existing Structure		6 lane with 1 left turn 21st west bound	
	%	%	%	%
Growth Factors				
Existing Constructed Development	After 1968	1977	After 1988	After 1988
Approved For Development	Above C 1968 At F, 1988	Above C, 1968 At F, 1977	After 1988	1978
Approved Development PLUS Marina Lakes II	Above E, 1968 At F, 1969	Above E, 1968 At F, 1969	1972	1970
Approved Development PLUS Marina Lakes II AND Marina Lakes III	Above F, in 1969	Above F, in 1969	Above E, in 1969	Above E, in 1969

Construction Costs

If it is determined that reconstruction is needed at any point in time, the following figures are gross estimates to repave Amidon from the Arkansas River north to approximately Marigold Street, and to repave 21st Street from the Little Arkansas River, west to approximately Meridian Street. Most costs would be for new lanes, i.e., expansion from four to six moving lanes. No construction costs have been estimated for new or relocated sidewalks nor for relocating medials.

Right-of-way costs are also quite gross at until specific construction plans are prepared, what right-of-way is needed is unknown. Minimum right-of-way needed would range from 100 feet where there is little channelization to a standard 132 feet at the intersection. This can be reduced to 112 feet by reducing the area between the curb line and property line (parking) from a standard 15 feet to 5 feet. However, if condemnation were required for the 5 feet, it is probable that the 15 feet would be taken. Existing right-of-way ranges from 80 to 110 feet in the area.

Assuming a rule of thumb price at current dollar values of \$15 per lan per foot, construction would run \$350,000. Assuming the right-of-way would be taken off the north side of 21st Street on both sides of Amidon and assuming severance tantamount to a total taking, the right-of-way might range from \$175,000 to \$225,000 for the two service stations alone.

In recent years, the City at Large, has paid (without cost of interest) \$1,174,000 to improve McLean-Amidon from 13th to 25th (including the bridge) and for 21st from the Little River to Meridian. Property owners have paid \$179,300 for the paving in the same area.

In the past, the City's general position in regard to improving arterials has been to build them 4 lanes in width with some channelization. Costs have been allocated so that all property pays for what might be considered as a normal residential street. When additional width, channelization or other treatment is required, the City has attempted to place these costs on the land that would benefit from such additional work. The apportionment of additional costs, especially if dependent on the commercial as generating the traffic, should be spread back on all the commercial zoning in the area.

LAKIN stated that two items mentioned by Armstrong are not concurred in by the staff. There are the timing of peak hours traffic on the streets and at the center. Studies at this particular area show these two peaks to arrive at the same time; thus complicating traffic. Secondly an analysis of the 1967 Burgwin and Martin report indicated that for a 4 lane street, 700 or more cars per peak hour per lane would have to pass thru the intersection. An F level service would be near the 600 vehicles per peak hour per lane, indicating an error in their computation.

LAKIN referred to a graph prepared by the staff which illustrated the four different basic conditions on which the report was based (the existing constructed commercial development; the total amount of commercial development presently approved; that approved commercial development plus the proposed application referred to as Marina Lake II, and the approved development plus Marina Lakes II and plus an area to the south of the present application equal in depth the present application and extending as far south as the LC in Twin Lakes (known as Marina Lakes III); and as related to two rates of growth (1% and 2%); and related to two types of traffic facilities (4-lane and 6-lane). He pointed out that the Burgwin and Martin report assumed a 1% growth but it is apparent that the area is growing much faster, so a 2% growth factor has been projected although

for a very short period of time growth in the city in this area has been from 4% to 19%. LAKIN stated that it is recognized that many streets in the city do not operate at Level C, but that it is an appropriate level to attempt to achieve.

LAKIN referred to the illustration (chart) which showed the projections of traffic with the existing designed 4 lane roadway and based on existing constructed development, pointing out that the line at the top shows at what year the level of service would exceed C level (beyond 1985 at 1% growth and 1977 at 2%).

The next set of lines was based on the assumption that everything now approved was built. Traffic never is within the C level and based on the 2% growth, it breaks down completely (F level) about 1977. He pointed out that the third pair of lines (based on approved development plus Marina Lakes II) would indicate operations would begin in F and would completely breakdown by 1972 or 1970 depending on the rate of growth.

LAKIN then referred to the chart displaying the same type of information related to a 6-lane street system at this intersection. This chart indicated that with a 6-lane facility on limited to existing construction the street would be capable of maintaining a "C" level of service for either rate of growth for 20 years, with approved commercial, in 1978 at a 2% growth rate, C level service would be exceeded although the street would not completely breakdown. By adding Marina Lakes II, C level would be exceeded in 1972 (at 1% growth) and in 1970 (at 2% growth). At a 2% growth the road would breakdown (at F) in 1963. LAKIN explained that given various conditions (roadway design and growth rates) the time when the intersection would breakdown ranges from immediate to beyond the planning period.

LAKIN next referred to construction costs and said that the figures shown in the staff report are most gross; that until the design of a roadway is determined and appraisal is made, it is very difficult to estimate costs. He continued that it was estimated that portions of the two service stations on the north side of 21st Street would be required (if not completely taken these would be severance damages) and he said it was projected that costs (right-of-way and construction) would be near 1/2 million dollars.

KRATZER asked LAKIN if he felt that the intersection as of today will last to 1985 before a breakdown as Mr. Armstrong thinks. LAKIN said that a 4-lane facility, without any additional development and at a slow rate of growth could maintain a level C service during the planning period.

TROUT complimented the staff for the preparation of the report and illustration, as it contains the exact information he asked for at the previous meeting and he agreed that there was plenty of room of disagreements in view of the numerous variables to be considered.

A question was raised as to a comparison of traffic volumes now and as projected by Burgwin and Martin when their report was prepared about two years ago for the original Marina Lakes CUP. PAUL GRAVES, Traffic Engineer, said that Burgwin and Martin report states 27,000 ADT on each leg of the intersection, but that was apparently an error and was meant to state 27,000 vehicles per street or 54,000 vehicles. GRAVES said there was a further difference of opinion where the report assumes that 1500 vehicles could approach per peak hour (2 moving plus twin lanes) on each leg (4) of the intersection. He felt this was the big difference in the analysis. GRAVES said he is of the opinion that at level C service the intersection capacity is approximately 450 vehicles per lane per hour.

ARMSTRONG said their recommendation was based on the 5 to 5.5 trip ends per 1000 square feet per peak hour traffic generation rate. He thought that Mr. Graves was talking about maximum level C that could get through the intersection 450 per hour. He stated that the maximum volume on a street is 2,000 per hour per lane (freeway standards with on side interference). This is reduced rapidly when considering only half the time is green time and when you add side interference. If traffic is 1135 vehicles per peak hour maximum as it approaches the intersection then through traffic was 578, the two through lanes are down to 340 per lane per hour. He felt that on a per lane basis, their report did not reflect anything really high. The statement towards the end of 1500 vehicles was based on four lanes and divided by four it doesn't come up too far from what Mr. Graves is talking about. He stated that he did not consider that he and Mr. Graves were too far apart. Their opinion with 4 lane facility indicated would have about 3400 vehicles entering the intersection at C level which is what everyone is striving for and 1985 projection was based on X. He pointed out again that there are many variables involved.

He said their projection of X growth might be more appropriate for downtown traffic but for a growing area such as this maybe they are a little low.

BOGART expressed concern because of the use of such a chart as presented by the staff and pointed out that such a study was not utilized when the Commission considered Rock Road CUP because if it had the zoning would never have been permitted. Also, if this kind of projection was made as related to Kellogg, such street would breakdown next year. BOGART further pointed out that the chart does not show existing development only plus this application which only involves an additional 136,000 square feet of leasable floor space which represents only 6800 cars per day, and if 2/3 of that traffic is related to Ardon and 1/3 to 21st and 18th Streets, the same picture as presented does not occur. He felt that if this kind of study had been applied to Twin Lakes, a breakdown in the traffic would have been shown to occur in a short time. He took exception to the fact that such a presentation is used at this time when it has not been utilized previously and it paints a rather dismal picture when taking all into consideration. He stated that most of the figures that have been given were established on the basis of 450,000 square feet of leasable area but that this application is only concerned with 136,000 square feet. He felt this property owner deserves the same treatment extended Twin Lakes and Rock Road developments and he doubted if there were many streets in the City now operating at C level under similar conditions as at this intersection. He did not think what had been presented was a true picture of the situation.

TROUT said he was responsible for the chart because of his request to the staff at the last meeting in view of the confusion in figures at the previous meeting. He said it answered his question as to at what point would the facility breakdown under various conditions and that it is exactly what he asked for.

For the record, LAKIN said that the third set of lines (Marina Lakes II) shown on the chart was based on 135,000 square feet of floor added (not 450,000 square feet) added to the existing approved commercial.

CHARLES HARRIS, attorney for Twin Lakes, questioned whether the Burgwin and Martin report made in 1967 was valid when one considers the fact that they projected a X growth while actual increase has been 18% per year.

LAKIN said that figures on traffic increases developed just this morning by the Traffic Engineer shows increase from 1966 to 1968 of 19% or an average of 9 1/2% per year.

HARRIS questioned the validity of a report based on 1% or even the 2% projected by the staff when some averages related to other shopping centers in the City have shown 4%. HARRIS continued that if the more logical percent of growth is utilized rather than 1% or 2%, there is no possible way this intersection could work within the planning period.

HARRIS pointed out that it would appear, when one considers the actual rate of growth in this area, that traffic would reach the F level by 1970, which he felt would be about the date that the proposed center would open. He continued that regardless of projections, everyone recognizes the fact that there is a history in this community of underestimating projections. He recalled that the projected figures relating to Kellogg for 1975 were reached the second year after it was opened, and he urged the Commission to not make the same mistake as made on East Kellogg. HARRIS agreed that if the zoning is granted as requested, a street could be built but as pointed out by the staff, the cost thereof would be prohibitive.

HARRIS reviewed the fact that this case was originally heard at great length by the Planning Commission on January 12, 1967, January 26, 1967, and February 9, 1967; by the City Commission March 23; by the Planning Commission on March 28, 1967 and again by the City Commission on April 4. At the hearing on February 9, 1967, the Burgin and Martin report was presented and at the same hearing the city staff also presented its report. At that time, Mr. Wulz, then Director of Public Works, Paul Graves, City Traffic Engineer, and Robert Lakin of the Planning Commission apposed and presented the case. At that time the Planning Commission (many members were the same as now on the Commission) heard basically the same questions as raised now. At that time, it was the unanimous vote of the Commission to recommend denial without prejudice to the submission of a revised application for a lesser amount of zoning. This was done, the revised area was advertised and resulted in the granting of the light commercial as presently exists in the Marina Lake CUP. At that time, the Burgin and Martin report projected the same facts as today -- that it isn't going to be too much of a problem, although at that time, Mr. Wulz, Mr. Graves, and Mr. Lakin said that if growth continued to increase, it would compound the problem. The issues with respect to traffic

heard today were heard at the previous hearings, one of which lasted five hours. HARRIS maintained that the only thing different about the situation is the fact that the traffic is considerably higher than projected by the Burgin and Martin report, and the new study prepared by the planning staff for subject case, indicates their own study of 1967 was too low and the problem is worse now than they thought it was going to be.

HARRIS referred to the suggestion by Mr. Armstrong that opening of other streets would help solve the problem, but it was his opinion that the shopping centers themselves generate their own traffic, and it was his thought that the improvement of one or more streets in the surrounding area will not appreciably solve the problem in that the area itself generates the problem.

HARRIS commented that with the addition of 136,000 square feet of floor area in development and assuming that which is already approved will be developed, and a reasonable traffic generation rate, the breakdown of the existing street would occur within the next two or three years.

HARRIS referred to the staff projection of costs involved in the improvement of the streets. He felt the figures were low because at the time the original zoning was made there was a dedication of right-of-way by Twin Lakes and most of the other property owners involved, the only exception being the Marina Lakes area where the owner did not make such a dedication. He pointed out that the projected costs do not include the actual construction cost of medians or right-of-way beyond the intersection or for sidewalks, so the figures have been presented by the staff on a very conservative basis.

HARRIS reminded the Commissioners that this is about the ninth hearing of this same matter, and reminded the Commission that at the previous hearing on the original Marina Lakes CUP a formal protest petition was submitted but subject area (which is a portion of the original) does not involve adjacent owners because it is under the same ownership and, therefore, there is no way in which a legal protest petition could be filed. He felt, however, that the Commissioners must know the massive protest in the neighborhood from residents and must realize the existing traffic problem. HARRIS submitted aerial photographs showing the traffic situation at this intersection at various times and called attention to one taken recently showing traffic lined up to enter the Twin Lakes area from Antion and commented that the situation would only be more aggravated by permitting an entrance to Marina Lakes directly opposite the one into Twin Lakes.

HARRIS pointed out that the Twin Lakes center was the first commercial development in the area and that they offered no objection to the zoning for Sweetbriar, Atlantic Mills, and the only reason they are opposed now is because the then Director of Public Works, now City Manager, the Traffic Engineer, and other city staff people say that if it is allowed there will be a breakdown in traffic that would seriously damage the existing investment of many millions of dollars.

For the record, HARRIS said it was his position that the application is not fairly brought before the Commission because it is only a portion of an original CUP project; he maintained that this is a single CUP and as a compromise the previous zoning was granted in respect to the same traffic problem. He doubted that the situation should be considered piecemeal and suggested that if the CUP is to be changed in any way, it should be overall consideration of the entire CUP upon application signed by the people who own it and not just the leases. Unless that is done, a CUP could be cut into tracts and sold off individually and not result in the goals of the original plan. HARRIS said that one of the Commissioners alluded to this possibility at the last meeting.

HARRIS repeated that there is an existing problem and he asked the Commission not to compound the situation to the detriment of the people already there and he felt that if this is permitted, it would lead to other requests along Amidon, and especially so if this case is approved on the argument that the "land" is too valuable to develop otherwise. He continued that the compromise was made in 1967 when the Commission unanimously voted to deny the entire application at that time and approved only a portion thereof and denied what is being requested at this time.

GOBEL commented that there has been zoning granted in the area which will increase traffic since the original Marina Lakes zoning was granted. HARRIS noted that the "B" zoning granted on the Twin Lakes area was felt would tend to reduce traffic inasmuch as the plan for a highrise office structure (permitted under "B" Multiple Family Zoning) was changed to provide for garden type offices and, therefore, with less density and less traffic generated.

FOSTER expressed concern that even the estimates presented by the staff may be too low as has always been the experience in the past and said that in the staff study every opportunity had been given to the benefit of the doubt to this applicant. If a figure was rounded off, it was always to the minimum standard applicable.

BOGART referred to a former policy of the Commission which required the applicant to furnish a traffic study on a CUP request, and said that just before Rock Road CUP was submitted the policy was changed and the decision to grant the zoning was based on land use only. BOGART continued that at one time there was a policy that CUP's could be approved within 3 miles of each other. BOGART referred to the chart presented by the staff and discussed several questions concerning traffic with Mr. Lakin. He maintained that actually it is projected that only 5,000 more cars per day related to the requested 136,000 square feet more area. He felt that if zoning is to be granted based on this type of chart, then there would be no more granted on major streets.

KRATZER said he has viewed this area several times in the last month and at various times -- before 8 a.m., from noon to 1 p.m., and from 4:30 p.m. to 6 p.m. and between 7 p.m. and 8 p.m. on several occasions. He noted that many of the residents in the area are opposed because of the wait to get onto Amidon and he noted that the shopping centers are not open when they are going to work and he felt the street construction was probably responsible for the wait. KRATZER continued to review the fact that light commercial was established at this intersection on the basis that Amidon replaces Meridian as a section line, and in keeping with their policy, the light commercial was established at 21st and Amidon. He noted that the original purpose was to provide people in the area with commercial establishments and to provide some equity to land owners involved. He noted that the Commission does have the authority to rezone this intersection back to the original 6 acres on each corner to control traffic. He referred to the fact that it seems apparent the intersection will have to be rebuilt at some time in the future. He asked LAKIN if the staff felt it would have to be rebuilt within 16 years on the basis of its report. LAKIN said that reconstruction of the intersection could occur anytime within 16 years, depending on what conditions prevail, i.e., how much more commercial is built, and at what rate of growth for those commercial area and the overall traffic. KRATZER continued that apparently it boils down to when it will be rebuilt. He felt that a bridge on Meridian over the River would provide another artery for traffic and also the possibility of extending Waco on a curve into Arkansas north of 21st Street.

BRANSON stated that another point to consider is the fact that within the last two years the Commission had made a decision on this area and pointed out that too much of the Commission's time is devoted to hearing zoning cases rather than actually doing any planning. He continued that he resented this application being submitted when there has been no change in the last two years except for the name of the applicant and he stated that he did not say that against the applicant. He pointed out that the Commission has studied the traffic situation; that it will be more square feet than downtown, and that consideration should be given to residents in the area and he did not think the Commission should change its mind after only two years.

TROUT felt that there probably have been changes in the area and that there would be more; it is a good location for centers and seems to be a growing area. He said he was not so concerned about the submission of the case so soon after the other one, but felt the job of the Commission was to consider it on the basis of whether or not it is good and proper zoning. He expressed concern for stripping a street, noting that nothing slows down the movement of traffic more than numerous access points thereof. He referred to the fact that there were residents opposing zoning along Kellogg as residents are opposing subject case. He felt it wrong for the Commission to apply traffic as the only determinant for approving zoning, but stated that it is a matter of degree.

The Chairman pointed out that petitions containing 120 signatures in opposition had been submitted.

KRATZER said he thought people who live in the area had been misled as to what they can expect to alleviate traffic congestion. He pointed out that there will always be traffic and that no one can expect to live in a metropolitan area without traffic congestion. KRATZER again asked LAMIN if it was the staff's feeling that the street would have to be rebuilt in 16 years. LAMIN stated that on a 4 lane facility anytime the traffic hits F level it would have to be rebuilt. Whether it would be 1970 or 1985 would depend on the circumstances during the future period - development, etc.

GOEBEL felt that people in the area were a little more concerned than they needed to be. He felt that if and when other means of traffic circulation are provided the congestion at this intersection will be relieved. He pointed out also that so far as taxes, a commercial development pays much more taxes than residential property and so it would not be likely the residential taxes would be increased because of development on subject property.

He referred to the difference in what is paid on the Twin Lakes property now as compared to when it was undeveloped several years ago.

MOTION: BRANSON moved, TROUT seconded that the Planning Commission recommend to the City Commission that Case No. DP-23 (amendment) and Z-1037 be denied. Motion carried by a vote of 5 in favor (Branson, Trout, Souders, Goebel and Mooney) and two opposed (Kratzer and Jackson).

The Chairman declared the meeting recessed until Thursday, December 19, 1968, at 10:00 a.m. in the same meeting room. Meeting recessed at 5:30 p.m.

C. Bickley Foster
Secretary

State of Kansas)
Sedgwick County) ss

I, C. Bickley Foster, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on December 12, 1968, and is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal, this ____ day
of _____ 19 ____.

C. Bickley Foster, Secretary
Wichita-Sedgwick County Metro-
politan Area Planning Commission

(SEAL)

ATTACHMENT #1-C

10. Case No. DP-23 - Clear Lakes, Inc., et al. request approval of an amendment to Marina Lake CUP, as related to property legally described as follows: DP-23 - A tract beginning 75 feet west and 75 feet south of the northeast corner of the northwest quarter of Government Lot 1, Section 7, Township 27 South, Range 1 East of the 6th P.M.; thence south 275 feet; thence east 25 feet; thence south 1515 feet more or less; thence northwesterly and westerly along the left bank of the Arkansas River to the west line of Lot 1; thence north along the west line of said Lot 1 to a point 50 feet south of the northwest corner of said Lot 1; thence east to a point 395 feet west and 25 feet north to the point of beginning; thence south in a southeasterly direction 90 feet more or less to a point 15 feet north to the point of beginning; thence east 30 feet; thence south 15 feet; thence east 275 feet to the point of beginning. Said legal description includes Marina Lake 1st and Marian Lake 2nd Additions, and an area on the west being platted as Marina Lake 3rd Addition. Generally located on the south side of 21st Street between Amidon and Meridian.

LAKIN commented that if the City Commission does approve the zoning as requested in Case No. Z-1037, they would still want the benefit of the Planning Commission's recommendations as to CUP amendments. He pointed out the revised plan as submitted to the Department and Commissioners since the preparation of the written report, stating that some of the items have been agreed on as acceptable between the staff and the applicant's architect. The written report is as follows:

It would seem that by action of the City Commission, the question of relating the intensity of land use through zoning to public facilities (e.g., the capacity of the intersection) is moot. Therefore, the staff comments will be primarily related to the Community Unit Plan provisions. Several of the proposals for change have been discussed over the telephone with the applicant, but as of the time of writing, no revised plan has been submitted. Although we might normally wait to schedule such a case before MAPC until we had revised copies of the CUP, the applicant requested this case be considered at the earliest possible date and, thus, the regular notices to adjacent property owners were mailed for your January 9, 1969 meeting.

As requested by the applicant in his original application, the following recommendations are made:

1. Request to eliminate the requirement of a maximum height and maximum gross leaseable area for Parcels 1 and 4.

The applicant agreed, after the first MAPC hearing, to 45% maximum gross leaseable area. His attorney, at the Board of City Commissioners meeting, amended this to 50% of tract area. Although this is higher than most shopping centers are constructed, it is the range of approvals given in the past. It should be recognized that this type of condition is not wholly, or even primarily, directed to open space preservation but, rather, directed to how intensely the site may be used and, therefore, predicts some affect that it might have on adjacent areas.

Recommendation

Approve a gross leaseable floor area of .50 of total parcel size for each of Parcels 1 and 4.

The height requirement is indirectly controlled by the gross leaseable space and ground coverage requirement. However, with CUP control, height may go to 80 feet at the new setback lines, plus 2 feet higher for each additional foot of setback. If the purpose of the "LC" is for a shopping center, then a height control should be established. There has been an indication that height limitation for the main structure would be satisfactory at the height contained in the original plan (65 feet) if accessory uses, such as radio tower, could be allowed the height normally standard in "LC".

Recommendation

Add the following to Parcel 1:

"Maximum height limitation 65 feet except for structures allowed in Section 28.04.187-2, which shall be limited to the height limit in "LC"."

Add the following to Parcel 4:

"Maximum height limitation 65 feet."

2. Request that sign heights be increased from 30 to 45 feet.

As indicated in the original staff report, we see no reason to increase the height, however, increased sign heights have been common to East 54. They have, it seems, given rise to a series of exceptions, each designed to screen out the effects of signs erected previously. Signs in other shopping centers in this area, to our knowledge, do not exceed 30 feet.

Recommendation

Not approve the request, or; if the Commission desires to approve the request under the general provisions, amend to read:

- "1. Sign Control: Advertising signs shall be permitted adjacent to Amidon Street and the east 1,500 feet of 21st Street and shall not exceed 30 feet in height, except for Parcel 1, two signs on Amidon, and one sign on 21st may be erected not to exceed 45 feet; and except for Parcel 4, one sign may be erected not to exceed 45 feet."

NOTE: Board of City Commissioners approval is still required for each sign of this height under the technical sign code.

3. Request a revised setback along 21st Street between Parcel 1 and Parcels 2 and 3, and along Amidon.

Due to the type of development on 21st (smaller free-standing structures) and the existing setbacks on Amidon immediately to the east.

Recommendation

The drawing of the plan should show:

- A 60-foot setback (110 feet from center line) from 21st on Parcels 1 and 4.
- Removal of inter-parcel setbacks between Parcel 1 and Parcels 2 and 3.
- 80-foot setback (130 feet from center line) from Amidon.

NOTE: There are greater setbacks already platted as part of Marina Lake 2nd Addition and, thus, these lots will have to be replatted to reflect the above recommendations.

4. Request for one additional access to 21st Street.

The current construction of 21st Street establishes the level of control now needed with respect to left turns and medial breaks. One additional curb cut appears to be satisfactory in the area of Parcels 1 and 2.

Recommendation

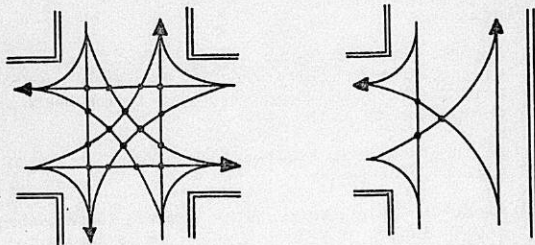
Approve one additional curb cut on 21st, making a total of 7.

NOTE: The plat of Marina Lakes 2nd Addition will have to be replatted to reflect the above recommendation. It is suggested that rather than, "Complete access control except for 2 and 1 opening respectively for Parcels 4 and 1 (Lots 2 and 1), that "Complete access control, except for 4 openings" be established on the replat for the combined frontage of Parcels 4 and 1.

5. Request for an additional opening on Amidon.

The City Traffic Engineer has recommended that an additional opening not be approved if this opening is to be directly opposite the existing medial cut (approximately 560 feet south of 21st Street). Assuming the additional "LC" is granted and an additional access point is to be granted, the most efficient layout would be an offsetting T-intersection approximately 550 feet south of the existing T-intersection. (This was described as Case II in the "Burgwin & Martin" report on the original Marina Lakes application.) Although this does not open directly on the land now requesting rezoning, a short service road could provide the same level of access to the west and allow a more efficient operation on Amidon. A sketch of such a proposal will be available at the Planning Commission meeting. An earlier proposal to have a service road connection extend to the south entrance (just off the bridge) was rejected after further analysis, as the potential loading for left turns (for the amount of "LC" being considered) will exceed the storage available at this point.

The dual opposite main entrances will, in the opinion of the City's staff, create problems which cannot be handled well, even with signalization. The basic problem is handling the potential points of conflict and stoppage of the flow of traffic to free these conflicts. A three-way, or T-intersection, has only 3 primary points of conflict.



Thus, two T-intersections will be much easier to handle than one four-way, providing sufficient spacing is allowed between them to allow for traffic progression when signalization occurs.

Since the City purchased access rights along this side of Amidon by an agreement, which provided that the construction and fencing costs which would normally be assessed to the west, would be paid for by the City at large, access so required would have to be reacquired by negotiation with the City. If access is to be granted by the Board of City Commissioners, they should authorize the City Manager to negotiate for its release. It is assumed that such negotiations will be based around the equivalent special assessment which would be \$19,243.75.

One additional policy decision remains. Should the City begin to seek the right-of-way necessary to build six moving lanes with medials, plus accel-decel lanes? If so, 150 feet of right-of-way is needed for optimum design. Only 100 feet exists south of 21st Street, except at the intersection. It is not anticipated that the other commercial areas in the vicinity will be resubmitted to MAPC or BCC for reconsideration in the near future. Thus, the additional 25 feet needed would most likely have to be condemned in all other areas.

Immediate needs for right-of-way would be for accel-decel lanes at whatever point access is given. The basic requirement would be 10 additional feet. Construction costs of any medial changes and construction of accel-decel lanes and the granting of right-of-way, together with the negotiation for rights of access, should be a condition of platting.

Recommendation

1. An additional access point approximately 550 feet south of the existing medial cut be negotiated for with the City Manager upon the designation by the Board of City Commissioners.
2. All costs and right-of-way needs be satisfied at the time of platting.
3. Right-of-way requirements be limited to an outright dedication of 10 feet (or whatever is needed for accel-decel lanes) at time of platting, and that an additional 15 feet be dedicated conditionally on the basis of need by the City for building an expanded traffic facility to six traffic lanes.

In addition to the above requests of the applicant, the following should be considered as items to adjust or amend:

1. Clearly describing or showing Parcel 1 and Parcel 4 as including the amended and additional "LC".
2. Removal of fence line at south line of existing Parcel 1; and move the south line of expanded Parcel 1.
3. Amending by moving the maximum fill line to the adjusted boundary lines of Parcels 1 and 4. As now drawn, fill could not be used in much of the "new" "LC" area.
4. Add the following language to provide for a dual level parking structure on Parcel No. 1:

"Setbacks shall be as indicated on the plan, but shall not apply to the floor or deck of any parking structure within a setback line of 85 feet from the center line of Amidon if the structure does not exceed the established grade of the southwest corner of 21st Street and Amidon;

nor shall it apply to the floor or deck of any parking structure between the 85-foot setback line from the center line of Amidon and the building setback line established on the CUP".

NOTE: The building setback line is proposed to be 85 feet from existing right-of-way of Amidon.

5. Add to Parcel 2

"Canopies may extend into and gasoline pumps may be placed in the 35-foot building setback line a distance not to exceed 20 feet".

6. If they appear on the revised drawings, remove medial detail and width of driveways from CUP as requested by the City Engineer.

7. Although not to be entered on the face of the CUP, the following should be accomplished or made a condition of platting:

a. The existing fence on the west side of Amidon should be moved behind the right-of-way line by the applicant. Any adjustment of the fence should also be at the applicant's expense.

b. The existing storm water sewer on the west side of Amidon will need to be extended at the cost of the applicant. A 20-foot easement will be needed for the extension.

8. Add as a general provision:

"The transfer of title of all or any portion of the land included within the CUP does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial and residential development and be binding upon the present owners, their successors and assigns, and their lessees, unless amended.

In discussing the access on Amidon, LAKIN pointed out it has been stated that the applicant has no control over the property to the south where access exists, but under a CUP it is supposed to be under one single ownership and control and so access could be accomplished as suggested by the staff. As noted in the staff report and as shown on a sketch, a new access point approximately 550 feet South of Twin Lakes main entrance was proposed thus making two T-type intersections. The staff proposal would allow signalization of both access points (Marina Lakes and Twin Lakes) and permit more orderly progression of traffic through the area. LAKIN said the question was raised at the City Commission such as how can the cost be reassessed to the city at large. He felt the proper way would be if access is to be allowed is to have the applicant negotiate with the City for re-purchase of the access. LAKIN said the question was asked as to right-of-way on the zoning case, and this is a question which should be finally resolved by the City Commission, i.e., a determination will have to be made whether to plan and acquire right-of-way for 6 lanes plus accel-decel lanes, etc. As a minimum, wherever the access is established, 10 additional feet is needed in order to construct accel-decel lanes and any construction costs should be at the expense of the applicant. If the Commission determines that it is proper to seek right-of-way for 6 lanes, then an additional 15 feet (plus the 10 above) is through the entire area and will mean at some time, should there ever be an opportunity, to require other parties Twin Lakes, Sweebriar and Atlantic Mills, for 25 additional feet. However this is a policy determination which the City Commission will have to make. Such additional right-of-way be dedicated outright on the plat (which is the suggestion of Public Works) and owner granted a minor street permit without fee to use the area until city needs it. Another method would be to make a conditional dedication so that the property owner may use the area until the city declares its need for it.

BOGART asked if the Commission could act on the CUP at this time, and CHAIRMAN MOONEY asked the desire of the Commissioners.

BRANSON asked what would be the procedure if the City Commission approved the way it did before - then would they go ahead and do this or would they send the CUP back for rehearing. LAKIN said it would be at their option but since it has been here twice, there would probably be no reason why it should be returned once again.

BOGART said the applicant would like to have whatever action is taken bear some relationship to other property in the area. He said that in regard to notices for zoning they were not sent out on Twin Lakes because they were not required while they were sent on subject case. He said they hoped there would be some kind of equality of relationship that could be recommended similar to across the street. BOGART said that most of the conditions were agreeable, but did ask for clarification of sign provisions as suggested in the staff report. He said their request would be that they have three on 21st and two on Amidon. LAKIN said the staff has not recommended additional sign heights because of the existing signs in the area do not exceed 30 feet in height.

BOGART said they were concerned with the access to Amidon and felt it could be permitted an opening across from Twin Lakes in accordance with the recommendation of Burgwin and Martin.

As far as removal of the showing of the medial on the drawing BOGART did not feel it should be removed because they would provide an indication of where the openings are.

With respect to item No. 8 in the staff report, BOGART said they did not feel they could bind a leasee.

CHARLES HARRIS, on behalf of Lakeview Development, Inc. suggested that the only thing before the Commission is what should be done in case the City Commission overrules the Planning Commission recommendation and grants the zoning and he assumed that if the zoning is not granted, then requested amendments would not be granted.

In respect to maximum height and gross leaseable area, it refers to the density of the zoning granted so there is a significant difference on a request for 6.9 acres if given 25 or 33 1/3 percent or 50%. This the commission should bear in mind. His clients are opposed to any increase from the original approval because of the traffic involved.

On maximum height, Harris felt there should be a clearly defined maximum height that isn't going to injure the residential area and so some damage to Twin Lakes, and he referred to the signs on East Kellogg where it appears each developer is trying outdo the last one so far as sign heights. He suggested that if an excessive height is permitted, then it is almost certain that at some future time Twin Lakes will make a similar request.

In referring to setbacks, HARRIS felt they would depend a great deal on what is going to happen to the development of the street system. If setbacks are allowed too close then there could be problems in future street construction. Because the theatres are located 35 feet from property lines, and assuming right-of-way has to be condemned, then the setbacks should be sufficient on the west to provide for that condemnation.

In discussing additional access to 21st, HARRIS noted that this relates to the overall traffic problem and said that the allowing of this would add to the overall problem of traffic in the area.

HARRIS referred to the requested access on Amidon and said that at the time the city built the bridge, additional right of way was needed for Amidon, and it was the city's plan which the y had all the way from the south to keep it as a high level arterial. When the City talked to owners on both sides with respect to right of way and asked the Twin Lakes owners for the right of way, of access were agreed on with Twin Lakes paying the normal paving cost from the south end. In dealing with the owners on the west side, those owners took the position that the city would have to pay them the cost of building the fence and they demanded three instead of two entrances. The city was already in the process of construction on the bridge so they granted three entrances on Marina Lakes side and came back to Twin Lakes and granted them a third access.

HARRIS referred to the tremendous investment in Twin Lakes shoppin center. He said that if a mistake is made, it is an investment which cannot be relocated. If the wrong decision is made, it tends to destroy the whole area and there is nothing that can be done about it. HARRIS said that the city requested Twin Lakes to move their south entrance opposite the Marina Lakes south entrance which they did. Twin Lakes paid for the reconstruction of their south entrance.

HARRIS explained that when the right-of-way was acquired, Ritchie dedicated theirs but there was a single lot that was owned by a different owner and it was condemned and price paid was about \$40,000 for the lot itself. The city obtained access control on both sides of the street from the bridge to the corner of 21st Street. The City has allowed as a minor street use an opening in- to the Derby Service Station by Harris said it was his understanding that the city still has access control. He continued that the major problem from the standpoint of Twin Lakes is the one of the main entrance. He said the City required a 40-foot wide fire lane on Twin Lakes east-west where it separates the

buildings. He said there would be traffic build ups opposite this point where there are problems in making left turns out of the center and there are problems in making left turns into the center. He pointed out that the staff has presented an analysis of the problem if another access point is permitted to the west opposite the present one into Twin Lakes.

PAUL GRAVES pointed out that with a T-intersection which presently exists into Twin Lakes there are only 3 points of traffic conflict where there would be 16 with a four way operation such as requested by the applicant. This would create more accidents, more congestion and require more signal timing to handle the job. He said that two T-intersections can handle traffic more efficiently than one regular signalized intersection as close as this would be to 21st and Amidon intersection. He referred to the intersection at Kellogg and the Airport Road which is a T-type where west bound traffic can proceed without having to stop for a turning car into the airport road.

KRATZER noted that great stress has been placed on the traffic by residents in the area. He said he had observed such conditions at various times of the day and on several occasions and it was his opinion most of the problem is created because of the school zone on Amidon north of 21st Street and the left turns into Sweetbriar. In answer to a question, LAKIN said the plan is to extend the medial construction to the north end of the Sweetbriar shopping center. KRATZER referred to the signalized intersections on East Kellogg and the fact that they are too close together and results in stacked up traffic and he asked Mr. Graves how that could be avoided.

GRAVES said that the signals on East Kellogg are being reviewed and possibly some changes made; they are not T-intersections and the results on East Kellogg is one reason he was convinced that a full type intersection would not work at subject location.

HARRIS pointed out that the staff report indicates with the two entrances opposite each other, there would be 16 primary traffic conflicts and 8 secondary while on a T-type intersection there would be 3 primary and 3 secondary.

HARRIS said that if the City Commission overrules the Planning Commission and grants the zoning request, his clients are strongly opposed to an entrance across from their main entrance point. Harris also pointed out that even though Mr. Bledsoe does not own the land to the south which does have access to Amidon, the original CUP was for the entire tract and under the provisions of Section 28.04.190 which states that the intent and purpose is to provide well planned and well organized developments of commercial areas which are held in single ownership or under single control. The plan is to establish requirements as to lot coverage, height, setback and screening which permit review of the size, shape and location of such facilities with due regard to the tract as a whole. HARRIS pointed out that this should be considered as a whole to assure development of commercial facilities with proper ingress and egress as provided for in the CUP regulations.

MRS. ROBERT SHEARER, 2433 Benjamin Drive, spoke in opposition to any more curb cuts on the west side of Amidon and also expressed opposition to any deviation of sign heights as permitted in the ordinance, and asked the Planning Commission to send back to the City Commission the same recommendation as before.

MOTION: BRANSON moved that if the City Commission does approve the zoning (Z-1037) that access be established on Amidon as recommended by the staff as set out in their report and as shown on the sketch displayed to the Commission

BRANSON commented that it is logical that if the sign height requested is permitted, there will be a similar request from other commercial centers in the area and that the sign height should be kept as it is. He did not see how any recommendation could be made on setbacks until a decision has been made as to the street width, and it was his feeling that the only thing the Planning Commission could recommend so far as the requested amendment to the CUP was to recommend that if the zoning is approved any access be established as indicated in his motion.

GOEBEL seconded the above motion.

HARRIS asked if the sense of the motion was to deny the request to have a driveway opposite Twin Lakes entrance and that it be a "T" type intersection and also recommendation for denial of the CUP. BRANSON agreed that this is the intent.

Page
1-9-69

BOGART said he did not think the sense of the motion was for denial of the CUP as it was dependent on the zoning, but that if the zoning is granted then the CUP be amended in the manner suggested by the above motion. BRANSON agreed.

THE ABOVE MOTION CARRIED UNANIMOUSLY.

The meeting adjourned about 5:20 p.m.

C. Bickley Foster
Secretary

State of Kansas) ^{ss}
Sedgwick County)

I, C. Bickley Foster, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on January 9, 1969, and is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal, this _____ day
of _____, 19_____.

C. Bickley Foster, Secretary
Wichita-Sedgwick County Metro-
politan Area Planning Commission

(SEAL)

INTERSECTION CAPACITY AT SERVICE LEVEL "C"

1968 PEAK HOUR DEMAND
Various Intersections in Wichita

INTERSECTION	DESIGN CAPACITY Vehicles per Hour	1968 PEAK HOUR DEMAND - Veh. per hr.	RATIO	1968 DEMAND DESIGN CAP.
AMIDON & 21 ST	3,500 VPH	2,689 VPH	76%	
WEST & CENTRAL	2,600	2,803 C-D	108%	
SENECA & PAWNEE	2,600	2,603 C	100%	
KELLOGG & ROCK RD	3,500	2,596	74%	
21 ST & BROADWAY	2,000	1,743	87%	
CENTRAL & BROADWAY	2,600	2,274	87%	
CENTRAL & HYDRAULIC	2,000	2,127	106%	
DOUGLAS & RIVER	2,600	2,244	86%	
CENTRAL & HILLSIDE	2,600	2,972 D	114%	
KELLOGG & HILLSIDE	2,600	3,724 F	143%	
KELLOGG & OLIVER	2,600	3,424 F	132%	
DOUGLAS & HILLSIDE	2,600	2,733	105%	

C 2600	C 3500
D 2960	D 4000
E 3120	E 4200

STREET CAPACITY AT SERVICE LEVEL "C"

1968 DAILY TRAFFIC VOLUMES
Various City Streets in Wichita

STREET	LOCATION	DESIGN CAPACITY Vehicles per Day	1968 TRAFFIC VOL. Veh. per Day	RATIO	1968 TRAFFIC DESIGN CAP.
AMIDON	21 ST	17,500 VPD	13,200 VPD	B 75%	
WEST	CENTRAL	13,000	14,010	C 108%	
SENECA	PAWNEE	13,000	16,121	F 124%	
KELLOGG	ROCK RD.	17,500	16,833	C 96%	
DOUGLAS	BROADWAY	14,000	20,500	F 146%	
21 ST	BROADWAY	13,000	17,100	F 131%	
CENTRAL	BROADWAY	13,000	13,600	C 100%	
CENTRAL	HYDRAULIC	13,000	17,000	F 131%	
PAWNEE	HYDRAULIC	13,000	15,100	E 116%	
DOUGLAS	RIVER	13,000	20,700	F 159%	
CENTRAL	HILLSIDE	13,000	16,800	F 129%	
KELLOGG	HILLSIDE	13,000	26,600	F 204%	
KELLOGG	OLIVER	13,000	24,110	F 185%	
HILLSIDE	9 TH	13,000	15,500	E 119%	
13 TH	BROADWAY	13,000	10,000	B 77%	
DOUGLAS	HILLSIDE	13,000	19,300	F 148%	

E 15700	21,500
D 14700	20,000
C 13,000	17,500

Action by the City Commission on 1-21-69

DP-23

Approve the Community Unit Plan subject to the conditions of the staff recommendation except that the request for changes in sign control was withdrawn by the applicant, and except for the general provision listed as Item 8 of the staff report of January 9, 1969 was not required by the City Commission and except for a final decision on the additional access on Amidon was deferred until the meeting of January 28, 1969, and except that Item 4 of the staff report be amended to read a total of seven access points on 21st Street.

10889

ATTACHMENT
2

COMMISSIONERS PROCEEDINGS

January 21, 1968

Anderson - re.
Item 11 - Petition
to change from "AA"
to "LC" (2-1037)
area on south side
of 21st Street bet-
ween Amidon &
Meridian

Commission reconvened from noon recess at 2:10 P.M. with Mayor Anderson in the Chair. Commissioners Enoch, Kessler, Vollmer, Woodard, present.

Mayor Anderson announced that Item 11 on the City Manager's agenda had been deferred to this time and although the item was shown as Case No. 2-1037 and DP-23 combined, he stated that the zoning application would be considered first.

Report from the Metropolitan Area Planning Commission (Case No. 2-1037) in regard to petition to change from "AA" to "LC" a tract beginning at a point 50 feet west and 400.15 feet south of the northeast corner of Government Lot one in the Northwest Quarter of Section 7, Township 27 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence south parallel to the West easement line of Amidon Avenue 330 feet; thence west 675 feet to a point 730 feet south of the center line of 21st Street; thence north at right angles, 250 feet; thence west at right angles, 460 feet to a point 480 feet south of the center line of 21st Street; thence north at right angles 130 feet; thence east at right angles 460 feet; thence south at right angles 50 feet; thence east 675 feet at right angles to the point of beginning, generally located on the south side of 21st Street between Amidon and Meridian, again presented, having been returned to the Metropolitan Area Planning Commission for reconsideration at the City Commission meeting of December 31, 1968. Planning Commission recommended that this application be denied.

Anderson --

Mayor Anderson announced that those favoring the zoning request would be heard at this time.

Vincent L. Bogart--

Vincent L. Bogart, Attorney representing Clear Lakes, Inc. and H. D. Bledsoe, appeared in support of the application. He reviewed at some length the history of the actions taken relative to the matter when it was before the Planning Commission and City Commission at various times in the past, to help clarify any misunderstandings interested persons had relative to the request and to support his contention that the Commission had expressed favorable support for "LC" for this area in question at previous meetings when the matter was considered. He noted that considerable protest was generated due to the fact that notification of the pending application was sent to property owners within a 1,000 foot radius when normally only those within 200 feet are notified. He requested that the application receive the Commission's approval.

Mr. Howard B.
Scott & Mrs. Earl
Van Long --

Mr. Howard B. Scott, Realtor, and Mr. Earl Van Long, property owner in southwest Wichita, also appeared in support of the request.

Charles Harris --
and other persons
who spoke in
opposition to
requested change
in zoning --

Charles Harris, Attorney representing Lakeview Development, Inc., spoke in opposition to the requested change in zoning and objected to the traffic problem which he felt would be created by the approval of this application.

Mrs. A. F. Simon, 2628 Bob White; Mr. and Mrs. Robert Shearer, 2433 Benjamin; Mrs. Dan Phelan, 2243 Cardinal Drive; and Mrs. Michael Balluono, 2245 Bullinger Drive, also spoke in opposition to the change in zoning. Mrs. Shearer also presented petitions opposing the zone change and amendments to the CUP, said to bear 229 signatures.

Robert A. Lakin --

Robert A. Lakin, Assistant Planning Director, at the request of the Commission, pointed out on a map the undeveloped "LC" and "B" zoned property in this immediate vicinity and also along 21st Street on each side of Amidon.

Discussion.

COMMISSIONERS PROCEEDINGS

10590

January 21, 1969

Mr. Scott --

--application requesting zoning change from "AA" to "LC" approved & Ord. placed on lot reading

Ord. changing zoning classifications or districts of certain lands located in City of Wichita

Request for approval of an amendment to Marina Lake Community Unit Plan (DP-23), generally located on South side of 21st St. between Amidon & Meridian

Robert A. Lakin--

In answer to inquiry by Commissioner Woodard, as to the assessed valuation of the property in subject application, it was reported by Mr. Scott that last year the valuation was \$1,509.00 under "AA" zoning.

Woodard moved that the application requesting zoning change from "AA" to "LC" be approved, being Case No. Z-1037, and that the ordinance effectuating the change in zoning be placed on first reading. Motion carried 4 to 1, Enoch voting "No".

ORDINANCE

An ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by Section 28.04.218, the Code of the City of Wichita, Kansas, read for the first time and under the rules laid over.

Request for approval of an amendment to Marina Lake Community Unit Plan (DP-23), as related to property legally described as a tract beginning 75 feet west and 75 feet south of the northeast corner of the Northwest Quarter of Government Lot 1, Section 7, Township 27 South, Range 1 East of the 6th P.M., thence south 275 feet; thence east 25 feet; thence south 1535 feet more or less thence northwesterly and westerly along the left bank of the Arkansas River to the west line of Lot 1; thence north along the west line of said Lot 1 to a point 50 feet south of the northwest corner of said Lot 1; thence east to a point 395 feet west and 25 feet north to the point of beginning; thence south in a southeasterly direction 90 feet more or less to a point 15 feet north to the point of beginning; thence east 30 feet; thence south 15 feet; thence east 275 feet to the point of beginning. Said legal description includes Marina Lake 1st and Marina Lake 2nd Additions, and an area on the west being platted as Marina Lake 3rd Addition, generally located on the south side of 21st Street between Amidon and Meridian, presented.

Robert A. Lakin, Assistant Planning Director, presented the revised Community Unit Plan and he reviewed the changes with the Commission. Mr. Lakin reviewed the staff's recommendations relative to the amendments requested by the applicant: (1) approve a gross leasable floor area of 50% of total parcel size for each of Parcels 1 and 4; and also that the maximum height limitation of 65 feet on Parcels 1 and 4 remain, subject to limit in "LC" as provided by the City Code on Parcel 1; (2) that the requested increase in sign height from 30 to 45 feet not be approved; (3) setback be revised on the plat as noted in the report; (4) approve additional curb cut on 21st Street; (5) an additional opening on Amidon not be approved directly opposite the existing medial cut (Twin Lakes main entrance), but recommended an additional access point (an offsetting T-intersection) approximately 550 feet south of the existing medial cut with a short service road up to the property and such access be negotiated for with the City Manager upon the designation by the Board of City Commissioners, and the basis for such negotiation be the equivalent special assessments which would have been normally assessed. Also, that all costs of right-of-way needs be satisfied at the time of platting, and right-of-way requirements be limited to an outright dedication of 10 feet or more at time of platting, and that an additional 15 feet be dedicated conditionally on the basis of need by the City for building an expanded traffic facility to six traffic lanes which would re-

COMMISSIONERS PROCEEDINGS

January 21, 1969

	quire 150-foot right-of-way, plus certain other considerations noted in the report; and (6) add a general provision that all successors and assigns to the land covered by the CUP will be subject to all conditions and limitations of the plan.
Vincent L. Bogart --	Vincent L. Bogart, Attorney representing Clear Lakes, Inc. and H.D. Bledsoe, in answer to inquiry by Mayor Anderson, stated that there was general agreement on most points enumerated by Mr. Lakin with the exception of the opening on Amidon, the 35-foot sign height limitation (which was later withdrawn) and the general provision verbage. He felt that the opening on Amidon should be directly opposite the Twin Lakes entrance and that with signalization, based on the Engineering Consultants study, that this would be feasible. Mr. Bogart inquired of Mr. Bob Kirach, Architect for the project, of his opinion, and he felt that the entrances would be compatible and he felt this would be desirable.
Mr. Charles Harris --	Mr. Charles Harris, Attorney representing Lakeview Development, Inc., appeared and expressed objection to the increase in gross leasable area, as he felt that the traffic generation would depend upon the density of the shopping area. He pointed out that dedication of additional right-of-way by his client would be impossible on the east side of Amidon without condemnation proceedings, since Ritchie Brothers had built the service road adjacent to Amidon on the east at their own expense and there was no additional right-of-way available as they could not relocate the roadway farther east due to the lake location. With reference to the request for an opening opposite the Twin Lakes main entrance, he stated that in his opinion that would be very detrimental and would be very costly to the Twin Lakes area and also the people who helped pay for the improvement. He stated that Twin Lakes had cooperated with the City in the establishment of the existing openings and he felt that they were adequate, and he could see no reason for the City to relinquish any more control of access to either side.
Mr. Walter Williamson -- Mrs. Robert Shearer Mrs. Michael Belluomo -- spoke in opposition to CUP application	Mr. Walter Williamson, Attorney representing Henry's, expressed opposition to the access point directly opposite the Twin Lakes entrance on Amidon. Mrs. Robert Shearer, 2433 Benjamin Drive, and Mrs. Michael Belluomo, 2245 Hullinger Drive, appeared in opposition to further restriction of traffic. Discussion.
Keeler --	Commissioner Keeler stated that he had visited the area and watched traffic movements in and out of the Twin Lakes area and he offered the following opinion and report to handle the traffic problem in this area: Amidon should definitely accommodate six lanes of moving traffic from the intersection at 21st Street to a point just north of the bridge where the ingress and egress points are opposite each other into the Clear Lakes and Twin Lakes projects, (two 12-ft. traffic lanes in both directions from 21st Street to the bridge, plus a 10-ft. lane on both sides of Amidon for right-turning traffic into both areas) and there should be no obstructions to hamper traffic movement in this 10-ft. lane all the way from 21st Street to the ingress-egress point north of the bridge on both sides of Amidon, to do otherwise with this lane would create a traffic hazard due to cars switching into the traffic-carrying lanes. The medial should extend from 21st Street to the bridge except for the left and

COMMISSIONERS PROCEEDINGS

10892

January 21, 1969

right movements at the point just north of the bridge where ingress-egress has been granted; however, if necessary, the street should be widened to accommodate left-hand movement bays from both directions at this point, referring to a diagram presented by the Planning staff. The existing openings on the east side of Amidon serving the Twin Lakes area should remain permanent, including the access point to the Derby station, and no cut be allowed in the medial at this point nor at the Twin Lakes north access point which is some 350 feet south of 21st Street, nor should Clear Lakes be granted a cut in the medial at about this same point for entrance to that area by north-bound Amidon traffic. Should Clear Lakes wish a curb cut to the north of this point, there should be maintained at least 100 to 150 feet between this curb cut and the Texaco curb cut, this allowing south-bound traffic into the Texaco station and the Clear Lakes project. The one remaining curb cut on the Clear Lakes side of Amidon to equal the Twin Lakes side, would be directly opposite the main Twin Lakes entrance and for traffic reasons and hazards which would be created by cross-over traffic from one area to the other, would immediately necessitate a traffic signal. The same type of medial treatment should then occur at this location as at the south Twin Lakes-Clear Lakes opening, that is the allowance of left-turn bays for north-bound as well as south-bound Amidon traffic. In conclusion, these properties on both sides of Amidon have become valuable due to businessmen's foresight and the bridge construction as well as the continuation of McLean Boulevard to its juncture with Amidon, and he could see no wrong in allowing Wichita to grow, and he suggested that the Engineering Division draw street plans which will allow these two developments to operate competitively and peacefully, and would necessitate additional right-of-way, possibly, but it can be obtained now through platting. However, in fairness to the citizenry of our entire community these developments should bear the same costs of construction for this thoroughfare as would any other development in any other part of the City. He further suggested that the City Manager bring a report to this Commission which would re-assess the entire cost of this project from its beginning to the present time to ascertain whether the abutting property owners have paid their fair share of this improvement. He stated that he favored this street improvement to be handled immediately if we allow this CUP as presently being discussed.

Mr. Harris --

Mr. Harris again appeared and stated that since there appeared to be conflicting opinions between reports made by Burpin and Martin and the City staff as to whether entrances directly opposite each other will work and the Commission's hesitance to accept the staff report, he suggested an alternative whereby the City Commission retain an outside expert, that Twin Lakes will pay for. He submitted the names of Ralph Clair, of VanDoren, Hazard, Stallings & Schnacke; Professor Robert Smith, Kansas State University who teaches traffic engineering; or Martin-Ashman of Chicago to make a study, or to pick anyone else they desire in the United States, that Ritchie's will pay for the study and that they will abide by the recommendations of such an expert.

Enoch --

Commissioner Enoch stated that certainly the Engineer's recommendation should be considered as there are no other streets to carry the traffic, and he felt that now having created the problem, not to take away from the Engineers the right to determine the best way of solving it, however he felt the third study was not really necessary but it was an open-minded approach on their part

COMMISSIONERS PROCEEDINGS

January 21, 1969

	to take the third party recommendation.
Woodard --	Commissioner Woodard inquired if the CUP was passed if it would consist of six lanes as described by Commissioner Keeler in his presentation? Mr. Lakin stated that presently there are two 12-ft. lanes for moving traffic with decel-acel lanes into the existing centers, and the staff would propose that this be required as a minimum on the other side also as to the accel-decel lanes. He stated that if two more moving lanes are desired that would make six, however, he did not think that had been proposed although at some point in time it would have to be considered.
Mr. Lakin --	
Keeler --	Commissioner Keeler stated that he was not suggesting two more 12-ft. lanes.
Woodard --	Commissioner Woodard inquired what would happen if Clear Lakes was to have an access point immediately opposite Twin Lakes and there was to be a left-turn movement provided in the signalization for the cross-traffic between Clear Lakes and Twin Lakes? Paul Graves, Traffic Engineer, stated that to provide this type of signalization is extremely expensive, with signal overlay lapse and he did not believe that there was physically enough storage room south of 21st on Amidon to handle another major traffic intersection, some 500 or 600 feet to the south.
Paul Graves --	
Enoch - motion failed for lack of a majority	Enoch moved that in connection with the amendment to the Community Unit Plan, having to do only with the curb cut, that the staff be authorized to negotiate with the applicant on its design and location. Motion lost 3 to 2. "No" votes, Keeler, Woodard, Anderson.
Enoch --	Commissioner Enoch inquired of the City Manager how this motion could be so worded in distance requirements and locations to meet the staff recommendation, and Ralph Wulz, City Manager, furnished the information to Commissioner Enoch who provided the following motion: Enoch moved that the curb cut in question be allowed 50 feet wide to be located approximately 550 feet south of the center line of the curb cut to the east side of Amidon, as a main entrance to Twin Lakes.
--substitute motion that applicant negotiate entrance with staff & return compromise in one week.	Anderson moved as a substitute motion that the applicant negotiate the entrance with the staff with the understanding that a majority of the Commission would desire a compromise and that it be returned in one week.
Enoch --	Commissioner Enoch stated that this placed him in an untenable position due to his previous motion and from the discussion by the Commission, it appeared that they desired the entrance to the property in question to be somewhere between the existing entrance to Twin Lakes and the entrance shown on the drawing which was approximately 550 feet south of the Twin Lakes entrance.
Keeler --	Commissioner Keeler stated there seemed to be enough opposition to the crossover from one shopping center to another and based on the fact that Clear Lakes will have to cooperate with Mr. Bledsoe in this affair, I am going to vote in favor of the entrance at some point south of the property line, wherever the staff desires it to be, somewhere between the property line and the entrance shown on the drawing.
--Comm. Keeler's remarks included in motion	Anderson moved that as a part of his motion above that Commissioner Keeler's remarks on the Community Unit Plan be included as a part of his motion.
Robert Lakin --	Robert Lakin, Assistant Director of Planning, pointed out, in reply

COMMISSIONERS PROCEEDINGS

10894

January 21, 1969

to a question from the Commission, that the dedication of right-of-way and the guarantees would appear at the time of platting and the medials would appear on the Community Unit Plan. Mr. Lakin further stated that he and Mr. Bogart had checked the plan and 7 should be the number of access points on 21st Street instead of 8 as shown.

During discussion between Mr. Bogart and Mayor Anderson, it was determined that Item 8, regarding a disclaimer clause on past and present tenants would be omitted from the Community Unit Plan.

Mayor Anderson's substitute motions carried unanimously.

On motion, Commission adjourned at 5:35 P.M.

William D. Anderson, Jr.
Mayor

ATTEST:
Ralph C. Eberly,
City Clerk

Attachment #3

EXCERPT FROM PLANNING COMMISSION MINUTES OF MARCH 11, 1971:

- 22a. Case No. Z-1263 - The Hanson Development Company and Clear Lake, Inc. request change from "AA" to "1C" for a tract in Govt. Lot 1 in the NW 1/4 of Section 7, Township 27 South, Range 1 East of the 6th P.M., described as follows: Commencing at the NE corner of said Govt. Lot 1 in said NW 1/4; thence south 00°04'05" west along the east line of said Govt. Lot 1, 1120.32 feet; thence north 88°12'55" west, parallel with the north line of said Govt. Lot 1, a distance of 60.03 feet for a place of beginning; thence north 88°12'55" west, 69.97 feet; thence north 00°04'05" east, 15 feet; thence south 89°56'09" west, 455.06 feet; thence north 54°26'07" west, 194.04 feet; thence north 282.09 feet to the SW corner of Lot 1, Marina Lake Fourth Addition, Wichita, Kansas; thence east 674.9 feet to the SE corner of said Lot 1; thence south 390 feet to the place of beginning. Generally located on the west side of Amidon in an area south of 21st Street.
- 22b. Case No. DP-23 - The Hanson Development Company and Clear Lake, Inc. Request approval of amendment to the Marina Lake Community Unit Plan for property described as: Lots 1 and 2, Marina Lake, Wichita, Sedgwick County, Kansas, Lots 1, 2, 3 and Reserve A, Marina Lake Fourth Addition, Wichita, Kansas, and part of Govt. Lot 1 in the NW 1/4 of Section 7, Township 27 South, Range 1 East, described as beginning at a point 1120.32 feet south and 50 feet west of the northeast corner of said Govt. Lot 1; thence south to the south line of said Govt. Lot 1; thence westerly along the south line of said Govt. Lot 1 to the west line of said Govt. Lot 1; thence north to a point 50 feet south of the northwest corner of said Govt. Lot 1; thence east to the northwest corner of said Lot 3, in said Marina Lake Fourth Addition; thence south 300 feet; thence east 325 feet; thence south 130 feet; thence east 460 feet; thence south 250 feet; thence east 604.9 feet; thence south 390 feet; thence east 80 feet to beginning. Generally located on the south side of 21st Street between Amidon and Meridian.

GALBRAITH pointed out the area on the map and reviewed the following staff report:

History:

Z-0524 and DP-23 were two zone and Community Unit Plan applications for the entire area of the former Dolese sandpit area of approximately 60 acres which the Planning Commission considered in 1967. Approximately 37 acres were requested for "LC" and "C" and 24.5 acres were requested for "B". A Community Unit Plan was submitted for both the commercial and residential parts. The Planning Commission recommended denial, without prejudice; however, after the City Commission heard the case, approximately 8 acres of "LC" and 22 acres of "B" was approved. The situation at that time hinged on the impact of traffic on the arterial system.

On December 12, 1968, the Planning Commission considered an application for an amendment to the CUP and a request for an increase of Parcel #1 from 3.57 acres to 9.13 acres of light commercial zoning (Z-1032). Action of the Planning Commission was to recommend denial of both applications. The Board of City Commissioners, however, at their meeting on January 21, 1969 approved both applications, subject to certain conditions. Again the impact of traffic on the arterial system was a prime consideration.

It is suggested that the MAPC minutes of November 14, 1968, and December 12, 1968, provide a good history of prior cases and issues discussed by all parties.

2. Requested Change

Increasing Parcel #1 at the northeast corner of the tract from 9.13 acres to 14.94 acres of light commercial zoning.

Increase the permitted gross leasable floor area on Parcel #1 from 198,837 square feet to 325,479 square feet.

3. As noted in previous case history of this area, the general question of shopping center location has been investigated in depth, including traffic analysis. Twenty-first Street which is an arterial, has been improved adjacent to subject property. The balance is scheduled for 1971, including a new bridge which is now under construction. Traffic volumes on 21st Street and through the 21st Street-Amidon intersection continue to increase. Traffic projections, by Burgwin and Martin, the applicant's previous consultant, for 1967 (ADT) are being substantially surpassed in 1968 and again in 1970.

	Burgwin & Martin 1967 Projected ADT	Actual ADT 1968	Actual ADT 1970
Amidon, North of 21st	11,970	15,530	16,069
Amidon, South of 21st	11,580	14,474*	14,673
21st, East of Amidon	10,940	13,200	13,659
21st, West of Amidon	7,700	8,260	8,832

*1966 only available figure

4. The critical and major problem is still the 21st Street and Amidon intersection. Because "LC" generates traffic far and above other uses, even offices and apartments, the ability to move traffic through the intersection without creating congestion and a poor level of service is, in our opinion, the key as to whether more "LC" should be approved.

In reviewing the testimony on traffic, much dialog refers to "Level of Traffic Service." A short explanation of this phrase is attached to this report (See Attachment #1) to assist in analyzing the significance of the Staff and applicant's position concerning the capacity of the Amidon-21st Street intersection.

5. After reviewing this latest amendment, the City Engineer has advised that in the event the additional "LC" zoning is granted it will be necessary to construct a storm water sewer south from the existing drainage easement from Amidon to the lake along the west side of Amidon to the River. This construction will be necessary due to the filling in of the lake area into which the drainage now flows. This may require a 10-foot easement in the building setback area and can be furnished at time of platting.
6. The files contain a complete, but quite voluminous record of the history, staff reports, testimony, etc., pertaining to this case. Minutes alone run to nearly 80 pages. The minutes of November 14, 1968 and December 12, 1968 give a fairly complete record of all the arguments pro and con. These are attached to this report (Attachments #2 and 3). Copies of all other minutes (HAPC and BCC), staff reports, engineers' reports, will be made available to the Commission on request. They have not been sent because of the bulk and somewhat repetitive material contained therein.
7. The regulations require a solid masonry wall between the "LC" and the "R" to the south. If the "LC" is approved, this should be provided for, both on the face of the CUP and in the general provision text, to be constructed at the time the apartments are constructed to the south.

Conclusion

Inasmuch as the basic request is much the same as made in the previous two applications, there does not seem to be much which can be added at this time. Improvements are being made to 21st Street, west of the area, new construction is nearing completion in Twin Lakes and Sweetbriar (under their approved CUP limitations), new channelization and accel-decel lanes have been added on Amidon for Sweetbriar. The total amounts of "LC", however, remain the same and traffic is increasing at a rate above the 20 projections made earlier. The decision has been made twice before concerning the overall amount of "LC" to be provided in this area. There appears to be no reason to change the previous decisions of the MAPC and the City Commission when the first case was heard as modified by the 1963 proceedings.

BOB FERGINS, architect, spoke in support of these requests on behalf of the applicants. He submitted a plan of the general area and indicated the light commercial zoning already approved on the Marina Lake site, the additional requested and the area of the lake to be filled in for development. He pointed out that light commercial in Twin Lakes on the east side of Amidon lacks only 71.61 feet of extending as far south on Amidon as that requested in subject case. FERGINS stated that in order to have a one-level shopping center development as proposed, additional space is required in order to utilize the present access to Amidon. He offered no objection to the fencing along the south or to the drainage requirement, but suggested that drainage could take a different route other than straight south to the River.

FERGIN submitted a letter addressed to himself from Sisson Realtors of Saint Joseph, Missouri, in which it was indicated they propose to build a shopping center of approximately 170,000 square feet, provide parking for 935 cars, estimate the material cost to be \$3,000,000 and will provide employment for in excess of 150 people.

FERGINS also pointed out that this is an opportunity for the City to cooperate with a developer who is willing to invest in the Wichita area. FERGINS next referred to the possibility of a traffic breakdown at the intersection, which he considered very unlikely and suggested that traffic figures discussed at past hearings of zoning in this area were irrelevant because the present plan does not involve the high square footage as previously proposed. He stated that what is proposed is an intermediate type center all on one level (no mall) and that the gross leasable square footage involved is about equal to what is already approved for Parcel No. 1. He pointed out further that 170,000 square feet represents 29% of the net "LC" site, while the Twin Lakes site is 51% of the "LC" zoning or 353,000 square feet. FERGINS contended that they are not proposing to exceed the amount of leasable retail space that was allowed under the original request and which was approved by the City Commission on January 21, 1969.

LAKIN said the staff was not aware that actual construction proposed would be limited to basically the same amount of square feet already approved in the previous plan, and that if the applicant would be willing to amend the CUP just to cover the area desired and limit the square footage on Parcel #1 as before, there would be no objection to deepening the zoning from the staff.

FERGINS inquired as to basic figures used in discussing the intersection previously and thought it was 450,000 square feet. LAKIN said it seemed to him it was on the basis of 30% of what would have been authorized, or around 325,000 as the total for Marina Lakes. He pointed out that the City Commission has already approved 198,000 square feet of leasable floor

space on Parcel #1 and that the plan is now for around 175,000 plus. He suggested that the existing freestanding structures on the north part should not cause any conflict, and he noted that there is a substantial difference between 200,000 and 325,000 square feet of floor area.

FRAGINS said he figured 200,000 square feet was approximately 25% of the "LC" zoning, which would be sufficient.

LAKIN stated that he felt that the intersection at some point in time, if the area continues to grow and realize the potential the owners have envisioned, will be in trouble. However, since the City Commission has already accepted the level of development being requested, and if the present plan can be carried out with 200,000 square feet of gross leasable area, he did not feel there was a significant problem. He said he was more concerned with traffic generation potential than the amount of light commercial zoning.

FRAGINS said he wanted to clarify that the area of 35% would be for only Parcel #1 as being revised and would have nothing to do with lots 2 and 3 and the rest of the site. He asked if it would be better to plat the existing light commercial as a replat along with the present zoning application area. LAKIN said he did not consider it too important, but that the question is just how much square feet of building is built in the area which is established as Parcel #1.

FRAGINS felt there should be some variation or flexibility in case of fire or windstorm and the center is demolished and they want to rebuild. LAKIN was agreeable to some leeway. LAKIN commented that what has already been approved is 198,037 and as long as a facility is built into the new area and still stays with 200,000 square feet of gross leasable area, there should be no further argument concerning traffic potential, since the 198,000 has already been approved by the City.

FRAGINS stated again there should be some flexibility because they are planning a single level while the original plan was multiple level and they have certainly scaled down the plans.

SOUDERS asked if 200,000 square feet was satisfactory, and FRAGINS said they would rather have it set at 35% of the light commercial area.

LAKIN said that from a practical standpoint most shopping centers will not exceed 35% of their area for floor area.

CHARLES HARRIS, attorney representing the Twin Lakes Center, spoke in opposition, pointing out that zoning at this intersection has been argued a number of times in the past and that it is a simple issue of the overall traffic and not internal ground coverage. He pointed out that Twin Lakes was the first development in the area at the time when there were dirt roads, and it was this original center which resulted in further development of the area, both commercial and residential. He stated that this particular location is trapped between the Little and Big Rivers and the Interstate I-235 and is a tremendous development served only by 21st Street and Amlidon. HARRIS said that commercial at this intersection is right now more than half of the retail area of downtown Wichita. He continued that his client did not appear in opposition to any of the zoning at this intersection (Atlanta Mills, Sweetbriar) until Marina Lakes, and it is not because they don't like competition or want neighboring business that they are appearing now. It is solely an overall question of traffic circulation. HARRIS pointed out that the original request on Marina Lakes was for 20 acres of light commercial, which was reduced to 8 acres, and the original request contemplated utilizing all of the lake area adjacent to Amlidon.

HARRIS referred to the Twin Lakes Center, and said that while Sears is expanding their store space, zoning for such is not new, and the owners of Twin Lakes Center have built a tremend-

ous shopping center and nice apartment buildings, and that their commercial development is about 225,000 square feet of leasable area and with the expansion of Sears will be approximately 325,000 square feet. HARRIS said at an earlier hearing the Planning Staff had recommended against any more "IC" at this intersection because of the traffic problem which would be created at the intersection. He noted that the level of service at the intersection now at various times is what is called by the Traffic Engineer as "F" level, and most of the time it is "D" level, which is very bad.

HARRIS pointed out that in the original consideration of Marina Lakes zoning, the proponent engaged the services of an independent traffic engineering firm (Burgwin and Martin) in 1967, whose report was discussed at great length during the prior hearing, and as an outgrowth of that report, the City Commission asked the City's Traffic Engineering Division to conduct a study, and the two studies resulted in different conclusions. Burgwin & Martin's study indicated that if the center was built as proposed at that time, traffic would increase at a rate of 18 per year, while the City's Traffic Engineering study concluded it would increase at a rate of 28 per year and that it would be only a question of time until the level of service would be so bad that the streets and intersection would have to be completely rebuilt. HARRIS pointed out that both projections turned out to be too conservative because traffic has increased more than 28 without the development proposed by Marina Lakes developers at that time. Referring again to street construction, HARRIS pointed out that Anidon has already been rebuilt three times in the last 6 to 8 years. He recalled the fact that the City's study indicated a need for 6 lanes of traffic on Anidon in addition to the decel/accel lane and 6 lanes on 21st Street with double left turn lanes south on Anidon and possibly would include widening the bridge.

HARRIS pointed out that with the breakdown of the intersection, the only alternative is to completely rebuild which requires additional right-of-way over that which now exists.

HARRIS next referred to the cost to taxpayers involved in condemnation of necessary right-of-way for widening of the streets involved, and referred specifically to the Derby Oil Company station at the southeast corner of the intersection where any more taking of right-of-way would destroy the site for a station. He said the City had recently condemned a station not as good as the one in this case, at a cost of \$200,000.

The attorney pointed out the hardship to the Twin Lakes Center if additional right-of-way is required in that they have guaranteed a given amount of parking in leases with their tenants. He said his clients have dedicated considerable right-of-way in the past in this area and to take any more along their west boundary (east side of Anidon) would interfere with their service road on their property. He stated he represents an investment of more than \$7 million and to rebuild the street and intersection would destroy much of its economic value.

HARRIS said that the Traffic Engineer's staff has made a study of traffic associated with Coolidge, Woodrow and 21st Street, basically because of the expansion of the Sears Store.

HARRIS pointed out that to approve this request would result in over 20 acres of light commercial for the Marina Lakes area, and if the figure of 35% is applied, would result in about 325,000 square feet (gross leasable area) which is the same as building another Twin Lakes. He maintained that if another 325,000 or even 200,000 square feet is allowed in addition to what is already at this intersection, there is no physical way that the intersection could successfully operate.

HARRIS said that in discussing this matter with Paul Graves, the Traffic Engineer, Graves had indicated he would not be adverse to making another study related directly to the subject

Intersection and development, if he was requested to do so. HARRIS stated that because of the magnitude of the development and problems in this area, he would ask that the Planning Commission make such a request to the Traffic Engineer. He felt that unless traffic can effectively flow through the area, it would result in damages to his client as well as other development in the area.

HARRIS pointed out that the zoning on Marina Lakes has been established 6 years and yet very little development has occurred. He referred again to the expense to the taxpayers to rebuild streets and the intersection in this area and did not consider it fair to the people of the City of Wichita.

MRS. A. F. SIMON, 2623 Bob White, spoke in opposition on behalf of herself and others in the residential area to the north and west. She pointed out that many protest petitions had been filed previously on the original hearing, but that it appeared the opponents would continue to ask for a little bit more each time.

MRS. MICHAEL BELLAJOMO, 2245 Bullinger, spoke in opposition as at previous hearings. She referred to the present traffic in the area and the difficulty of entering either 21st or Amidon from Bullinger. She also referred to the environmental pollution and asked what happened to the original artist's rendering of the development originally proposed, and continued to point out that development which has occurred up to this time on the Marina Lakes area has not benefited the area, but rather, has served to detract.

HARRIS spoke again, pointing out that in the Marina Lakes area in addition to the light commercial, there is considerable area zoned for "B" Multiple Family which has not been developed.

JACKSON commented that it appeared to be a question of whether everyone has equal rights with respect to the possible breakdown of the intersection. He stated that there have been concessions from one side of the street to the other and while the developers of Twin Lakes are concerned, the first one in a new area is always at a disadvantage when adjacent areas also want to develop.

MOTION: JACKSON moved; KAMEN seconded and it carried by a vote of 5 in favor (Jackson, Kamen, Souders, Taylor and Burnett) and 1 opposed (Blakey) that the Planning Commission recommend to the City Commission that Case Z-1263 be approved, subject to the approval of the amended development plan (DP-23), and subject to platting within one year; and that the amended development plan be approved in accordance with Section 20.04.190 of the zoning ordinance to promote well planned commercial developments, subject to the following conditions:

1. Decrease the maximum gross leasable area on Parcel #1 from 50% to 35%.
2. Indicate on the plan the required 5'-8' wall at the south of Parcel #1, and expand the general provisions on screening by adding the following: A 5'-8' high solid or semi-solid wall constructed of brick, stone, masonry, architectural tile, or other similar material shall be constructed where shown on the plan and at such time as the property to the south develops residentially.
3. Guarantee, at the time of platting, or prior to the filling in of the lake in the area of the drainage pipe, the construction of a storm water sewer, from the existing drainage easement from Amidon to the lake south to the Arkansas

River. This construction will be necessary due to the filling in of the lake area into which the drainage now flows. This may require a 10-foot easement in the building setback area and can be furnished at time of platting.

4. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owner or owners, their successors and assigns unless amended.
 5. The development of this property proceeding in accordance with the development plan as approved by the Planning Commission and City Commission, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
 6. Any major changes in this development plan being resubmitted to the Planning Commission and City Commission for their consideration.
-

COMMISSIONERS PROCEEDINGS

13013

March 30, 1971

Attachment 4

ORDINANCE

Ord. changing zoning classifications or districts of certain lands located in City of Wichita

An ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by Section 28.04.210, the Code of the City of Wichita, Kansas, read for the first time and under the rules laid over.

Petition to change from "AA" to "LC" & approval of Amendment to Commercial CUP (Marina Lake Community Unit Plan) generally located on the west side of Amidon in an area south of 21st Street

Report from the Metropolitan Area Planning Commission (Case No. Z-1263) in regard to petition to change from "AA" to "LC" for a tract in Govt. Lot 1 in the NW 1/4 of Section 7, Township 27 South, Range 1 East of the 6th P.M., described as follows: Commencing at the NE corner of said Govt. Lot 1 in said NW 1/4; thence south 00 degrees 04' 05" west along the east line of said Govt. Lot 1, 1120.32 feet; thence north 88 degrees 12' 55" west, 69.97 feet; thence north 00 degrees 04' 05" east, 15 feet; thence south 89 degrees 56' 09" west, 455.06 feet; thence north 54 degrees 26 feet 07" west, 194.04 feet; thence north 282.09 feet to the SW corner of Lot 1, Marina Lake Fourth Addition, Wichita, Kansas; thence east 674.9 feet to the SE corner of said Lot 1; thence south 390 feet to the place of beginning, generally located on the west side of Amidon in an area south of 21st Street; and Case No. DP-23 - request for approval of amendment to the Marina Lake Community Unit Plan for property described as: Lots 1 and 2, Marina Lake, Wichita, Sedgwick County, Kansas, Lots 1, 2, 3 and Reserve A, Marina Lake Fourth Addition, Wichita, Kansas, and part of Govt. Lot 1 in the NW 1/4 of Section 7, Township 27 South, Range 1 East, described as beginning at a point 1120.32 feet south and 50 feet west of the northeast corner of said Govt. Lot 1; thence south to the south line of said Govt. Lot 1; thence westerly along the south line of said Govt. Lot 1 to the west line of said Govt. Lot 1; thence north to a point 50 feet south of the northwest corner of said Govt. Lot 1; thence east to the northwest corner of said Lot 3, in said Marina Lake Fourth Addition; thence south 300 feet; thence east 325 feet; thence south 130 feet; thence east 460 feet; thence south 250 feet; thence east 604.9 feet; thence south 390 feet; thence east 80 feet to beginning, generally located on the south side of 21st Street between Amidon and Meridian, presented.

Planning Commission recommended that Case Z-1263 be approved, subject to platting within one year & amended development plan be approved subject to certain conditions

Planning Commission recommended that Case Z-1263 be approved, subject to platting within one year; and that the amended development plan be approved in accordance with Section 28.04.190 of the zoning ordinance to promote well planned commercial developments, subject to the following conditions:

1. Decrease the maximum gross leasable area on Parcel #1 from 50% to 35%.
2. Indicate on the plan the required 5'-0" wall at the south of Parcel #1, and expand the general provisions on screening by adding the following: A 5'-0" high solid or semi-solid wall constructed of brick, stone, masonry, architectural tile, or other similar material shall be constructed where shown on the plan and at such time as the property to the south develops residentially.
3. Guarantee, at the time of platting, or prior to the filling in of the lake in the area of the drainage pipe, the construction of a storm water sewer.

COMMISSIONERS PROCEEDINGS

13014

March 30, 1971

from the existing drainage easement from Amidon to the lake south to the Arkansas River. This construction will be necessary due to the filling in of the lake area into which the drainage now flows. This may require a 10-foot easement in the building setback area and can be furnished at time of platting.

4. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owner or owners, their successors and assigns unless amended.
5. The development of this property proceeding in accordance with the development plan as approved by the Planning Commission and City Commission, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
6. Any major changes in this development plan being resubmitted to the Planning Commission and City Commission for their consideration.

Robert T. Feagins--

Robert T. Feagins, Architect representing the applicant, replied to a question from President Keeler that the applicant agrees with Condition No. 1 to decrease the maximum gross leasable area on Parcel No. 1 from 50% to 35%. Mr. Feagins stated that Mr. Bledsoe owned the property and has leased it to Hanson Development Company of Hackensack, New Jersey and that they object to guaranteeing the construction of storm water sewer from the existing drainage easement from Amidon to the lake south to the Arkansas River, being condition No. 3 in which they believed that a benefit district should be created and that his client would be willing to pay his share of the drainage.

Robert Lakin --

The Commission discussed this condition with Robert Lakin and as this guarantee will be taken care of at the time of platting it was decided to leave the condition as approved by MAPC and reconsider the matter again at the time of platting.

--application for zone change and CUP approved as recommended by MAPC, and Planning Dept. to forward Ord. for 1st reading when plat is forwarded to City Commission

Stevens moved that the application for zone change and CUP be approved as recommended by MAPC, subject to the conditions of platting, and the Planning Department instructed to forward the ordinance for first reading when the plat is forwarded to the City Commission. Motion carried 2 to 1, Keeler abstained and Enoch voted "No". Roll Call: Enoch, No; Greene, Aye; Stevens, Aye; Keeler, abstained.

Petition to change from "AA" to "A" area on north side of 31st Street SW, in an area east of Elpyce

Report from the Metropolitan Area Planning Commission (Case No. 7-1264) in regard to petition to change from "AA" to "A" for area beginning at a point on the south line of the SW 1/4 of Section 1, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, 1030.1 feet east of the southwest corner of said SW 1/4; thence north at right angles 670.62 feet; thence northwesterly at an exterior angle of 148 degrees 05', 80.02 feet; thence north-

Attachment #5

15. Case No. Z-1476 - Marina Lake Drive, Inc. requests change from "B" to "LC" for

That part of Government Lot 1, in the NW 1/4 of Sec. 7, Twp. 27-S, R-1-E, described as beginning at a point on the east line of said Government Lot 1, 1120.32 feet south of the N.E. Corner thereof; thence north 88°12'55" west, a distance of 130 feet; thence north 00°04'05" east, 15 feet; thence south 89°56'09" west, 455.06 feet; thence north 54°26'07" west, 194.13 feet; thence south 16°00' west, 310 feet more or less to the left (north) bank of the Arkansas River; thence southeasterly along the left (north) bank of the Arkansas River to the east line of said Government Lot 1; thence north 885 feet more or less to the place of beginning, except therefrom that part dedicated to the public for access, drainage, river bank maintenance, flood control and river beautification, all in Wichita, Sedgwick County, Kansas; and

change from "B" to "BB" for

That part of Government Lot 1, in the NW 1/4 of Sec. 7, Twp. 27-S, R-1-E, described as beginning at a point on the east line of said Government Lot 1, 1120.32 feet south of the N.E. Corner thereof; thence north 88°12'55" west, a distance of 130 feet; thence north 00°04'05" east, 15 feet; thence south 89°56'09" west, a distance of 455.06 feet; thence north 54°26'07" west, a distance of 251.68 feet; thence north 70°56'58" west, a distance of 959.77 feet to a point 695 feet south and 770 feet east of the N.W. Corner of said Government Lot 1; thence south 12°11'35" west, 282.9 feet more or less to the north bank of the Arkansas River; thence southeasterly along the north bank of said river to the east line of said Government Lot 1; thence north along the east line of said Government Lot 1, 885 feet more or less to the point of beginning except that portion lying east of the following described line: Commencing at a point on the east line of said Government Lot 1, 1120.32 feet south of the N. E. Corner thereof: thence north 88°12'55" west, 130 feet; thence north 00°04'05" east, 15 feet; thence south 89°56'09" west, 455.06 feet; thence north 54°26'07" west, 194.13 feet for a place of beginning; thence south 16°00' west, 310 feet more or less to the left (north) bank of the Arkansas River, except therefrom that part dedicated to the public for access, drainage, river bank maintenance, flood control and river beautification, all in Wichita, Sedgwick County, Kansas.

Both descriptions generally located on the west side of Amidon north of the Arkansas River.

16. Case No. DP-23 (Amendment) Community Unit plan on property described as follows: That part of Government Lot 1, in the NW 1/4 of Sec. 7, Twp. 27-S, R-1-E, described as beginning at a point on the east line of said Government Lot 1, 1120.32 feet south of the N.E. Corner thereof; thence north 88°12'55" west, a distance of 130 feet; thence north 00°04'05" east, 15 feet; thence south 89°56'09" west, a distance of 455.06 feet; thence north 54°26'07" west, a distance of 251.68 feet; thence north 70°56'58" west, a distance of 959.77 feet to a point 695 feet south and 770 feet east of the N.W. Corner of said Government Lot 1; thence south 12°11'35" west, 282.9 feet more or less to the north bank of the Arkansas River; thence southeasterly along the north bank of said river to the east line of said Government Lot 1; thence north along the east line of said Government Lot 1, 885 feet more or less to the point of beginning, except therefrom that part dedicated to the public for access, drainage, riverbank maintenance, flood control and river beautification, all in Wichita, Sedgwick County, Kansas. Generally located on the west side of Amidon north of the Arkansas River.

GALBRAITH pointed out the areas on the map and reviewed the following staff report:

History:

1. The following history is from the staff report to the Planning Commission on March 11, 1971:

Z-0824 and DP-23 were two zone and Community Unit Plan applications for the entire area of the former Dolese sandpit area of approximately 60 acres which the Planning Commission considered in 1967. Approximately 37 acres were requested for "LC" and "C" and 24.5 acres were requested for "B". A Community Unit Plan was submitted for both the commercial and residential parts. The Planning Commission recommended denial, without prejudice, however, after the City Commission heard the case, approximately 8 acres of "LC" and 22 acres of "B" was approved. The situation at that time hinged on the impact of traffic on the arterial system.

On December 12, 1968, the Planning Commission considered an application for an amendment to the CUP and request for an increase of Parcel #1 from 3.57 acres to 9.13 acres of light commercial zoning (Z-1032). Action of the Planning Commission was to recommend denial of both applications. The Board of City Commissioners, however, at their meeting on January 21, 1969 approved both applications, subject to certain conditions. Again, the impact of traffic on the arterial system was a prime consideration. (See attached minutes of November 14, 1968 and December 12, 1968 - Attachments 1 and 2.)

2. The most recent history on subject property occurred on March 11, 1971, when the Planning Commission considered an applica-

tion for an amendment to the CUP and a request for an increase in the area on Parcel #1 from 9.13 acres to 14.94 acres of light commercial zoning. Action of the Planning Commission was to recommend approval of both requests. This recommendation was concurred in by the Board of City Commissioners on March 30, 1971. (See attached Planning Commission minutes of March 19, 1971, and City Commission minutes of March 30, 1971 - Attachments 3 and 4.)

3. Requested Change

The applicant requests an additional amount of "IC" zoning - approximately 7.33 acres and an additional approximate 5.75 acres of "BB" Office zoning.

The CUP request proposes the following:

Increase in the size of Parcel #6 from 3.07 acres to approximately 7.33 acres.

Creating a new Parcel #8 proposed for "BB" Office zoning - approximately 5.75 acres with a maximum building height of 65 feet.

Decreasing the size of Parcel #7 from 22.49 acres to 12.79 acres, and a decrease in the proposed number of dwelling units from 335 to 219.

Increasing the permitted square feet of retail space by 111,878 for a total of 496,438.

Increasing the permitted square feet of office space by 125,293 square feet.

4. The past history reflects the intensive discussion relative to this shopping center location and related traffic projections. Since the last consideration of this case, 21st Street has been improved adjacent to subject property and west to West Street. A new bridge has been completed on West Street across the Arkansas River. Traffic volumes on 21st Street and through the 21st-Amidon intersection continue to increase as is evidenced by the following traffic volume counts supplied by the Office of the Traffic Engineer:

	Actual ADT 1970	Actual ADT 1972
Amidon north of 21st	16,069	16,065
Amidon south of 21st	14,673	14,904
21st Street east of Amidon	13,659	17,278
21st Street west of Amidon	8,832	12,141

The increase in the traffic on 21st Street in part must be attributed to the improvement of the street and the new bridge.

5. Although the new development to the north on Parcel #1 has not opened, traffic continues to increase. The arguments have been made in the past that regardless of increased traffic, the west side of Amidon deserved a comparable amount of "LC" zoning as granted to Twin Lakes to the east. The square footage of retail space now proposed for the west (496,438) now compares with the 330,000 previously approved for Twin Lakes.
6. As the existing "LC" is generally the same on both sides of Amidon, any consideration of extending "LC" zoning should be based on the submission of justification for additional need of services. It would appear that as office zoning and development exists to the east, the most compatible uses would be for Parcel #6 to be developed for professional offices.
7. Although "outdoor display of marina supplies" was originally approved as a permitted use in Parcels #1 and #4, the purpose of this intended use was originally stated because the parcels had access to water and customers would have an opportunity to test drive the boats on the lake. Outdoor type of uses and displays should not be permitted along Meridian-Amidon.
8. Although the new Parcel #8 was originally proposed for townhouses at a low density, it is now proposed to develop offices to a maximum floor area of 125,000 square feet to a permitted height of 65 feet. The townhouses were previously thought to be the most compatible use across the River from high quality single-family homes. However, due to the manner of development of the Marina Lakes commercial, most have the service or back of buildings oriented to the lake. This detracts from the visual qualities which were hoped would induce the townhouse and residential character for the riverfront development.
9. Should the Planning Commission recommend the approval of the zone change request and the amendments to the CUP, the following conditions would be consistent with other approved CUP's.
 - a. The platting of Parcels #6 and #8 within one year from the date of approval by the Board of City Commissioners or the zone case be considered "denied and closed".
 - b. Two minor corrections being made on the face of the plan - changing the word "east" to "west" under screening requirements; and labeling "Reserve A" on the plan next to Amidon.

- c. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- d. Any major changes in this development plan shall be re-submitted to the Planning Commission and to the City Commission for its consideration.
- e. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for development and be binding upon the present owners, their successors and assigns, unless amended.

GALBRAITH felt it would be difficult to justify the extension of "LC" as far south as the bridge as in the past it was felt the existing zoning was an appropriate buffer facing both the River and into the lake. He said he had mixed feelings as to the appropriateness of offices on the interior parcel and would hope that if townhouses are developed they could benefit from the location on the lake.

VINCENT BOGART, attorney for the applicant, spoke in favor of this request and he placed on the wall aerial photographs of various shopping centers in Wichita - Kellogg Mall at Kellogg and Rock Road as well as development at subject intersection of 21st and Amidon. He pointed out that originally it was requested that 37 acres of zoning be granted for the Marina Lake site and this is the third time a change has been requested, although he pointed out that the change does not affect the total amount of area included in the CUP. He pointed out that there were 27.8 acres zoned for apartments and offices and the request is for 7.33 acres of such zoning to be changed to "LC", to result in approximately 20.9 for apartments and medical or office use, a little over 12 acres in the lake, with the remainder being "LC". He stated that, basically, all they are asking is to be treated fairly.

BOGART introduced Jay Samra, president of Marina Lakes Drive and H. D. Bledsoe whom he stated would be the developer of the "LC" area.

BOGART pointed out that this location has been the most desirable and most desired for "LC" and that all of the presently zoned "LC" at this intersection is utilized for such purposes, and there is still a great demand. The approval as requested would complete zoning and development of all of the Amidon frontage. He stated they have several contacts for retail establish-

ments, subject to rezoning - a paint store, barber shop, etc., and are limited by the present CUP in establishing any more light commercial uses.

In respect to the staff report, BOGART pointed out that it isn't just how much "LC" is allowed under the CUP, which was developed primarily to develop open land area, but one of the important things is how intense it is used. He stated that Twin Lakes has 19.3 total acres in the CUP and 15.8 acres are zoned "LC", or about 80%. If subject request is granted, Marina Lakes would have about 57% in "LC". He maintained that it depends on the size of the tract as to what is reasonable so far as intensity of development. He referred also to the Kellogg Mall recently approved, which has 136 acres total with 121 acres of "LC", which, again, is about 80%. He maintained that in subject case there is the lake and other open space and he felt they are accomplishing what the CUP provisions were designed to do and that is to have open areas.

BOGART pointed out also that they have a considerable amount of overall parking and do not contemplate utilization to the degree as some other developments. He stated that the Kapaun School site recently considered by the Planning Commission was recommended for 23 acres of "LC" out of 36 acres, or 77%.

BOGART felt that the request is not a major change and would be in keeping with the guide for proper planning, and he referred to the return to the public which can be expected in the way of additional tax revenue as well as furnishing employment to a number of people. He stated that if zoning is to be considered on the basis of intensity, then to be fair as compared to Twin Lakes, they should have a good deal more "LC" than what they have requested. He commented that there are many ways of comparing the two projects and maintained that intensity of use is just as proper as the total number of acres involved in the two sites.

BOGART brought out the fact that traffic has generally been a big consideration with respect to zoning at this intersection, and yet this is probably as well planned an intersection and street system for traffic as any in the City. He said he has studied traffic figures as related to Rock Road and Kellogg, which has a design capacity for 17,500 vehicles per day. Also, subject intersection has a design capacity for the same number of cars, and is operating well within its design capacity. BOGART said there have been dedications from subject property all along the Amidon frontage for a decel lane and 75 feet at the intersection, as well as a right turn lane going south on Amidon. He maintained that with the new construction, this intersection is operating well within its capacity and as good as any other intersection in the City.

In speaking of being treated fair as compared to Twin Lakes, BOGART said that when the Twin Lakes project asked for their last zoning change, the City requested they dedicate 75 feet at the major intersection and 7 feet additional after the 75 feet in order to

provide 15 feet between the property line and curb for a sidewalk. He stated his client had to do that and more, but the Commission waived the requirements with respect to Twin Lakes, and he repeated that they are merely asking for like treatment.

BOGART referred to several other centers for comparison purposes, noting that the Kapaun site has 36 acres out of which 23.5 is "LC", or 68%, Kellogg Mall has 136 acres, with 121 acres of "LC". He stated he was not complaining, but did want to bring out the fact.

BOGART said that Mr. Bledsoe would cover the traffic and other points, and that the request is for some change in height which is not unusual - Twin Lakes has 4 stories, Kellogg Mall has 4 stories, and this request is well within the requirements and within what has been done for other CUP developments.

H. D. BLEDSOE said he is one of the owners of subject property. He maintained that the principal criteria for changing zoning to "LC" is the demand for services and the demand is great in subject area. He commented that Twin Lakes is probably the most successful center in this part of the country and was written up in the National Homebuilders Magazine and as a result of its success the money they receive per square foot floor area is probably as high as any shopping center in this part of the country, and he stressed that such is the case because the demand is there and that determines the price - price being based on the supply and demand.

BLEDSOE stated that the demand is evident, but there is no other light commercial available and he stepped to the aerial photographs to outline the development on all four corners of this intersection. He pointed out also that there is more "LC" in the Kellogg Mall tract (although undeveloped at this time) than granted on all four corners of subject intersection. BLEDSOE said the last piece of property sold around subject intersection was a tract 300 feet by 300 feet for \$200,000.

When the last zoning request was considered, BLEDSOE stated, a traffic engineer was hired to do a study. He pointed out that traffic is what really determines where business is going to locate and any business contemplating a location considers the traffic pattern first, because if there is traffic, there are people and potential shoppers. He pointed out as an example that in Wellington, when the highway was changed, a shopping center went broke.

BLEDSOE felt there is a shortage of available "LC" property in subject area and if any objections are made to this request it is only because whoever objects likes the shortage, which results in a monopoly for them. He said that some like to believe that the intersection will breakdown completely, but the intersection was designed for a traffic carrying capacity of 17,500 cars a day, this being the figure used, and in 1968 when a previous zone case was considered, the traffic was 75% of its design capacity, and even today it is only 85% of design capacity. He maintained

that if anything is wrong with the traffic flow, it is the internal congestion at Twin Lakes and not on the street, because at this time, there are 14,904 cars per day, or only 85% of its design capacity.

BLEDSON said not only was right-of-way dedicated from subject tract, but they paid for the first right turn, it being one of the first turns in the City paid for by the property owner, most others paying for just the decel lanes. However, subject property paid for a full lane the full length of the property so the west half of Amidon is the same as a 6-lane traffic carrying street.

BLEDSON said the intersection of West and Central carries 17,094 cars per day and yet the staff recommendation is that West Street should be zoned "LC". BLEDSON said traffic at 21st and Broadway is 134% of design capacity, at Broadway and Douglas 152%, Kellogg and Hillside approximately 202%. He said that Rock Road and Kellogg right now is 102% of capacity.

BLEDSON said that at the last zoning when they wanted a new entrance on the west side, in order to get the entrance, the City Commission required the developer to pay for the decel lane.

He also referred to the fact that they were required to run a line the full length of their area to the River for drainage purposes, and yet the City dumped water into their lake from the street without permission of the owner, which included water from Twin Lakes parking area, which drained into the street.

BLEDSON maintained that what really makes this request proper is the demand for "LC" in this area and he continued that it is not a speculative program - that he has a contractor and is ready to build, and he felt there is just no way to justify denying zoning in view of the value of subject property and the fact that there is not a demand for "BB" Office uses. He stated again that those who would object are happy with the monopoly, and he considered it would be a mistake to prevent development of the property and additional revenue. BLEDSON also discussed the fact that there will be much open space as aimed for in a CUP project and ground coverage will not be as high as some other centers.

CHAIRMAN HENNESSY declared a recess at 3:30 p.m. after which the Commission reconvened with the same members and staff present.

CHARLES HARRIS, attorney representing Twin Lakes and Lakeview Development Company, Inc., said he would like to dispell the notion that there is opposition by his clients due to the desire for a monopoly. He commented that Twin Lakes likes traffic also and any increase ought to be to their benefit, but he did not consider that the only point to consider.

He said the opposition arises from a problem in respect to, not the volume of traffic, but the handling of traffic. He considered this area of Wichita very special and unique, not just because of the many fine residences, but because of the topography, in that it is trapped between the Little and Big Rivers and the Big Ditch, and an overall problem arises because this intersection is a funnel from all directions. He felt the overall problem is first the intersection itself, and then the handling of traffic for the 3/8 mile south on Amidon.

HARRIS stated that since development of Twin Lakes, the other three corners have developed, as well as the Riverbend Shopping Center to the east on 21st Street, so he felt the suggestion that there is a shortage of competition in the area is not justified. He appreciated the comments that Twin Lakes is recognized as one of the better centers and said there is no fear of competition - they feel they can compete with any other development; the extra expense so far as aesthetics and quality of stores makes a difference, and they have no fear of competition or a desire to monopolize.

HARRIS commented that the matter of traffic at this intersection has been aired since the beginning of development at this location - first in 1967, again in 1968, again in 1971 and now this time. He felt the figures used by Mr. Bledsoe so far as total traffic volume do not really tell the whole story.

HARRIS stated that at a previous consideration when 37 acres of light commercial was requested, the then developer hired Burgwin & Martin, consultants, to do a traffic study of this intersection. At the same time, the City of Wichita asked the Traffic Engineer to do a study. Both studies were presented, both used essentially the same approach with the major exception that Burgwin and Martin projected growth rate at 1% a year and the Traffic Engineer projected it at 2% per year. They both started with certain assumptions as to what a street can handle and what a commercial facility will draw. Both studies indicated that any major shopping facility, depending on its size, will create a drawing of between 20 and 40 cars per day per 100,000 square feet of gross leaseable floor area.

HARRIS said that essentially there was no disagreement in the two studies and they were addressed to not only the total traffic now, but additional traffic which the facilities proposed would generate and how much the street could handle in its existing configuration.

At the request of the Planning Commission, the Planning Department on December 12, 1968, submitted a comparison table of existing and projected development at this intersection, based on the existing four lane street and possible six lanes, and also based on 1% and 2% growth factors, and HARRIS pointed out that this table, based on four lane existing structure, indicated that the existing construction at that time showed a breakdown by Burgwin and Martin after 1988 and based on the Traf-

fic Engineer's study, in 1977. On that area approved for development, the intersection would operate at F standard (complete breakdown) in 1988 based on 1% growth, and based on 2% growth, complete breakdown would occur in 1977.

HARRIS pointed out that both the above-referred to studies indicate a complete breakdown of the intersection if this request is approved. He submitted aerial photos of the area as it was originally, showing two sandpits, next the development prior to the major fill that has occurred, and third the fill up to the maximum fill line that was approved the last time, plus the outside shell of the building now under construction. But the photo does not show the other freestanding building which is also under construction. He said it appears there will be 170,000 square feet under construction.

HARRIS referred back to the traffic problem and pointed out that all City staff officials have indicated in the past that the zoning which has already been granted, in all probability, is going to cause a complete breakdown of this street. HARRIS stated that the request now is for an additional 111,000 square feet and added to the 170,000 square feet under construction, it will bring it up to 496,000 square feet of gross leaseable area. So far as comparison with Twin Lakes, he pointed out that Twin Lakes has a total of 330,000 square feet.

HARRIS referred to the indication of traffic at this intersection as shown in the staff report and said such counts were taken in June of 1972, and since that time the Arden Store in Riverbend Shopping Center has opened and it is equal to a typical Sears Store, and such traffic generation is not counted in the 1972 figures. Further, the traffic generation from the new Woolco Store under construction in Marina Lakes is not counted or projected in these figures, and that anticipated by development under this zoning request is not considered.

It was pointed out by HARRIS that with the complete breakdown of the intersection and the need to construct a 6-lane facility, it will mean the acquisition of additional right-of-way. He pointed out that since the construction of the Amidon bridge, the street has been rebuilt twice, and the Traffic Engineer projects a 6-lane facility with double left turn lanes for turning movements and decel lanes. HARRIS said the acquisition of additional right-of-way would be considerable and pointed out that a recent condemnation of a service station by the City of Wichita was around a quarter million dollars, and there are four stations at this intersection. Additional right-of-way would be acquired along the west side of Twin Lakes, which would amount to considerable money, not only because of damages to the owners and developers, but also to the residents in the general area. There would be a similar problem going north on Amidon - the rebuilding of Amidon from 25th Street south. He maintained that a 6-lane facility cannot be constructed in the existing right-of-way.

HARRIS said that while the Counsel has suggested they are paying additional real estate tax, that is true anytime there is development, but the city-at-large will be faced with a substantial expenditure to rebuild this intersection and street, to say nothing of the damage to residents of the area through the inconvenience of such construction.

HARRIS stated that since the last hearing of zoning in this area, a traffic light has been installed at the entrance to Twin Lakes and with the development proposed on the west side of Amidon, it appears that eventually there will be four signalized intersections within the 3/8 mile distance between 21st and the bridge, and the conflicting traffic movements which will be involved will result in a reduction of the traffic carrying capacity of the street.

HARRIS said there has been no reason not to believe that projections made in the past are not appropriate, and as a matter of fact traffic usually grows faster than any traffic engineer projects.

HARRIS said they felt at the very least that should be done is deferral of this application until the present construction is open inasmuch as the Commission has already been advised that the commercial already granted will result in a breakdown of the intersection and in time necessitate reconstruction of facilities at great expense to the City. He questioned how the City could gamble on the previous projections and recommendations of the City staff not being correct. He said the arguments at prior hearings on this area related to the equity between Twin Lakes and Marina Lakes, and now they want to argue the equity of Marina Lakes versus the Kellogg Mall and Kapaun site. He pointed out that on East Kellogg there are alternate streets for handling traffic while in subject area there is only the one intersection. It was pointed out by HARRIS that the light commercial zoning now is even on both sides of Amidon, and that Marina Lakes already has a greater amount of leaseable floor area than Twin Lakes and if subject request is approved, they will have half again as much.

As for the claim of intense development of the Twin Lakes area to the extent of 80%, HARRIS pointed out that there is actually 65 acres in the Twin Lakes development, but the apartment development has never been a part of the CUP, having been built prior to zoning or development of the shopping center, and the percentage is not nearly 80% as claimed by the applicant's representatives.

HARRIS said they would welcome the zoning and development if anyone could show them how the traffic could be handled because they have no objection to more competition. He commented that this is a special situation where there has been study after study, and several requests for more zoning by the

applicant, subject case being a request for what was requested initially. HARRIS maintained that they are asking for a traffic generator which appears to be beyond the physical or economic means of the immediate area or the community to support, i.e., reconstruction of the streets, and he asked the Commissioners to consider how many City dollars would be involved. He suggested the Commissioners refer to excerpts from previous Planning Commission hearings when this area was considered. HARRIS said they have no desire to prevent them from making money, but it should not be at the expense of the City or the surrounding area, and by surrounding area he meant not only Twin Lakes, but that to the south across the River and elsewhere in this general area. HARRIS indicated he would refrain from any comment as to the aesthetics of the buildings under construction as he felt that is something that more directly affects the houses in the area to the south.

BURNETT asked if there was any way to project how much of the traffic might be duplication i.e., visiting all three centers. HARRIS commented that it would be difficult to determine, but no doubt there is some duplication and he was of the opinion that in a traffic analysis some such adjustment is probably considered.

In discussion of traffic again, it was brought out that with completion of the 170,000 square feet the applicant has under construction, based on the formula utilized, an additional 4,000 cars would be involved. When questioned as to his opinion of figures submitted by Mr. Bogart, HARRIS said the figures were no doubt honestly arrived at, but it does not take into account new growth or the amount that is under construction, and too, traffic in all directions from the intersection needs to be considered and not just one "leg".

JACKSON suggested that evidently the projections have not been accurate because the intersection should have broken down in 1969.

HARRIS said it is not possible to accurately tell because of various assumptions made with respect to the studies, but no street to speak of in the immediate area of Marina Lakes has been opened, they have a gigantic building (Woolco) plus another building of about 20,000 square feet under construction and traffic to be generated by occupancy of these buildings will affect the actual count.

JACKSON commented that one really doesn't know what affect it will have. HARRIS answered that it is known there will be additional traffic and the figures submitted by the outside consultant and by the City staff indicate it will break down the intersection when development is completed based on present zoning. He pointed out that Marina Lakes I and Marina Lakes II have not opened yet, so it has never been tested.

JACKSON commented that traffic south of 21st and north of 21st have been looked into, but asked about traffic that crosses 21st. HARRIS pointed out that the four counts are shown in the staff report as at the immediate intersection.

HENNESSY agreed with previous statements that if there aren't people there is no business and a major company is not going to develop a store unless there are people and traffic, and he referred to the high valuation placed on the land, and the need for proper development.

HARRIS said the developers have built a very valuable piece of land by filling in part of the lake area, but they were aware of the zoning on that part and knew it had been turned down three times. He suggested the Commission should consider what is better for the city at large. He suggested the only cure, basically, would be foresight, in that if the City could have foreseen the events which would occur at this intersection, it could have acquired the needed right-of-way early and designed a proper traffic flow system.

He commented further that eventually the City pays for lack of foresight and proper planning. In this case, HARRIS thought the question is whether the city at large or surrounding property owners should have to pay the penalty for what the experts say is going to happen. He referred to the fact that the City is paying a tremendous sum to rebuild just one segment of Kellogg and much of this type of construction is necessitated because of lack of advance planning on the basis of economizing at a particular time.

RISING asked when it is proposed that the Woolco Store will be opened. BLEDSOE said a portion will open sometime in March. RISING then suggested the desirability of waiting to see what traffic is generated after the opening.

BURNETT commented that it seems apparent that reconstruction of the street will eventually be necessary regardless of whether the requested zoning is granted.

HARRIS pointed out that the amount of traffic generation depends on type of development and studies have disclosed that a discount type operation generates considerably more than other types of retail uses.

JACKSON commented that in view of the alignment of street lanes on the west half of Amidon, it appears the west side would cost less for acquisition, and he said he remembered when the east side was not required to dedicate 75 feet, and now when widened, it will be necessary to buy some of the Twin Lakes property.

BLAKEY pointed out that it has been his observation that as new centers are opened, they draw traffic or business from

an older established center, and it was his suggestion that once the Kellogg Mall is developed, or the possible development of a center at Rock Road and 21st, there would be less traffic at subject intersection. He said at one time there was a serious traffic problem at the Indian Hills Center on 13th Street, but with the opening of Twin Lakes it was relieved considerably. He felt that business itself relieves the problem so far as traffic.

HARRIS said he could understand the point, but at Twin Lakes there are license plates from all over and most of the traffic is from the immediate area. BLAKEY felt that Park Lane is probably doing a lot less business than they were five years ago even though the economy is up. He agreed that right now the demand may be at Twin Lakes, but with the construction of the Kellogg Mall he felt the demand would be lessened. He felt that people just will not let themselves become "boxed in" so far as shopping.

HARRIS referred again to the millions of dollars being spent on one segment of Kellogg just because of what should be avoided now at subject intersection.

JOHN W. LONG, 2200 Bella Vista, across the River from subject area, spoke in opposition and said he agreed with what Mr. Harris had presented. He said he has talked with numerous property owners and it was unanimously agreed that the proposed plan is not desirable from an aesthetic or practical standpoint.

BLEDSON answered some of Mr. Harris' arguments by pointing out that the area is not boxed in because the traffic plan indicates the 25th Street Thruway; 21st Street has just been rebuilt and he maintained that an additional 7 acres of "LC" is not going to cause a breakdown at the intersection. BLEDSON also pointed out again that they have provided an inside lane across the front of their property for handling traffic.

BLEDSON maintained that the traffic signal referred to by Mr. Harris was installed for the benefit of Twin Lakes - it does not help traffic movement on Amidon. Further, when zoning was first considered for Marina Lake the comment was made that the intersection would break down, necessitating an expensive project for the City, but since that time Twin Lakes asked for additional zoning for an office building and for the Sears Store. He emphasized again that they have paid for a turning lane from 21st to Amidon and for the additional full lane which will save the City money when and if the street is improved in the future.

BLEDSON pointed out also that at the Kellogg Mall, when completed, will mean the intersection (Kellogg and Rock Road) will have traffic to a point of 200% over capacity. He stated also that two years ago when the City Commission considered zoning and traffic in subject area, it was determined that traffic factors could not be used as a criteria for granting or not granting zoning.

HARRIS said the additional zoning for Sears Store was 600 square feet for an outdoor garden area and was a minor change at the rear of the Sears building; the change to "BB" was from "B" and at the time the total square footage and height of the building was reduced.

JACKSON said he felt this would be good zoning as he had felt before.

MOTION: That the Planning Commission recommend to the City Commission that Z-1476 be approved as requested, and that the amended CUP be approved, subject to the following conditions:

- a. The platting of Parcels 6 and 8 within one year from the date of approval by the Board of City Commissioners; or the zone case be considered denied and closed.
- b. Two minor corrections being made on the face of the plan - changing the word "east" to "west" under screening requirements; and labeling "Reserve A" on the plan next to Amidon.
- c. Deleting the following proposed use from Parcel 6: Outdoor display of marina supplies subject to Board of Zoning Appeals approval.
- d. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- e. Any major changes in this development plan shall be resubmitted to the Planning Commission and to the City Commission for its consideration.
- f. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for development and be binding upon the present owners, their successors and assigns, unless amended.

Jackson moved, Blakey seconded and it carried unanimously.

Attachment 6

ZONING

Referred back by City Commission

17a. Case No. Z-1476 - Marina Lake Drive, Inc. requests change from "B" to "LC" for:

That part of Government Lot 1, in the NW 1/4 of Sec. 7, Twp. 27-S, R-1-E, described as beginning at a point on the east line of said Government Lot 1, 1120.32 feet south of the N.E. Corner thereof; thence north 88°12'55" west, a distance of 130 feet; thence north 00°04'05" east, 15 feet; thence south 89°56'09" west, 455.06 feet; thence north 54°26'07" west, 194.13 feet; thence south 16°00' west, 310 feet more or less to the left (north) bank of the Arkansas River; thence southeasterly along the left (north) bank of the Arkansas River to the east line of said Government Lot 1; thence north 885 feet more or less to the place of beginning, except therefrom that part dedicated to the public for access, drainage, river bank maintenance, flood control and river beautification, all in Wichita, Sedgwick County, Kansas; and

Change from "B" to "BB" for:

That part of Government Lot 1, in the NW 1/4 of Sec. 7, Twp. 27-S, R-1-E, described as beginning at a point on the east line of said Government Lot 1, 1120.32 feet south of the N.E. Corner thereof; thence north 88°12'55" west, a distance of 130 feet; thence north

00°04'05" east, 15 feet; thence south 89°56'09" west, a distance of 455.06 feet; thence north 54°26'07" west, a distance of 251.68 feet; thence north 70°56'58" west, a distance of 959.77 feet to a point 695 feet south and 770 feet east of the N.W. Corner of said Government Lot 1; thence south 12°11'35" west, 282.9 feet more or less to the north bank of the Arkansas River; thence southeasterly along the north bank of said river to the east line of said Government Lot 1; thence north along the east line of said Government Lot 1, 885 feet more or less to the point of beginning except that portion lying east of the following described line: Commencing at a point on the east line of said Government Lot 1, 1120.32 feet south of the N. E. Corner thereof; thence north 88°12'55" west, 130 feet; thence north 00°04'05" east, 15 feet; thence south 89°56'09" west, 455.06 feet; thence north 54°26'07" west, 194.13 feet for a place of beginning; thence south 16°00' west, 310 feet more or less to the left (north) bank of the Arkansas River, except therefrom that part dedicated to the public for access, drainage, river bank maintenance, flood control and river beautification, all in Wichita, Sedgwick County, Kansas.

Both descriptions generally located on the west side of Amidon north of the Arkansas River.

17b. Case No. DP-23 - Amendment to Community Unit Plan on property described as follows:

That part of Government Lot 1, in the NW 1/4 of Sec. 7, Twp. 27-S, R-1-E, described as beginning at a point on the east line of said Government Lot 1, 1120.32 feet south of the N. E. Corner thereof; thence north 88°12'55" west, a distance of 130 feet; thence north 00°04'05" east, 15 feet; thence south 89°56'09" west, a distance of 455.06 feet; thence north 54°26'07" west, a distance of 251.68 feet; thence north 70°56'58" west, a distance of 959.77 feet to a point 695 feet south and 770 feet east of the N. W. Corner of said Government Lot 1; thence south 12°11'35" west, 282.9 feet more or less to the north bank of the Arkansas River; thence southeasterly along the north bank of said River to the east line of said Government Lot 1; thence north along the east line of said Government Lot 1, 885 feet more or less to the point of beginning, except therefrom that part dedicated to the public for access, drainage, riverbank maintenance, flood control and river beautification, all in Wichita, Sedgwick County, Kansas. Generally located on the west side of Amidon north of the Arkansas River.

LAKIN pointed out the area on the map and reviewed the following staff report:

The Board of City Commissioners returned the Marina Lakes zoning request and CUP and have asked the Planning Commission to consider providing conditions which would improve the visual qualities of the area and reduce or eliminate noise problems in the area. Testimony at the City Commission meeting indicated that noise

from external sources at Atlantic Mills and restaurants reached the residents south of the River. Rather than costly berms or other noise deflection devices, it is suggested that:

- 1) Existing City ordinances on noise be enforced. (The City Manager's Office has asked for a report from Central Inspection.)
- 2) The general provisions on the CUP be amended by adding:
"No sound projecting devices or loudspeakers shall be used so as to be heard outside any structure."

The question of "coordinated design", "visual quality" or "sight buffer" is infinitely more complex. The situation is complicated by the fact that several parcels are already developed and in different ownerships than those requesting the current changes. The dissatisfaction is with the physical appearance of existing structures and lack of landscaping. Concern is over possible appearance of tracts to be developed in the future along the River.

In approaching the question of appearance, there is no one "best way" to treat an area, i.e., by fence or landscape plantings or architectural style. Often it is a combination of these styles that improves visual qualities. To require a plan for any one of these techniques is premature until specific development is proposed. Then the visual treatment can be created to complement the development. In general, the undeveloped areas to be considered should take into account:

- 1) View from the adjacent streets (21st and Amidon). This would be largely landscape treatment.
- 2) View from the south across the River. In the commercial areas this may mean architecturally treated walls or fences, dense landscaping belts or both. In the residential or office areas, the development should be able to benefit from the River frontage. Dense landscape should be discouraged. Landscaping should be used to block the views through vistas between structures of the back of the Woolco Building. Architectural styles (by front elevations) and selection of exterior materials should be reviewed in conjunction with landscape plans (location, type of material and quality), street furniture (lighting, etc.) should be reviewed and approved prior to issuance of building permits. Guarantees similar to those used for subdivision improvements should be required to guarantee all but the buildings.
- 3) View from the lake. A plan for the treatment of the bank (landscaping, slope, structures) should be required.

The plans to implement the above could be submitted prior to issuance of building permits. Approval could be by either administrative staff (Planning and/or Central Inspection Division), MAPC or Board of City Commissioners.

Treatment of the balance of the CUP was also expressed as a concern of the Board of City Commissioners. The areas that need action are street frontages, parking lots and the lake frontage. How to enforce against existing development is not clear. Possible courses of action are to:

- 1) Require plantings along the street face as per a planting plan to be developed by the applicants or owners of the land.
- 2) Require development of plantings in the parking areas of Woolco to soften the area.
- 3) Require bank stabilization plan (structure and/or plantings) along the Woolco tract and restaurant now.

To enforce, possible action would be:

- 1) Not to allow occupancy until guaranteed.
- 2) Not approve changes in zoning until guaranteed.
- 3) Make any future building permit conditional on complying.

It is recommended that the following general condition 2. be amended to the CUP for undeveloped tracts, plus what the MAPC believes proper concerning existing development:

A landscape plan (location, species and quality) and cost estimates for "parking" areas along streets and off-street parking areas shall be submitted to and approved by _____ prior to issuance of any building permits on Tracts 5, 6 and 7.

A development plan showing landscaping, architectural style and selection of building materials, street furniture, if any, by product item, shall be submitted for Tracts 6, 7 and 8 to be approved by _____ prior to the issuance of building permits. The required wall between Parcels 6 and 7 may be replaced with other treatment when specifically approved in the development plan above. Desirable ends are to screen from the south the view of commercial buildings and allow view of the River by development on the tracts.

Fiscal guarantees may be required for landscape and beautification criteria as required above.

A plan for treating the lakeshore on Parcels 4, 5, 7 and 8 shall be submitted and approved by _____
Depending on the method of handling Parcel 1, the original screening waiver may want to be restated. The statement did provide:

"Screening is requested to be waived adjacent to the west boundary of Parcel 1 and the south boundaries of Parcels 4 and 6 inasmuch as the River and water area of the lake are adequate buffer for the residential area to the south and west."

LAKIN pointed out also that while both cases were returned, the City Commission is in agreement that the zoning should be approved, but there was considerable discussion concerning beautification and noise and the entire matter has been returned to the Planning Commission for consideration of beautification and noise control.

LAKIN said there was considerable protests from residents across the River about both noise and the view of the project from their homes. In the discussion, it was brought out at the City Commission meeting that the noise was from an outside speaker at Atlantic Mills principally, which, Lakin stated, is not a problem to be assumed by the Marina Lake developers. He said the City Manager's office has been asked to have the matter of noise investigated and enforce existing ordinances to control noise.

As for beautification, LAKIN said the above staff report includes his recommendations, and his statement that beautification and landscaping prepared early in a development without knowing what is going to be located on the site is somewhat meaningless. He said one of the City Commissioners expressed concern about the rather stark look of the building just being completed.

HENNESSY commented that apparently the City Commission is talking about the River frontage, but he doubted that anyone would be boating on the River.

LAKIN said they might be some day as it has been proposed by the City to dam the River at a location south of this point which would impound water and substantially improve the appearance of the River through this area.

LAKIN further stated that the concern of the City Commission was prompted by the lengthy petition submitted by residents on the south side of the River who were concerned with the view on the north side of the River as viewed from their homes.

VINCENT BOGART, attorney representing Marina Lake Drive, Inc., concurred with Lakin's explanation of the City Commission action and stated that he and his client are present to indicate a willingness to do whatever is required so far as beautification. He agreed that the majority of the City Commissioners want some sort of beautification required on the CUP or at least that the property owners south of the River be satisfied with the plan. He said one of their basic objections was the rear of the Hanson development building, and he stated they have a beautification plan for the

apartments (Parcel 8) and also for the light commercial area (Parcel 6).

BOGART said they had shown their plan to John Long and Mrs. Stephens, who were at the City Commission hearing, and he felt they were reasonably satisfied with what the developer intends to do in the way of beautification. He also stated that it had been their intention to beautify the area regardless of the request, and they would have no opposition to the inclusion of the beautification requirements on the CUP.

BOGART said that Mr. Mitchell of the Flood Control Office, had stated they should not contemplate anything so far as the use of Riverbank, but only with their own property.

H. D. BLEDSOE displayed a landscaping plan in color indicating the beautification treatment they propose. He said Joe Brady, a nurseryman who does his landscape work at Resthaven Cemetery, had prepared the plan. In addition to the architect's drawing of the plan, BLEDSOE submitted a list indicating the number, types, size and cost of various trees and shrubs proposed to be utilized in the beautification of Parcels 6 and 8. BLEDSOE considered the plan submitted to represent a tremendous amount of landscaping for the area involved.

He also commented that this is one of the first CUP's divided or sold off to different owners or lessees, so there is no way he could control other than Parcels 6 and 8, and they have no way of knowing the plans of any other owner or lessee within the CUP area as originally approved.

BLEDSOE said they are prepared to guarantee the eventual construction and installation of beautification as submitted as required by the City, possibly the same as guaranteeing sidewalk installation by letter of credit or any other way satisfactory to the City Attorney.

When asked if this was the final phase of development of the original Marina Lakes area, BLEDSOE said he believed that it was, and he was glad to know the City Commissioners are progressive and want to see it grow since there is a demand for other services, and he also was interested in satisfying the people in the area so far as proper development or screening. BLEDSOE pointed out that Parcel 7 along the River to the north and west is in different ownership and they have no control over that tract.

LAKIN pointed out that the Commission will have an opportunity to consider the plan for Parcel 7 inasmuch as it is presently being platted.

ROBERT H. NELSON, attorney representing Parcel 7, said so far as screening and shrubs are concerned, there is no controversy - that they contemplate a beautification plan anyway. He stated that his client is aware that the City Commission had returned subject

case for consideration of beautification and so has developed his plan to avoid any delay once a plat is considered for final approval.

HENNESSY said he had never seen so much beautification as proposed in this case being considered. BURNETT asked why so much is being required of this applicant while in other cases this requirement has not been made.

LAKIN pointed out that the comments and suggestions in the staff report were in response to the City Commission action concerning beautification, and he felt there were a number of ways to approach beautification other than landscaping per se, such as shown in his report, i.e., consideration of elevation of the structures, exterior materials used in structures, lighting and coordination of all these with landscaping. LAKIN commented that the list of materials for landscaping is quite extensive and varied, and the only way to tell the City Commission what beautification will be provided is based on what people will see from across the River, which is not just trees and shrubs, but landscaping in relation to buildings. In this case, it is difficult to say that what is submitted won't be reasonable, as it will depend on the final plans of development coordinating structures, parking, landscaping, etc. LAKIN pointed out that sometimes plans change, but he could not conceive of anything but the best plan being carried out in view of the cost of the land, but he felt the elevation and location of buildings should be considered.

LAKIN stated that a landscaping plan has been required on the Chrysler Mall CUP at the northwest corner of Kellogg and Rock Road and a beautification plan has been submitted for the half mile on Rock Road. In subject case, it was raised by the City Commission because of the opposition from residents south of the River.

JACKSON commented that the City Commission apparently returned the case only for consideration of landscaping and not the location of buildings.

RISING said he considered it good planning that the developer landscaped the area and he considered it good business to develop a more outstanding area, and he considered it the responsibility of the Planning Commission to be concerned with good, attractive development.

JOHN LONG, 2200 Bella Vista, a resident south of the River, said he was not opposed to what has been presented and is in agreement basically with the approach that has been taken. He was interested in the extent of beautification proposed. He said that while only two people attended the City Commission so far as concern for beautification, a petition submitted contained approximately 200 signatures as evidence of interest of a number of people. He questioned just how far \$5,300 would go in providing the screening proposed by the applicant (\$5,300 being the figure indicated on the information submitted by Mr. Bledsoe). He said that Bledsoe mentioned a figure of \$20,000 at the City Commission meeting, but perhaps it was

the overall view he was talking about rather than just the south line of the property. LONG stated that there were three items of concern - sight, sound and traffic, but that they were principally concerned with sight. He questioned how a determination can be made of what is adequate and he thought \$5,300 a rather insignificant amount so far as cost, and he doubted if that amount would be sufficient to provide "adequate" beautification. He also questioned just who or what body is going to decide what is adequate. When asked if he felt the City Commission would be qualified to decide what is adequate, LONG said he did not know, and said that if something can be developed that is satisfactory with the Commission, and he can be assured of its installation, then he would agree to the proposal. He considered what has been suggested as a basis for compromise, but not a solution to the total problem.

LONG said he has learned certain things about the total project in the last few days which has changed some of their views and felt that perhaps a combination of meetings or preliminary hearings where people are invited to view the development along the River as a whole might be beneficial.

LONG was insistent in his statement that he agrees with the approach, there can apparently be no guarantee that the landscaping will definitely be as pictured on the plan. He questioned what is adequate and what assurance will be submitted, noting that buildings will have to be in place prior to plantings.

LONG said he appreciated the fact that an effort will be made to control the noise pollution through strict enforcement of the City ordinances, particularly the noise from Atlantic Thrift and another business in the Marina Lakes development.

JACKSON commented that since the north side of the River will be improved, what are the residents along the south side going to do to improve the appearance. LONG said that the residents have already planted grass beyond their property lines, and that people often fish in the River. He felt there were all kinds of possibilities if the area can be developed properly.

In further discussion, LONG suggested that some determination be made as to what is adequate.

BLAKEY said he felt that the \$5,300 is the least that they are guaranteeing will be spent and if it takes more to do a proper job, then more would be expended. He agreed that it is difficult to say what is adequate, but he considered what has just been presented is a far cry from what the situation was before.

LONG again said his question is what is adequate and what is this Commission going to recommend to the City Commission.

BLEDSOE pointed out that the City Commission called Bob Peagins, the architect who did the original design on Twin Lakes and who is also the architect on subject development to discuss the

matter. Further, so far as cost of plantings and reference to the insignificance of \$5,300, BLEDSOE said he purchases such plantings wholesale. Also, at the City Commission meeting, he had indicated that he did not know what it would take, but that they would develop a plan that could be considered adequate. He questioned just how much farther they could go. They will guarantee it in any manner the City desires. He commented also that there is no way on a tract of land as large as that being considered that they can guarantee exactly the location of buildings in relation to landscaping.

BURNETT suggested the matter of adequacy be left up to the experts in that field, and commented that the Commission has to have some confidence in a builder or developer, and he was willing to leave it up to the builder, architect and landscape designer.

JACKSON commented that he thought hereafter everybody with a similar development will have to submit beautification plans.

LONG thought that as suggested with respect to adequacy, the City Commission might react in a surprising manner, as there should be some reference to buildings and coordination of the plantings, which the plan as submitted doesn't refer to.

JACKSON commented that Twin Lakes has the type of amenities desired by the residents, but it is a different situation. Twin Lakes was not required to submit a plan, but for their own purposes provided it, and yet this applicant has indicated that if it costs more than \$5,300 to do an adequate job of beautification, he is willing to spend more.

BOGART spoke again and agreed that no doubt Mr. Long cannot say any more what is adequate than the applicant, but if more is required than proposed at this time, it will be provided, and a beautification plan was in their plan for development regardless of opposition from the residents.

LONG suggested that as long as the applicant makes the statement that more would be provided if needed when the time came, then it should be down in black and white.

MOTION: That we have reviewed the landscape plan presented by the applicant with his statement of costs as to what they will do, and that we return these cases to the City Commission with our recommendation that the landscape language be involved on the CUP, and guaranteed by whatever method - cash, letter of credit, etc., for Parcels 6 and 8. Jackson moved, Burnett seconded.

Blakey wondered whether for the benefit of the City Commission, the Planning Commission should incorporate or make a comment that since the Commission has suggested landscaping with this particular project,

Attachment # 7

ZONE CHANGE REQUEST
Z-1476 and
DP-23 (Amendment)

West side of Amidon
north of Arkansas
River

Report from the Metropolitan Area Planning Commission (Z-1476) and
DP-23 (Amendment) in regard to petition to change from "B" to "LC" and "B"
to "BH" and approval of amendment to DP-23, generally located on the west side
of Amidon north of Arkansas River, presented.

"B" to "LC" - That part of Government Lot 1, in the NW 1/4 of Sec. 7,
Twp. 27-S, R-1-E, described as beginning at a point on the east line of said
Government Lot 1, 1120.32 feet south of the NE corner thereof; thence north
00°04'05" east, 15 feet;
00°12'55" west, a distance of 130 feet; thence north 00°04'05" east, 15 feet;
00°12'55" west, a distance of 455.06 feet; thence north 54°26'07" west, 194.13
feet; thence south 16°00' west, 310 feet more or less to the left (north) bank
of the Arkansas River; thence southeasterly along the left (north) bank of the
Arkansas River to the east line of said Government Lot 1; thence north 00°
feet more or less to the place of beginning, except therefrom that part
dedicated to the public for access, drainage, river bank maintenance, flood
control and river beautification, all in Wichita, Sedgewick County, Kansas; and

"B" to "BH" - That part of Government Lot 1, in the NW 1/4 of Sec. 7,
Twp. 27-S, R-1-E, described as beginning at a point on the east line of said
Government Lot 1, 1120.32 feet south of the NE corner thereof; thence north
00°12'55" west, a distance of 130 feet; thence north 00°04'05" east, 15 feet;
thence south 00°04'05" west, a distance of 455.06 feet; thence north 54°26'07"
west, a distance of 251.60 feet; thence north 70°56'50" west, a distance of
959.77 feet to a point 095 feet south and 770 feet east of the NE corner of
said Government Lot 1; thence south 12°11'35" west, 202.9 feet more or less
bank of said river to the east line of said Government Lot 1; thence north
along the east line of said Government Lot 1, 805 feet more or less to the
point of beginning except that portion lying east of the following described
line: commencing at a point on the east line of said Government Lot 1,
1120.32 feet south of the NE corner thereof; thence north 00°12'55" west, 130
feet; thence north 00°04'05" east, 15 feet; thence south 00°04'05" west,
455.06 feet; thence north 54°26'07" west, 194.13 feet for a piece of beginning;
thence south 16°00' west, 310 feet more or less to the left (north) bank of the
Arkansas River, except therefrom that part dedicated to the public for access,
drainage, river bank maintenance, flood control and river beautification, all
in Wichita, Sedgewick County, Kansas;

DP-23 (Amendment) - That part of Government Lot 1, in the NW 1/4 of
Sec. 7, Twp. 27-S, R-1-E, described as beginning at a point on the east line of
said Government Lot 1, 1120.32 feet south of the NE corner thereof; thence north
00°12'55" west, a distance of 130 feet; thence north 00°04'05" east, 15 feet;
thence south 00°04'05" west, a distance of 455.06 feet; thence north 54°26'07"
west, a distance of 251.60 feet; thence north 70°56'50" west, a distance of
959.77 feet to a point 095 feet south and 770 feet east of the NE corner of said
Government Lot 1; thence south 12°11'35" west, 202.9 feet more or less to the
north bank of the Arkansas River; thence southeasterly along the north bank
of said river to the east line of said Government Lot 1; thence north along
the east line of said Government Lot 1, 805 feet more or less to the point of
beginning, except therefrom that part dedicated to the public for access,
drainage, river bank maintenance, flood control and river beautification, all
in Wichita, Sedgewick County, Kansas

COMMISSIONERS PROCEEDINGS

February 27, 1973

15279

<p>Planning Commission recommendation</p>	<p>Planning Commission recommended that Case 2-1476 be approved as requested and that the amendments requested to the CUP be approved, subject to the following conditions:</p> <ol style="list-style-type: none"> 1. The platting of Parcels 6 and 8 within one year from the date of approval by the Board of City Commissioners; or the same case be considered denied and elapsed. 2. Two minor corrections being made on the face of the plan - changing the word "east" to "west" under screening requirements; and labeling "Reserve A" on the plan next to Amidon. 3. Deleting the following proposed use from Parcel 6: Outdoor display of marina supplies subject to Board of Zoning Appeals approval. 4. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development. 5. Any major changes in this development plan shall be resubmitted to the Planning Commission and to the City Commission for its consideration. 6. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for development and be binding upon the present owners, their successors and assigns, unless amended.
<p>Vince Bogart</p>	<p>Vince Bogart, attorney representing the owner, reviewed the history of Marina Lakes with the Commission and compared the "LC" area in size and square footage with Twin Lakes, Kellogg Hall, and other CUP "LC" areas.</p>
<p>Mayor Shanahan</p>	<p>Shanahan moved that Mr. Bogart be granted 20 minutes to make his presentation. Motion lost 3 to 2. Donnell, Porter, Stevens "No."</p>
<p>--Motion made to approve Zone Change and CUP</p>	<p>Stevens moved that the zone change and CUP be approved as recommended by the Metropolitan Area Planning Commission, subject to the conditions of platting, and the Planning Department instructed to forward the ordinance for first reading when the plat is forwarded to the City Commission.</p>
<p>Robert Lakin (Protest petition)</p>	<p>Robert Lakin, Director of Planning, stated that a protest petition signed by several property owners living south of the river has been presented; however, they do not represent a legal protest petition as they are more than 200 feet from the application area.</p>
<p>--Petition rec. and filed</p>	<p>Shanahan moved that the protest petition be received and filed. Motion carried unanimously.</p>
<p>Comm. Greene</p>	<p>Commissioner Greene inquired what was the difference between Marina Lakes and Twin Lakes and Mr. Bogart stated that Marina Lakes is a larger land area and on the basis of intensity of use, Marina Lakes should have more "LC"; Marina Lakes provided 75 feet on the east side of their property for a decel-accel lane and Twin Lakes did not dedicate property for a decel-accel lane.</p>
<p>Mr. Bogart</p>	<p>Mr. Bogart stated that Marina Lakes is a larger land area and on the basis of intensity of use, Marina Lakes should have more "LC"; Marina Lakes provided 75 feet on the east side of their property for a decel-accel lane and Twin Lakes did not dedicate property for a decel-accel lane.</p>
<p>Hap Bledsoe</p>	<p>Hap Bledsoe stated in reply to a question from the Commission, that Woolco requested five parking spaces for each 1,000 feet of floor area whereas the City ordinance only requires four parking spaces for each 1,000 feet of floor area.</p>
<p>Dean Ritchie</p>	<p>Dean Ritchie stated that Twin Lakes is comprised of 65 acres; however, not all of it is under the CUP and he felt that if the zoning passes that a traffic signal would be necessary just north of the Amidon bridge and that his firm would be willing to pay one-half of the traffic signal if the other one-half is paid by the property owners on the west.</p>
<p>Comm. Donnell City Manager</p>	<p>Commissioner Donnell inquired if the Commission approved the sand removal from the river to fill some of the old sand pits and the City Manager stated that recommendations were made to the State with reference to the bank slope and the area near the Amidon bridge, but that the State had issued a permit for the sand to be removed from the river and he did not know if the fee was waived or not.</p>

COMMISSIONERS PROCEEDINGS

15280

February 27, 1973

Mr. Bledsoe	Mr. Bledsoe stated that the State used the City's recommendations, that they obtained approval of the Corps of Engineers before they issued a permit for the removal of sand and the State was paid over \$10,000 for the sand used in the fill area.
Jack Hunt	Jack Hunt, representing Sweetbriar Shopping Development, stated that Sweetbriar recommends to the Commission that they approve the change in zoning.
John Long	John Long, 2200 Bella Vista objected to the additional "LC" as he stated that the loud speakers from the Atlantic Store can be heard on his property and the music from Taco Tico can also be heard from his property.
Mrs. E. J. Stephens	Mrs. E. J. Stephens, a resident south of the river, objected to the type of construction in Marina Lakes and praised the type of construction used in Twin Lakes shopping center.
--Substitute motion made	The Commission recessed at 11:00 A.M. and reconvened at 11:20 A.M. Donnell moved a substitute motion that the application be returned to the Metropolitan Area Planning Commission for their reconsideration and the City Commission suggest that proper coordination and beautification of Marina Lakes be considered to meet the needs of property owners in the area.
Mr. Bogart	Mr. Bogart stated in reply to a question from Commissioner Stevens that modifications can be made in the text of the CUP without sending the application back to the Metropolitan Area Planning Commission.
Robert Feagins	Robert Feagins, Architect for both Twin Lakes and Marina Lakes, presented a plan as originally presented wherein the entire Marina Lakes area was in a CUP; however the then City Commission only approved "LC" in the area just south of 21st Street and the piece near "LC" request and approval has resulted in a less desirable approach to a satisfactory shopping center. He stated that if this was approved that beautification would be attempted.
Mr. Bledsoe	Mr. Bledsoe stated that he would agree to accept apartment zoning instead of office zoning in the west area of his property directly across the river from Momers Sixth Addition and that he would accept the "LC" zoning subject to a beautification plan to be approved by the City Commission or the Metropolitan Area Planning Commission.
Comm. Donnell	Commissioner Donnell stated that he felt Mr. Feagins could develop this area into a nice shopping center for those living in the area.
Mr. Lakin	Mr. Lakin stated in reply to a question from the Commission that this item could be placed on the Planning Commission's agenda for their March 6, 1973, meeting.
Mr. Bogart	Mr. Bogart suggested that the zoning be approved and the CUP be referred back to the Metropolitan Area Planning Commission for reconsideration and recommendation.
--Amendment to substitute motion (cont)	Stevens moved an amendment to the substitute motion to approve the zoning subject to the Metropolitan Area Planning Commission recommending approval of the CUP as revised regarding beautification. Motion lost 3 to 2. Donnell, Foster, Shanahan "No."
Comm. Greene	Commissioner Greene inquired what kind of money the applicant was willing to spend for beautification and Mr. Bledsoe stated that he would be willing to spend up to \$20,000 for beautification for the property that they control; however they have no control over the area previously zoned "LC" and built upon.
Comm. Greene	Commissioner Greene suggested that Mr. Bledsoe establish methods of controlling sight and sound that are objectionable to the property owners in the area.
Comm. Stevens	Commissioner Stevens suggested that the zone change and CUP be approved subject to a suitable sight and sound program.
--Substitute motion carried	Commissioner Donnell's substitute motion carried 4 to 1. Stevens "No." The Commission recessed for lunch at 12:02 P.M.

Attachment #8

ZONE CHANGE REQUEST
AND COMMUNITY UNIT
PLAN:
(Z-1476 and DP-23)

W side of Ansdon, W
of Arkansas River

Report from the Metropolitan Area Planning Commission (Case Number
Z-1476) and DP-23 Amendment, in regard to petition to change from "B" to "LC"
and "BB" and approval of DP-23 Amendment, generally located on the west side
of Ansdon north of the Arkansas River, presented.

"B" to "LC" - That part of Government Lot 1, in the NW 1/4 of Sec. 7,
Twp. 27-S, R-1-E, described as beginning at a point
on the east line of said Government lot 1, 1120.32
feet south of the NE corner thereof; thence north
89°12'55" west, a distance of 130 feet; thence north
00°04'05" east, 15 feet, thence south 89°56'09" west,
455.06 feet; thence north 54°26'07" west, 194.13 feet;
thence south 16°00' west, 310 feet more or less
to the left (north) bank of the Arkansas River; thence
southeasterly along the left (north) bank of the
Arkansas River to the east line of said Government
Lot 1; thence north 085 feet more or less to the place
of beginning, except therefrom that part dedicated
to the public for access, drainage, river bank maintenance,
flood control and river beautification, all in Wichita,
Sedgwick county, Kansas; and

"B" to "BB" - That part of Government Lot 1, in the NW 1/4 of Sec. 7,
Twp. 27-S, R-1-E, described as beginning at a point
on the east line of said Government lot 1, 1120.32
feet south of the NE corner thereof; thence north
89°12'55" west, a distance of 130 feet; thence north
00°04'05" east, 15 feet, thence south 89°56'09" west,
a distance of 455.06 feet; thence north 54°26'07"
west, a distance of 251.68 feet; thence north 70°56'50"
west, a distance of 959.77 feet to a point 695 feet
south and 770 feet east of the NW corner of said
Government Lot 1; thence south 12°11'35" west,
262.9 feet more or less to the north bank of the
Arkansas River; thence southeasterly along the north
bank of said river to the east line of said Government
Lot 1; thence north along the east line of said
Government Lot 1, 885 feet more or less to the point
of beginning except that portion lying east of the
following described line: (beginning) at a point on
the east line of said Government Lot 1, 1120.32 feet
south of the NE corner thereof thence north 89°12'55"
west, 130 feet; thence north 00°04'05" east, 15 feet;
thence south 89°56'09" west, 455.06 feet; thence north
54°26'07" west, 194.13 feet for a piece of beginning;
thence south 16°00' west, 310 feet more or less to
the left (north) bank of the Arkansas River, except
therefrom that part dedicated to the public for access,
drainage, river bank maintenance, flood control and
river beautification, all in Wichita, Sedgwick County,
Kansas

COMMISSIONERS PROCEEDINGS

15369

March 20, 1973

DP-23 (Amendment) - Community Unit Plan on property described as follows: that part of Government Lot 3, in NW¼ of Sec. 7, Twp. 27-S, R-1-E, described as beginning at a point on the east line of said Government Lot 1, 1120.32 feet south of the NE Corner thereof; thence north 80°12'55" west, a distance of 110 feet; thence north 00°04'03" east, 15 feet; thence south 89°56'09" west, a distance of 455.06 feet; thence north 54°26'07" west, a distance of 251.60 feet; thence north 70°56'58" west, a distance of 959.77 feet to a point 695 feet south and 770 feet east of the NE corner of said Government Lot 1; thence south 12°11'25" west, 282.9 feet more or less to the north bank of the Arkansas River; thence south-easterly along the north bank of said river to the east line of said Government Lot 1; thence north along the east line of said Government Lot 1; thence north along the east line of said Government Lot 1, 885 feet more or less to the point of beginning, except therefrom that part dedicated to the public for access, drainage, riverbank maintenance, flood control and river beautification, all in Wichita, Sedgwick County, Kansas

Plg. Comm. recommended

Planning commission recommended, after having reviewed the landscape plan presented by the applicant with his statement of costs as to what they will do, that the landscape language be involved on the CUP, and guaranteed by whatever method - cash, letter of credit, etc., for Parcels 6 and 8.

Comm. Stevens

Commissioner Stevens read a letter from Mr. Hledsoe in which he stated that he had shown this letter to Mr. Long and Mrs. Stephens who agree that the letter indicates the position of the residents on the matter.

The letter stated that the residents basically agree with the proposed landscaping plan offered by the owners and that Mr. Long did present the letter to the property owners in the area and that they approve of the basic plan.

Vince Bogart

Vince Bogart, attorney representing the applicant, reviewed the history of Twin Lakes, Marina Lakes and other large shopping centers with the Commission.

--Motion made to approve

Stevens moved that the Zone Change and CUP be approved as recommended by the Metropolitan Area Planning Commission, subject to the conditions of platting, and the Planning Department be instructed to prepare the ordinance for first reading when the plat is forwarded to the City Commission.

Comm. Porter

Commissioner Porter requested the Manager to place the matter of Community Unit Plan Development on the agenda in the near future.

Dave Ritchie

Dave Ritchie, representing Twin Lakes, objected to the change in zoning as it will increase the traffic on 21st and Amidon Streets.

--Substitute motion made

Greene moved a substitute motion to defer for four weeks until after the opening of the Woolco Store and request the Traffic Engineer to obtain a traffic count at 21st and Amidon.

Mr. Hledsoe

Mr. Hledsoe, owner, stated that provisions in the Woolco lease provide that Woolco will not open their facility until the opening of a grocery store occurs at the same time.

--Substitute motion lost

Commissioner Greene's substitute motion lost 3 to 2. Donnell, Porter, Stevens "No."

--Original motion lost

Commissioner Stevens' original motion lost 3 to 2. Greene, Porter, Shanahan "No."

--Motion made to deny the request

Porter moved that the application for a change in zoning and the amendment to the CUP be denied.

Mr. Hledsoe

Mr. Hledsoe stated in reply to a question from the Commission that no additional office space are needed in the area as Twin Lakes has just constructed over 100,000 square feet of office space.

COMMISSIONERS PROCEEDINGS

March 20, 1973

15370

--Substitute motion
made

Stevens moved a substitute motion to defer for two weeks and request the Traffic Engineer to provide a recommendation that will handle the traffic at this intersection.

--Substitute motion
lost

Commissioner Stevens' substitute motion lost 3 to 2. Greens, Porter, Shanahan "No."

--Original motion
carried 3 to 2

Commissioner Porter's original motion carried 3 to 2. Donnell, Stevens, "No."

Attachment # 9

Page 43
10-11-73

GARDENHIRE was excused from the meeting.

- 27a. Case No. 7-1573 - Marina Lake Drive, Inc. requests change from "B" to "LC" for that part of Government Lot 1, in the NW $\frac{1}{4}$ of Sec. 7, Twp. 27S, R1E, described as beginning at a point on the East line of said Government Lot 1, 1120.32 feet South of the NE corner thereof; thence North 88 $^{\circ}$ 12'55" West, a distance of 130 feet; thence North 00 $^{\circ}$ 04'05" East, 15 feet; thence South 89 $^{\circ}$ 56'09" West, 455.06 feet; thence North 54 $^{\circ}$ 26'07" West, 194.13 feet; thence South 16 $^{\circ}$ 00' West, 310 feet more or less to the left (north) bank of the Arkansas River; thence Southeasterly along the left (north) bank of the Arkansas River to the East line of said Government Lot 1; thence North 885 feet more or less to the place of beginning, except therefrom that part dedicated to the public for access, drainage, river bank maintenance, flood control and river beautification, all in Wichita, Sedgwick County, Kansas.

and change from "B" to "BB" for that part of Government Lot 1, in the NW $\frac{1}{4}$ of Sec. 7, Twp. 27S, R1E, described as beginning at a point on the East line of said Government Lot 1, 1120.32 feet South of the NE corner thereof; thence North 88 $^{\circ}$ 12'55" West, a distance of 130 feet; thence North 00 $^{\circ}$ 04'05" East, 15 feet; thence South 89 $^{\circ}$ 56'09" West, a distance of 455.06 feet; thence North 54 $^{\circ}$ 26'07" West, a distance of 251.68 feet; thence North 70 $^{\circ}$ 56'58" West, a distance of 959.77 feet to a point 695 feet South and 770 feet East of the NW corner of said Government Lot 1, thence South 12 $^{\circ}$ 11'35" West, 282.9 feet more or less to the North bank of the Arkansas River; thence southeasterly along the North bank of said river to the East line of said Government Lot 1; thence North along the East line of said Government Lot 1, 885 feet more or less to the point of beginning except that portion lying East of the following described line: Commencing at a point on the East line of said Government Lot 1, 1120.32 feet South of the NE corner thereof; thence North 88 $^{\circ}$ 12'55" West, 130 feet; thence North 00 $^{\circ}$ 04'05" East, 15 feet; thence South 89 $^{\circ}$ 56'09" West, 455.06 feet; thence North 54 $^{\circ}$ 26'07" West, 194.13 feet for a place of beginning; thence South 16 $^{\circ}$ 00' West, 310 feet more or less to the left (north) bank of the Arkansas River, except therefrom that part dedicated to the public for access, drainage, river bank maintenance, flood control and river beautification, all in Wichita, Sedgwick County, Kansas.

All generally located on the West side of Amidon Avenue north of the Arkansas River.

- 27b. Case No. DP-23 - Marina Lake Drive, Inc. requests approval of an amendment to Marina Lake CUP, legally described as:

That part of Government Lot 1, in the NW ¼ of Sec. 7, Twp. 27S, R1E, described as beginning at a point on the East line of said Government Lot 1, 1120.32 feet South of the NE corner thereof; thence North 88°12'55" West, a distance of 130 feet; thence North 00°04'05" East, 15 feet; thence South 89°56'09" West, a distance of 455.06 feet; thence North 54°26'07" West, a distance of 251.68 feet; thence North 70°56'58" West, a distance of 959.77 feet to a point 695 feet South and 770 feet East of the NW corner of said Government Lot 1; thence South 12°11'35" West, 282.9 feet more or less to the North bank of the Arkansas River; thence Southeasterly along the North bank of said river to the East line of said Government Lot 1; thence North along the East line of said Government Lot 1; 885 feet more or less to the point of beginning, except therefrom that part dedicated to the public for access, drainage, river bank maintenance, flood control and river beautification, all in Wichita, Sedgwick County, Kansas. Generally located on the West side of Amidon north of the Arkansas River.

GALBRAITH pointed out the area on the map and reviewed the following staff report:

HISTORY:

1. The following history is from the staff report to the Planning Commission on January 25, 1973.

Z-0824 and DP-23 were two zone and Community Unit Plan applications for the entire area of the former Dolese sandpit area of approximately 60 acres which the Planning Commission considered in 1967. Approximately 37 acres were requested for "LC" and "C" and 24.5 acres were requested for "B". A Community Unit Plan was submitted for both the commercial and residential parts. The Planning Commission recommended denial, without prejudice, however, after the City Commission heard the case, approximately 8 acres of "LC" and 22 acres of "B" was approved. The situation at that time hinged on the impact of traffic on the arterial system.

On December 12, 1968, the Planning Commission considered an application for an amendment to the CUP and request for an increase of Parcel 1 from 3.57 acres to 9.13 acres of light commercial zoning (Z-1032). Action of the Planning Commission was to recommend denial of both applications. The Board of City Commissioners, however, at their meeting on January 21, 1969 approved both applications, subject to certain conditions. Again, the impact of traffic on the arterial system was a prime consideration. (See attached minutes of November 14, 1968 and December 12, 1968 - Attachments 1 and 2.)

On March 11, 1971, the Planning Commission considered an application for an amendment to the CUP and a request for an increase in the area on Parcel 1 from 9.13 acres to 14.94

acres of light commercial zoning. Action of the Planning Commission was to recommend approval of both requests. This recommendation was concurred in by the Board of City Commissioners on March 30, 1971. (See attached Planning Commission minutes of March 19, 1971, and City Commission minutes of March 30, 1971 - Attachments 3 and 4.)

2. The most recent history of subject property occurred on January 25, 1973, when the Planning Commission considered an application for an amendment to the CUP and a request for an additional amount of light commercial zoning - approximately 7.33 acres and an approximate 5.75 acres of "BB" Office zoning. Action of the Planning Commission was to recommend approval of both requests; however, both applications were denied by the City Commission on March 20, 1973. (See attached Planning Commission minutes of January 25, 1973 and March 8, 1973, and City Commission minutes of February 27, 1973, and March 20, 1973 - Attachments 5, 6, 7 and 8.)
3. On September 4, 1973, as an off-agenda item, the Board of City Commissioners considered the matter of litigation and zoning relative to Marina Lakes, Inc. The action of the City Commission was to permit the applicant to refile the application without cost, conditioned upon the litigation being ended by dismissal of the suit and payment of the court costs by Marina Lake Drive, Inc.
4. Based on this action, the zone case and CUP were advertised for hearing and notices mailed without cost to the applicant. Specifically, the applicant has requested approximately 7.33 acres of "LC" zoning and an additional 5.75 acres for "BB" Office zoning.

The CUP request proposes the following:

Increase in the size of Parcel 6 from 3.07 acres to approximately 7.33 acres.

Creating a new Parcel 8 proposed for "BB" Office zoning - approximately 5.75 acres with a maximum building height of 65 feet.

Decreasing the size of Parcel 7 from 22.49 acres to 12.79 acres, and a decrease in the proposed number of dwelling units from 335 to 219.

Increasing the permitted square feet of retail space by 111,878 for a total of 496,438.

Increasing the permitted square feet of office space by 125,293 square feet.

5. The past history reflects intensive discussion relative to this shopping center location and related traffic projections. Traffic volumes on 21st Street and through the 21st - Amidon intersection, continue to increase as is evidenced by the following traffic counts. (The Traffic Engineering Office advises that new counts will soon be taken.)

	Actual ADT 1970	Actual ADT 1972
Amidon north of 21st Street	16,069	16,065
Amidon south of 21st Street	14,673	14,904
21st Street east of Amidon	13,659	17,278
21st Street west of Amidon	8,832	12,141

The increase in these traffic counts of 21st Street in part must be attributed to the improvement of the street and the new bridge across the Arkansas River.

6. The arguments have been made in the past that regardless of increased traffic, the west side of Amidon deserved a comparable amount of "IC" zoning as granted to Twin Lakes to the east. The square footage of retail space now proposed for the west (496,438) now compares with the 330,000 previously approved for Twin Lakes.
7. As the existing "LC" is generally the same on both sides of Amidon, any consideration of extending "IC" zoning should be based on the submission of justification for additional need of services. It would appear that as office zoning and development exists to the east, the most compatible uses would be for Parcel 6 to be developed for professional offices.
8. Although "outdoor display of marina supplies" was originally approved as a permitted use in Parcels 1 and 4, subject to approval by the Board of Zoning Appeals, the purpose of this intended use was originally stated because the parcels had access to water and customers would have an opportunity to test drive the boats on the lake. Outdoor type of uses and displays should not be permitted along Meridian-Amidon.
9. Although the area now designated as Parcel 8 was originally proposed for townhouses at a low density, it is now proposed to develop offices to a maximum floor area of 125,000 square feet to a permitted height of 65 feet. The townhouses were previously thought to be the most compatible use across the River from high quality single-family homes. However, due to the manner of development of the Marina Lakes commercial, most have the service or back of buildings oriented to the lake. This detracts from the visual qualities which were hoped would induce the townhouse and residential character for the riverfront development.
10. Visual qualities and the view of the rear of the existing buildings on Marina Lakes from the residential area south

of the River were discussed by the City Commission when the two original applications were returned to the Planning Commission. They suggested that proper coordination and beautification of Marina Lakes be considered to meet the needs of property owners in the area. The applicant submitted a list of plant materials and offered to guarantee the plantings for Parcels 6 and 8.

Since the previous consideration of this matter, recent CUP's have provided that "landscape plans" would be submitted for approval prior to the issuance of building permits.

11. Should the Planning Commission recommend the approval of the zone change request and the amendments to the CUP, the following conditions would be consistent with other approved CUP's:
 - a. The platting of Parcels 6 and 8 within one year from the date of approval by the Board of City Commissioners, or the zone case be considered denied and closed.
 - b. Adding to "General Provisions" the following: A landscape plan for Parcels 6 and 8, indicating the location type and specifications of planting materials, shall be submitted to the Planning Department for approval prior to the issuance of any building permits on these parcels.
 - c. One minor correction being made on the face of the plan-labeling "Reserve A" on the plan next to Amidon.
 - d. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
 - e. Any major changes in this development plan shall be re-submitted to the Planning Commission and to the City Commission for its consideration.
 - f. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for development and be binding upon the present owners, their successors and assigns, unless amended.

GALBRAITH said that the staff was still of the same opinion as before, that "BB" office zoning seemed more appropriate on Parcel 6, and "B" more appropriate on Parcel 8, however, if the Planning Commission recommends approval, it should be subject to the conditions shown in the staff comments, which are the same as a year ago, except with respect to the landscaping requirement for Parcels 6 and 8. When asked if anything had changed since the last consideration, GALBRAITH said there appears to be no difference in the CUP or the application than before.

HENNESSY stated the City Commission, when threatened with litigation over the last action on this area, had apparently decided to rehear the case if the litigation was dropped, and expected the Planning Commission to become a party to the matter.

GALBRAITH said the City Commission minutes reflect that the action was a split vote, (3-2) and one Commissioner stating he was not indicating his approval of the matter at that time.

H. D. BLEDSOE said there are some thing he wanted to get in the record and that he would be as short as possible in his presentation. He commented that there is so much misunderstanding, that he wanted a record so that the City Commission will see his various points.

BLEDSOE said there has been one change in that they have agreed to landscaping in an effort to appease everybody in the area, including several parcels along 21st Street some of which he does not now own.

BLEDSOE said that subject property has never been asked for "LC" prior to the application at the end of last year, although the City Commission has the understanding it has been back several times. He pointed out that it is only the CUP that has been considered several times, and subject tract is a portion of the CUP which has 60 acres and whenever a change in the CUP is proposed, no matter how small an area of the total is involved, a new application must be filed. He stated that subject application for "LC" is only for 7 acres and that normally under a CUP they could build around 170,000 square feet; however, they are proposing only 111,000 square feet.

To refer back to the beginning, BLEDSOE pointed out that the area was originally 60 acres and an application was filed for 35 acres of "LC" and 24½ acres of "B" zoning, based on the original design. There was much newspaper publicity and everyone seemed to think it was great until the Ritchies opposed the plan, saying that the street would be burdened and the intersection would breakdown and there was no way it could work. At that time the City Commission allowed only 8 acres of "LC" and approved 24½ acres of "B", but left the center of the lake with no use at all. BLEDSOE passed around the table a picture showing the area at that time, showing the strip commercial approved along 21st Street. He pointed out that when only strip zoning is approved there is no alternative but to develop the other 52 acres were left in the CUP, but the "LC" area they could build on.

Of the approved 8 acres along 21st Street, only 4700 square feet of "LC" has been built thereon, and Bledsoe said it was at this time he acquired Parcels 3 and 5, which was the only area he had on the north side. BLEDSOE stated that it was at this time the City Commission, Paul Graves and Ritchies complained that the street would collapse; however, at the time, the matter was denied, street plans were on the drawing board for the intersection improvement, so if it is underbuilt now it was underbuilt at that time. BLEDSOE stated that after denial of the zoning, they paid for $\frac{1}{2}$ of 21st Street. Then the City decided to build a fast turn at the corner and assessed the Texaco Station, Goodyear and a peice of land to the south of the Texaco Station. After this, Bledsoe stated, they asked for another entrance on Amidon across from the entrance to Twin Lakes, and again Ritchies complained that the traffic would tear the street down and that if the entrance was across from theirs it would require a traffic light, so the entrance was granted 400 feet to the south.

BLEDSOE next referred back to the fact that when Amidon was built, Dolese Brothers (then owner of subject property on the west side of Amidon) gave up access and in exchange were not taxed for the street improvement. So when an access was requested, the City asked for and received payment for one-half of the Amidon Street improvement which had not been originally assessed against Dolese Brothers. BLEDSOE pointed out, however, that no such requirement was made of Ritchies on the east side of Amidon. In the meantime, Ritchies added the theater to their Twin Lakes area, building it within 35 feet of the property line, yet and the City Commission required a 70-foot setback on the west side of Amidon. Since that time, the City has installed a traffic control light at the entrance to Twin Lakes, even putting the controls on the west side of the street.

BLEDSOE said that when Woolco wanted space for a store, they had asked for additional "LC" zoning for 550 feet south, to which the City agreed, however Ritchies again complained, yet in the meantime they added on to the Sears Store in their own center. Also on the south portion of their property which was supposed to have apartments, and which is not under their CUP, the zoning was changed so they can build offices to the extent of 100,000 square feet, yet his subject application is only for 111,000 square feet of light commercial on the entire 7 acres.

When the City agreed to the zoning for the Woolco Store, BLEDSOE said they were asked to build an additional third lane along Amidon, which they did for almost 1600 feet, and in addition to the 70-foot setback, the City at the time was dumping water from the street into the lake, and in fact water was draining from the Ritchie property under the street and into their lake. As a part of the same rezoning, the City required them to pay for storm sewer facilities for handling the drainage, which was the first time a CUP development had to provide a third lane or storm sewer facilities. As a summarization of requirements

placed on the Marina Lake development, Bledsoe said they paid for $\frac{1}{2}$ of 21st Street improvement; all of a fast turn; all of storm drainage; $\frac{1}{2}$ of the two lanes on 21st Street; a full third lane on Amidon and $\frac{1}{2}$ of the cost of the medials.

BLED SOE next referred to the design of signalized intersections and the fact that when traffic builds up to where it cannot flow through an intersection on one signal and have to wait for the second green light, it is called F level. He said that 21st and Amidon now is running at 70% of F level; Rock Road and Kellogg at 80%; Central and West at 80% and Pawnee and Seneca at 114% all of F level. In further explaining this point, BLED SOE said that 21st and Amidon was designed to carry 40,000 cars at F level and today has 30,190 cars per day, so there is a buffer of 10,000 cars. Seneca and Pawnee was designed for 28,000 and is now running at 32,737 per day. He pointed out that 25th and the I-235 bypass, construction of the 21st street bridge and eventually when 25th Street is extended across the Big Ditch all help alleviate the traffic at 21st and Amidon.

For comparison purposes, BLED SOE pointed out that 21st and Amidon with 63 acres of "LC" on all four corners with traffic at 70% of capacity, and Kellogg and Rock Road with 169 acres of "LC" on all four corners, running at 80% capacity and yet the City granted an addition 18.4 acres of "LC" just recently before Kellogg Mall construction was started, which means an additional 240,000 square feet of building. BLED SOE said at that time the Traffic Engineer's report stated that Kellogg would be forced to carry 60,000 cars per day, or twice as much as it would be on 21st and Amidon. Further, on Amidon for a length of 1800 feet they can only build 308,000 square feet of building while on one corner at Rock Road and Kellogg (Kellogg Mall) they can build 1,573,000 square feet of commercial, plus 296,000 square feet for motel and that does not include apartments or residences, which amounts to four times as much on one corner as on all the Marina Lake property put together.

BLED SOE brought up the fact that the man that has been fighting the Marina Lakes development is a stockholder in the Kellogg Mall project and he submitted a listing of Rock Road Improvement, Inc. stockholders, showing that E. D., H. D., and J. P. Ritchie own 1/10 of the stock therein. Again referring to the amount of "LC" allowed at Kellogg and Rock Road, BLED SOE said that in addition to that referred to above, there can be 400,000 square feet of area in Eastgate Center. So within $\frac{1}{2}$ mile of that intersection there is about 3,200,000 square feet of "LC" building to be built. If subject application is granted, it is the last of the property available in this area to be built on, and it will only represent a total of 1,200,000 square feet for all four corners, which is much less than what is allowed on only one corner (Kellogg Mall) at Rock Road and Kellogg.

BLED SOE said that in granting the 18.4 acres at the intersection of Kellogg and Rock Road, the original 400 foot setback was reduced considerably. BLED SOE referred to the Traffic Engineer's

report on conditions at Kellogg and Rock Road, pointing out that the criteria used was that 1,000 square feet of light commercial area would generate 18 cars per day; however on the Saturday before Christmas at Twin Lakes, the figure was 42 cars per 1,000 square feet, so it is no wonder there are traffic problems. BLEDSOE felt the biggest problem at 21st and Amidon is not with the intersection inasmuch as traffic counts show it is only operating at 70% of design capacity, but rather, it is the fact that Twin Lakes has been four times more successful than anticipated and it is built too close to the property line and cars cannot get in and out, there is no room for a stacking lane. He showed a picture of the new Woolco store at Pawnee and Broadway to illustrate how far back it is from the street and the stacking lanes provided.

BLEDSOE said the Traffic Engineer's report on Kellogg and Rock Road indicates a projection for 4,799 cars per day on Rock Road north of Kellogg generated from retail, and in 1980 he has projected over 15,000 per day from retail. In comparing this with the Marina Lake area where only 20% as much retail is proposed, Bledsoe felt it was obvious that traffic is not going to increase more than 20% or 2,000 cars per day which should not cause any problems when the intersection is 10,000 below capacity now.

BLEDSOE next referred to the fact that they are proposing landscaping to satisfy the residents on the south side of the River and else where in the neighborhood. He pointed out that it is 400 feet across the River, however, and he cited examples of where light commercial has been developed adjacent to residential areas. Prior to asking the Oblinger and Smith representative to review the landscaping plan, BLEDSOE outlined the following:

The Planning Commission asked Ritchies to pay their half of the street - the City Commission let them off the hook. The Planning Commission asked Ritchies to build a fast turn on their corner and the Traffic Engineer said that it would increase the traffic flow by 5% - the City let them off the hook. The Planning Commission asked Ritchies to put in a third lane - City Commission let them off the hook.

Ritchies can build on the south end of their property over 100,000 square feet on a very small area, while the applicant can build only 111,000 square feet on the entire 7 acres he is requesting for "LC".

JOHN GIST, Oblinger-Smith Corporation, said they had been asked to make recommendations for landscaping for improvement of the general appearance of the Marina Lake premises as it related to property owned by the applicant or on which he retained some control over, separating out those which were under lease arrangements, or parcels which they had sold.

GIST said it has been recommended that from the west edge of the lake area on 21st Street and extending east to existing facilities a street tree program and grass to establish turf be provided. There is a small strip of land by the water's edge (south of Parcls 4-5) which because of its configuration is non-developable and they have recommended that it be cleaned up, (now filled with fill material, broken concrete) top soil deposited and the bank stabilized, and grass and tree plantings provided, and the plan specifies the type of plant materials and their location. GIST pointed out two other areas on the south portion which they have recommended fill and clean up and establishment of turf and the area mowed until actual development takes place. They have recommended some shore line plantings and landscaping and indicated the exact type and location. Along Amidon on Parcel 6, they have suggested the same as on 21st Street, trees and grass.

On the portion being considered they have specified the type of shrubs and trees and size and location. GIST stated that the recommendation indicates appropriate substitute plantings in case the originally suggested plants are not available at the time of development and installation of screening. He stated also that the plantings are all subject to approval of the Park Department.

BLEDSOE said that John Long and possibly others living south of the River had previously complained because of the lack or limited landscaping proposed for the north side of the River. He has, however, indicated his approval of the plan just presented.

GALBRAITH verified Bledsoe's statement that Mr. Long had talked with him and expressed his approval of the proposed landscaping.

MRS. MARY BELLUOMO, 2245 Bullinger, spoke in opposition, as she believed the saturation point of shopping center development had been reached through the City and she pointed out the various other centers or shopping areas already in the general northwest area. It was her belief that additional facilities are not needed in this particular area; and if the applicant had been the first development rather than Ritchies, she would be arguing against them now. However, MRS. BELLUOMO said she was opposed now to any more commercial regardless of who is involved and she said they could have used the area for a park for the residential area. MRS. BELLUOMO, when asked what she would suggest be developed on subject property, suggested apartments or offices as they provide income also. BLEDSOE pointed out that Ritchies already have Office type zoning which also permits apartments, and have only developed about a third because that is not where the demand is at this time.

BLEDSOE continued to point out that it is 1500 feet to the closest residence north of 21st Street and there is a demand for more shopping facilities and he has a contract to build. He pointed out the valuable land involved and the fact that it

would not be considered so valuable if there was not a demand for more facilities. He continued that the area qualifies for commercial - it has access for free flowing traffic, appropriate entrances on Amidon and 21st, and the fact that at Twin Lakes the vehicular traffic averaged 42 cars per 1,000 square feet of facilities, is indication enough that there is need for additional facilities.

MRS. BELLUOMO maintained that there is only a certain amount of dollar buying power in an area and that sometimes volumes of cars represent comparison shoppers. Further, she stated that Mr. Bledsoe was aware of the zoning when he purchased the land and his development should have been planned for under the zoning at that time.

BLAKEY said he was already late for another meeting and suggested the Commission has no doubt heard everything to be presented on this case, and felt that everyone had been given a fair public hearing on the matter.

MOTION: That the Planning Commission recommend to the City Commission approval of the zone change request (Z-1573) and also approval of the amendment to the Community Unit Plan (DP-23), subject to the following:

1. The platting of Parcels 6 and 8 within one year from the date of approval by the Board of City Commissioners, or the zone case be considered denied and closed.
2. Adding to "General Provisions" the following: A landscape plan for Parcels 6 and 8, indicating the location, type and specifications of planting materials, shall be submitted to the Planning Department for approval prior to the issuance of any building permits on these parcels.
3. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
4. Any major changes in this development plan shall be re-submitted to the Planning Commission and to the City Commission for its consideration.
5. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for development and be binding upon the present owners, their successors and assigns, unless amended.

Page 54
10-11-73

VOTE ON THE MOTION: Blakey moved, Arnholz
seconded and it carried unanimously. (Hill,
Gardenhire, Rising absent.)

HENNESSY said for the record that he would again vote for
this change as he did before as his opinion had not changed.

COMMISSIONERS PROCEEDINGS

1632-1

October 30, 1973

Attachment # 10

ZONE CHANGE
REQUEST:
(Z-1573)
and CUP approval
(DP-23)

West side of
Armidon north of
the Arkansas River

Report from the Metropolitan Area Planning Commission (Case Number Z-1573) and DP-23 (Amendment) in regard to petition to change from "B" to "LC" and "BB", and approval of amendment to DP-23, generally located on the west side of Armidon north of the Arkansas River, legally described as follows:

"B" to "LC" - That part of Government Lot 1, in the NW¼ of Sec. 7, Twp. 27S, R1E, described as beginning at a point on the east line of said Government Lot 1, 1120.43 feet south of the NE corner thereof; thence north 88°12'55" west, a distance of 130 feet; thence north 00°04'05" east, 15 feet; thence south 89°56'09" west, 455.06 feet; thence north 54°26'07" west, 194.13 feet; thence south 16°00' west, 310 feet more or less to the left (north) bank of the Arkansas River; thence southeasterly along the left (north) bank of the Arkansas River to the east line of said Government Lot 1; thence north 885 feet more or less to the place of beginning, except therefrom that part dedicated to the public for access, drainage, riverbank maintenance, flood control and river beautification, all in Wichita, Sedgewick County, Kansas.

"B" to "BB" - That part of Government Lot 1 in the NW¼ of Sec. 7, Twp. 27S, R1E, described as beginning at a point on the east line of said Government Lot 1, 1120.32 feet south of the NE corner thereof; thence north 88°12'55" west, a distance of 130 feet; thence north 00°04'15" east, 15 feet; thence south 89°56'09" west, a distance of 455.06 feet; thence north 54°26'07" west, a distance of 251.60 feet; thence north 70°56'58" west, a distance of 959.77 feet to a point 695 feet south and 770 feet east of the NE corner of said Government Lot 1; thence south 12°11'35" west, 282.9 feet more or less to the north bank of the Arkansas River, thence southeasterly along the north bank of said river to the east line of said Government Lot 1; thence north along the east line of said Government Lot 1, 885 feet more or less to the point of beginning, except that portion lying east of the following described line: Commencing at a point on the east line of said Government Lot 1, 1120.32 feet south of the NE corner thereof; thence north 88°12'55" west, 130 feet; thence north 00°04'05" east, 15 feet; thence south 89°56'09" west, 455.06 feet; thence north 54°26'07" west, 194.13 feet for a place of beginning; thence south 16°00' west, 310 feet more or less to the left (north) bank of the Arkansas River, except therefrom that part dedicated to the public for access, drainage, riverbank maintenance, flood control and river beautification, all in Wichita, Sedgewick County, Kansas.

DP-23 - Amendment to Harlin Lake CUP - That part of Government Lot 1, in the NW¼ of Sec. 7, Twp. 27S, R1E, described as beginning at a point on the east line of said Government Lot 1, 1120.32 feet south of the NE corner thereof; thence north 88°12'55" west, a distance of 130 feet; thence north 00°04'05" east, 15 feet; thence south 89°56'09" west, a distance of 455.06 feet; thence north 54°26'07" west, a distance of 251.60 feet; thence north 70°56'58" west, a distance of 959.77 feet; to a point 695 feet south and 770 feet east of the NE corner of said Government Lot 1; thence south 12°11'35" west, 282.9 feet more or less to the north bank of the Arkansas River; thence southeasterly along the north bank of said river to the east line of said Government Lot 1; thence north along the east line of said Government Lot 1; 885 feet more or less to the point of beginning, except therefrom that part dedicated to the public for access, drainage, riverbank maintenance, flood control and river beautification, all in Wichita, Sedgewick County, Kansas.

COMMISSIONERS PROCEEDINGS

10325

October 30, 1973

Plg. Comm. recom-
mendation

Planning Commission recommended that zone change request Z-1573 be approved and also that Community Unit Plan DP-23 (Amendment) be approved, subject to the following:

1. The platting of Parcels 6 and 8 within one year from the date of approval by the Board of City Commissioners; or the zone case be considered denied and closed.
2. Adding to "General Provisions" the following: A landscape plan for Parcels 6 and 8, indicating the location, type and specifications of planting materials, shall be submitted to the Planning Department for approval prior to the issuance of any building permits on these parcels.
3. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
4. Any major changes in this development plan shall be resubmitted to the Planning Commission and to the City Commission for its consideration.
5. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for development and be binding upon the present owners, their successors and assigns, unless amended.

Director of Planning

Director of Planning stated that a letter had been received from the applicant requesting that this matter be deferred for a full Commission.

Comm. Stevens

Commissioner Stevens suggested that the recommendation of MAFPC be approved.

Comm. Shanahan

Commissioner Shanahan stated that he had received an excess of 50 letters expressing opposition of this change for various reasons.

--Motion made

Shanahan moved that the application and the amendment to the CUP be returned to the Metropolitan Area Planning Commission for reconsideration, the reason being the lack of real showing in the records before the Planning Commission as to why there should be a change in land use for this property, the lack of showing for any reason for justification for it other than the property owner requesting it, and for the adverse impact that further "C" zoning would have in this area upon the traffic on the two principal streets which are the only streets in and to and through the area.

Comm. Porter

Commissioner Porter expressed his interest in maintaining the integrity of the river corridor in some way for present and future use based on recommendations of the Waterways Development Advisory Board and the Park Board.

Motion carried

Commissioner Shanahan's motion carried 3 to 1. Stevens "No."

ZONE CHANGE
REQUEST: (Z-1574)

~~Report from the Metropolitan Area Planning Commission (Case Number Z-1574) in regards to petition to change from "A" and "LC" to "IC", legally described as Lots 2 through 32 even on Greenwood Avenue and Lots 1 through 29 odd on Hydraulic Avenue, in Schweitzer's Lincoln Street Addition to Wichita, Sedgewick County, Kansas. Generally located on the south side of Lincoln between Hydraulic and Greenwood, presented.~~

"A" and "LC" to
"IC"

Schweitzer's
Lincoln Street
Addition

South side of Lincoln
between Hydraulic
and Greenwood

Plg. Comm.
Recommendation

~~Planning Commission recommended that this application be approved subject to the replatting of the property within one year from the date of approval by the City Commission to provide for adequate street right-of-way setbacks, access control, vacation of the alley and possibly the dedication of a new alley on the south side of the application area; or the application be considered denied and closed.~~

Attachment

11

HILL was excused from the meeting.

- 22a. Case No. Z-1573 - Marina Lake Drive, Inc. requests change from "B" to "LC" for that part of Government Lot 1, in the NW 1/4 of Sec. 7, Twp. 27S, R1E, described as beginning at a point on the east line of said Government Lot 1, 1120.43 feet south of the NE corner thereof; thence north $88^{\circ}12'55''$ West, a distance of 130 feet; thence north $00^{\circ}04'05''$ East, 15 feet; thence south $89^{\circ}56'09''$ West, 455.06 feet; thence north $54^{\circ}26'07''$ West, 194.13 feet; thence south $16^{\circ}00'$ West, 310 feet more or less to the left (north) bank of the Arkansas River; thence southeasterly along the left (north) bank

less to the point of beginning, except therefrom that part dedicated to the public for access, drainage, riverbank maintenance, flood control and river beautification, all in Wichita, Sedgwick County, Kansas. Generally located on the west side of Amidon north of the Arkansas River.

GALBRAITH pointed out the area on the map and briefly reviewed the staff report which had been submitted to the Planning Commission when this application was considered on October 11, 1973 (See minutes of that meeting for staff report in full.) LAKIN reported that at that previous hearing, the Planning Commission had unanimously as to those present (3 members absent) recommended approval of the requests, but that the City Commission has returned the cases because of the lack of real showing of any justification for more zoning and for the adverse impact further light commercial would have upon the traffic on the two principal streets (Amidon and 21st Street). (City Commission minutes were furnished to the MAPC.)

LAKIN said another point brought up at the City Commission meeting concerned the effect such zoning might have on riverfront development plans. He said that the Waterways Development Advisory Board has made no specific plans at this time. At the time of platting, requirements would be made for riverbank beautification, recreation and maintenance easements.

LAKIN said that the staff has not recommended approval of the requested "LC", feeling that the present "BB" zoning is the most appropriate in relation to the "BB" on the east side of Amidon, and further, it was the staff's opinion that the "B" area being requested for "BB" should not be changed as it was more appropriate for development of apartments along the River.

LAKIN stated that there are several items in Mr. Bledsoe's previous testimony on which he could not agree entirely, particularly as to some figures given related to traffic analysis, however, he said he would not go through them specifically, as all the Commissioners have been provided sufficient material in this area. LAKIN said the Assistant Traffic Engineer was available to answer any questions on traffic.

LAKIN stated that at the City Commission meeting there was no general discussion of these cases - they were referred back without discussion of the merits of the cases.

H. D. BLEDSOE, the applicant, said there had been no "deal" made for refiling of this application for the withdrawal of litigation proceedings (which had been filed because a similar request was not approved before). He said he had spent almost \$12,000 in legal fees for such suit and when one of the City Commissioners said he was in favor of the zoning all along and two other Commissioners indicated they would be willing to "take a second look", he had dropped the suit and refiled subject applications.

BLEDSOE stated that this matter has been before the Planning Commission three different times and each time has resulted in unanimous recommendation for approval. He related circumstances under which he thought he had made arrangements with the City Manager's office for subject requests not to be heard on October 30, 1973, but to be deferred. However, the evening of October 30, 1973, he learned that they had been considered and referred back to the Planning Commission. He commented further that although the City Commission agreed to review the zoning again if he would drop the law suit, it did not even take the time to listen to the explanation, but referred the matter back. He indicated he dropped the law suit because of the time and money involved and that no "deal" was made with the City Commission.

BLEDSOE stated that the intersection of 21st and Amidon presently is operating at 70% of design capacity as related to traffic and that Rock Road and Kellogg intersection of the same design is running 80% of capacity. He pointed out that if everything possible to be built on was built right now, including the Woolco and Hanson Stores and subject request (at 21st and Amidon), there could only be another 350,000 square feet of building area, yet on one corner of Rock Road and Kellogg 1,500,000 square feet can be built. He pointed out that within a month of the time the City Commission denied his previous request only 1,200,000 square feet could be built on one corner of Rock Road and Kellogg, yet the City Commission granted them the right to build another 240,000 square feet, saying the intersection could handle the traffic, at the same time turning his request down saying traffic could not be handled. He felt that there was no possible way to justify this action.

BLEDSOE asked the staff what was considered criteria for granting light commercial, and LAKIN answered that when presented to the Planning Commission, the dollar return, usually referred to as the highest and best use, compatibility to adjacent land uses, and also it relates to the public facilities available and capacity for handling additional such zoning and development.

BLEDSOE stated in further discussion of criteria for zoning that it must be on a major thoroughfare and adjacent to light commercial, which the light commercial request is; must be buffered from residential (the closest residence to his application, he estimated to be 1,000 feet); and another factor is to be able to move through the area. The entire Marina Lake area has four entrances on Amidon and seven on 21st Street. As an indication of the demand in this area, BLEDSOE said he had a sales contract to construct a building on 1 1/2 acres of that requested for light commercial for \$150,000, making a value of \$100,000 per acre, and he considered this definite indication of a demand.

With respect to office zoning, BLEDSOE pointed out that Ritchies to the east, who have always complained about the granting of light commercial in the Marina Lake area, had originally intended apartments on their area now zoned "BB", and only about 1/3 of the office space has been constructed by them because there

is not the demand for such use in the area to justify more construction.

BLEDSON said they have restricted their request to 111,000 square feet and yet Ritchies can build over 100,000 square feet in the small portion at the far south end because this particular tract of the Twin Lakes development is not under a CUP.

BLEDSON next pointed out that the City Commission this year has approved \$17,000,000 in industrial revenue bonds to bring in new industry to create new jobs, yet by doing so has taken the properties involved off the tax rolls for a period of ten years. He said what is proposed is a \$2 million dollar project ready to proceed right at this time.

BLEDSON emphasized that the landscaping plan he has submitted includes the south side of 21st Street as well as his property. He pointed out that the zoning requested has absolutely nothing to do with 21st Street, but some of the City Commissioners did not like the design or looks of the development along 21st Street, however, every building there was issued a permit from the City. As for the weed problem, the City has the right to overcome such a nuisance. But regardless of anything else, he said he had engaged the services of Oblinger-Smith to design a landscaping plan for the area along 21st Street, most of which he has never owned and over which he has no control. He said that his only interest along 21st Street is in the UniRoyal Building, which he has leased and on which he has obtained the permission of the manager to do the landscaping. He pointed out further that the landscaping will cost around \$34,000, and that such has never heretofore been required of a developer other than on his own ownership. He said the only reason in this case is because it is all a part of the original Community Unit Plan.

BLEDSON said that at the previous meeting there was only one person who appeared in opposition, and since that time a mimeographed letter was sent out urging people in the area to send in their opposition, and while the City Commission had not heard the case, seen the letter or had any information pointed out to it, did return the applications to the Planning Commission for reconsideration. When asked, BLEDSON said he did not have a copy of that letter.

HENNESSY said he thought Bledson had done a tremendous job of presenting his case and had several questions about the litigation and whether or not Bledson felt he had received a fair hearing or that someone was trying to "push him around."

BLEDSON said he was convinced that the property has every criteria for light commercial zoning and development and the Planning Commission had studied and recommended unanimously that it be approved on three occasions, and it was his thought that the City Commission should give some credence to the Planning Commission recommendation. In further explanation of the litigation, BLEDSON said it was based on the fact that he considered it proper

- zoning and that under the Constitution he should have the right to do what he wanted to do with the land provided it fits in with the community plan and doesn't adversely affect the public.

MS. JOAN SHEARER, 2433 Benjamin Drive, spoke in opposition. She stated that area residents have appeared in opposition to the numerous zoning cases in this particular area since they first began in 1967, and have faithfully come to many of the meetings; however, they have been worn down by the continuous requests for more zoning, which is why there are not so many people in the audience to object.

MS. SHEARER said they felt it unfair to compare this intersection with others in the City because it is a unique intersection as far as traffic is concerned because the commercial developments must be served by only two major streets. She said that while subject property may be buffered by the River, it is not unrelated to the people that live north of 21st and west of Amidon because of the increased inaccessibility in getting in and out of the residential area. She said many residents in her neighborhood do not shop at the center because they wish to avoid the traffic congestion.

MS. SHEARER pointed out also that there is some unleased space in Sweetbriar Center, and just because Ritchies have not built more office space does not mean there is no demand for such. She commented that Riverbend Center is only about a half mile away from this large commercial area at this intersection. Sometimes requests for zoning have been made because of a desire to have the same acreage as across the street, and now that it is comparable, she said those in the area are opposed to more zoning. They do not want to make it difficult or unfair for those desiring to develop land, but it would be more compatible to their interests if it could be office space or apartments. She stated that from the very beginning of their opposition, it has not mattered who was asking for zoning, but they feel there is sufficient light commercial zoning and development, and if subject corner had been developed first, they would have opposed development of commercial facilities for the others.

MS. SHEARER indicated that as originally proposed might have been better, although they had opposed it, but after seeing what has developed since that time, perhaps if allowed to go as originally requested, the development might have been more attractive.

MARY PHELAN, 2243 Cardinal, pointed out the uniqueness of the corner because of the fact that it is "boxed" in by the two Rivers and unless one goes west or north there is no way other than through the intersection. She felt that since the opening of the Woolco Store particularly there has been congestion in making right turns from 21st Street to the south. She commented that the area residents seem to be "whipped" between Ritchies and Bledsoe, and regardless of the fact that a developer is "ready to go", the point is whether or not the zoning is in the best interest of the City of Wichita and particularly this section of the City.

zoning and that under the Constitution he should have the right to do what he wanted to do with the land provided it fits in with the community plan and doesn't adversely affect the public.

MS. JOAN SHEARER, 2433 Benjamin Drive, spoke in opposition. She stated that area residents have appeared in opposition to the numerous zoning cases in this particular area since they first began in 1967, and have faithfully come to many of the meetings; however, they have been worn down by the continuous requests for more zoning, which is why there are not so many people in the audience to object.

MS. SHEARER said they felt it unfair to compare this intersection with others in the City because it is a unique intersection as far as traffic is concerned because the commercial developments must be served by only two major streets. She said that while subject property may be buffered by the River, it is not unrelated to the people that live north of 21st and west of Amidon because of the increased inaccessibility in getting in and out of the residential area. She said many residents in her neighborhood do not shop at the center because they wish to avoid the traffic congestion.

MS. SHEARER pointed out also that there is some unleased space in Sweetbriar Center, and just because Ritchies have not built more office space does not mean there is no demand for such. She commented that Riverbend Center is only about a half mile away from this large commercial area at this intersection. Sometimes requests for zoning have been made because of a desire to have the same acreage as across the street, and now that it is comparable, she said those in the area are opposed to more zoning. They do not want to make it difficult or unfair for those desiring to develop land, but it would be more compatible to their interests if it could be office space or apartments. She stated that from the very beginning of their opposition, it has not mattered who was asking for zoning, but they feel there is sufficient light commercial zoning and development, and if subject corner had been developed first, they would have opposed development of commercial facilities for the others.

MS. SHEARER indicated that as originally proposed might have been better, although they had opposed it, but after seeing what has developed since that time, perhaps if allowed to go as originally requested, the development might have been more attractive.

MARY PHELAN, 2243 Cardinal, pointed out the uniqueness of the corner because of the fact that it is "boxed" in by the two Rivers and unless one goes west or north there is no way other than through the intersection. She felt that since the opening of the Woolco Store particularly there has been congestion in making right turns from 21st Street to the south. She commented that the area residents seem to be "whipped" between Ritchies and Bledsoe, and regardless of the fact that a developer is "ready to go", the point is whether or not the zoning is in the best interest of the City of Wichita and particularly this section of the City.

In further explanation of the uniqueness of the intersection, MS. SHEARER pointed out that there are not many thru streets leading into the facilities at this intersection, since it is bordered by the River, Flood Control project and limited access south by McLean and the River on the east - hemmed in so far as arterial streets, and traffic must be channeled through the intersection.

ARNHOLZ felt the corner could be compared with others in the City and said he avoids the intersection of Rock Road and Kellogg himself, and he did not see how what is proposed could result in anything but enhancement for the area. He commented further that the applicant would not be asking for the zoning if there wasn't a need for retail space, and while there may be some space in Sweetbriar, that is on 21st Street and subject tract is on Amidon.

MARY BELLUOMO, 2245 Bullinger, said that while the statement was made that the Planning Commission has approved this applicant's request the last three times, the Planning Commission as presently constituted has not.

HENNESSY questioned why a developer would build \$50,000, \$60,000 and \$80,000 homes to the north and west of 21st and Amidon if the situation at this intersection is so bad as represented by those appearing in opposition.

MS. BELLUOMO said they were aware of the zoning when they purchased their home, but in view of the situation now she must drive her children to school rather than let them ride bicycles. Because there is one problem at Rock Road and Kellogg, there is no need to create another here. She pointed out that at the previous meeting she had submitted a protest petition containing 59 names.

BLEDSON spoke again, commenting that this is an age-old situation where residents do not want traffic on their particular street. He commented further that it would be beautiful if every intersection could operate at 70% of capacity, but it is not feasible or financially possible for the City to provide such luxury to the residents. He remarked again that Rock Road and Kellogg is 80% of capacity and has the highest traffic which is bound to increase with development of the light commercial zoning. In further comparison, he said Central and West is 80% of capacity, Seneca and Pawnee 114% of capacity and yet just recently the City Commission agreed to look with favor on additional light commercial zoning from Pawnee south to 31st Street. He pointed out also that with the opening of 25th Street Thruway, subject intersection traffic would be alleviated.

BLEDSON also pointed out that when the zoning on one corner of Kellogg and Rock Road was granted, it was Ritchies that owned 10% and that Charles Harris, attorney who has represented Ritchies for years, was on the Planning Commission when the zoning was approved.

MS. BELLUOMO referred to the dire predictions concerning ecology and wastefulness and the fact that a city can grow only

so much and then will collapse. She said that while Mr. Bledsoe's figures are very impressive, she failed to see why because one intersection is operating at a certain percent of capacity, that all corners should when there is a downtown area.

MOTION: That the Planning Commission again recommend to the City Commission that this zone change request be approved, and also that the amendment to the Community Unit Plan be approved, subject to the following:

1. The platting of Parcels 6 and 8 within one year from the date of approval by the Board of City Commissioners, or the zone case be considered denied and closed.
2. Adding to "General Provisions" the following: A landscape plan for Parcels 6 and 8, indicating the location, type and specifications of planting materials, shall be submitted to the Planning Department for approval prior to the issuance of any building permits on these parcels.
3. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
4. Any major changes in this development plan shall be re-submitted to the Planning Commission and to the City Commission for its consideration.
5. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the Plan or any portion thereof, but said plan shall run with the land for development and be binding upon the present owners, their successors, and assigns, unless amended.

Blakey moved, Kamen seconded and it carried by a vote of 5 in favor (Blakey, Kamen, Taylor, Arnold and Hennessy) and 1 opposed (Gragert).
(Rising, Hill, Gardenhire and Hopper absent.)

BLAKEY said he had never known of an applicant having to give an unqualified reason as to why there should be a change in zoning and suggested this be pointed out to Commissioner Shanahan, since that was one of the reasons for referring the matter back to the Planning Commission.

Attachment #12

COMMISSIONERS PROCEEDINGS 16451

December 11, 1973

ZONE CHANGE
REQUEST: (2-1573)
and Community
Unit Plan
(DP-23)-amendment
W side of Amidon
north of the
Arkansas River

Report from the Metropolitan Area Planning Commission (trans. final or
2-1573 and DP-23 amendment) in regard to request for "R" to "I1" and "I2" and
amendment to CUP, generally located on the west side of Amidon north of
the Arkansas River, legally described as follows:

Request from "I1" to "I1" - That part of Government Lot 1, in the
NW 1/4 of Sec. 7, Twp. 27S, R1E, described as beginning at a point
on the east line of said Government Lot 1, 1120.43 feet south of the
NE corner thereof; thence north 89°12'55" west, a distance of 130
feet; thence north 00°04'05" east, 15 feet; thence south
89°56'09" west, 455.06 feet; thence north 54°26'07" west, 194.13
feet; thence south 16°00' west, 310 feet more or less to the left
(north) bank of the Arkansas River; thence southeasterly along
the left (north) bank of the Arkansas River to the east line of
said Government Lot 1; thence north 885 feet more or less to the
place of beginning, except therefrom that part dedicated to the
public for access, drainage, riverbank maintenance, flood control
and river beautification, all in Wichita, Sedgewick County, Kansas.

Request from "R" to "I1" - That part of Government Lot 1, in the
NW 1/4 of Sec. 7, Twp. 27S, R1E, described as beginning at a point
on the east line of said Government Lot 1, 1120.32 feet south of the
NE corner thereof; thence north 89°12'55" west, a distance of
130 feet; thence north 00°04'15" east, 15 feet; thence south
89°56'09" west, a distance of 455.06 feet; thence north
54°26'07" west, a distance of 251.60 feet; thence north
70°56'58" west, a distance of 959.77 feet to a point 695 feet
south and 770 feet east of the NE corner of said Government
Lot 1; thence south 12°11'35" west, 282.9 feet more or less to
the north bank of the Arkansas River; thence southeasterly along
the north bank of said river to the east line of said Government
Lot 1; thence north along the east line of said Government Lot 1,
885 feet more or less to the point of beginning, except that
portion lying east of the following described line: Commencing
at a point on the east line of said Government Lot 1, 1120.32
feet south of the NE corner thereof; thence north 89°12'55"
west, 130 feet; thence north 00°04'05" east, 15 feet; thence south
89°56'09" west, 455.06 feet; thence north 54°26'07" west, 194.13
feet for a place of beginning; thence south 16°00' west, 310 feet
more or less to the left (north) bank of the Arkansas River,
except therefrom that part dedicated to the public for access,
drainage, riverbank maintenance, flood control and river
beautification, all in Wichita, Sedgewick County, Kansas.

DP-23 - That part of Government Lot 1, in the NW 1/4 of Sec. 7, Twp. 27S,
R1E, described as beginning at a point on the east line of said
Government Lot 1, 1120.32 feet south of the NE corner thereof;
thence north 89°12'55" west, a distance of 130 feet; thence north
00°04'05" east, 15 feet; thence south 89°56'09" west, a distance
of 455.06 feet; thence north 54°26'07" west, a distance of 251.60
feet; thence north 70°56'58" west, a distance of 959.77 feet to
a point 695 feet south and 770 feet east of the NE corner of said
Government Lot 1; thence south 12°11'35" west, 282.9 feet more or
less to the north bank of the Arkansas River; thence southeasterly
along the north bank of said river to the east line of said Govern-
ment Lot 1; thence north along the east line of said Government
Lot 1; 885 feet more or less to the point of beginning, except
therefrom that part dedicated to the public for access, drainage,
riverbank maintenance, flood control and river beautification,
all in Wichita, Sedgewick County, Kansas.

Plg. Comm.
Recommendation

Planning Commission recommended that zone change (2-1573) be approved
and also that the amendment to the Community Unit Plan be approved, subject
to the following:

Conditions for
Approval

1. The platting of parcels 6 and 8 within one year from the date of approval by the board of city commissioners; or the zone case be considered denied and closed.
2. Adding to "General Provisions" the following: A landscape plan for parcels 6 and 8, indicating the location, type and specifications of plant material, shall be submitted to the Planning Department for approval prior to the issuance of any building permits on those parcels.

COMMISSIONERS PROCEEDINGS

16451

December 11, 1973

3. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
4. Any major changes in this development plan shall be resubmitted to the Planning Commission and to the City Commission for its consideration.
5. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for development and be binding upon the present owners, their successors and assigns, unless amended.

Robert A. Lakin

Robert A. Lakin, Director of Planning, reviewed this matter with the Commission. He also presented photographs in conjunction therewith, a rendering of the landscaping proposed to be done by the applicant, copies of a memorandum he had received from the Traffic Engineering Division yesterday regarding the capacity analysis of the Amidon-21st Street intersection, and other documents one of which was a petition expressing support for the zoning, and also a series of letters from realtors expressing their support for the project. He noted that the Commission had previously been furnished a packet of documents which were copies of those documents furnished the Planning Commission concerning this matter.

--Petition rec.
and filed

Stevens moved that the petition be received and filed. Motion carried unanimously.

--Motion made

Stevens moved that the zone change and CUP be approved as recommended by the Metropolitan Area Planning Commission, subject to the recommended conditions and the Planning Department be instructed to forward the ordinance for first reading when the plat is forwarded to the City Commission.

Harry Bledsoe

In answer to inquiry by Mayor Donnell, Harry Bledsoe, Agent, explained the landscaping, which was prepared by G. Linger and Smith, for not only the property owned by the applicant, but Mr. Bledsoe stated that he was proposing to landscape property which he did not own.

--Motion failed

Commissioner Stevens' motion failed 3 to 2. Peters, Porter, Shanahan, "No."

--Motion made

Shanahan moved that the zone change application and the amendment to the Community Unit Plan be denied.

Mr. Bledsoe

Mr. Bledsoe requested permission to speak concerning the Traffic Engineering memorandum submitted by Mr. Lakin to the Commission, and he stated that he had taken his figures which he used in the Planning Commission presentation from Traffic Engineering records. He further stated that the realtors indicated that there is a need for additional commercial zoning in this area. He also reviewed the costs which subject property had incurred relative to accel-decel lanes, medians and original paving costs, and questioned whether traffic should even be considered since the property owners in this area generate only 11-15% of the traffic.

--Motion carried

Commissioner Shanahan's motion carried 3 to 2. Stevens, Donnell, "No."

EXCERPT FROM PLANNING COMMISSION MINUTES OF FEBRUARY 13, 1975:

- 20a. Case No. Z-1683 - Marina Lake Drive, Inc. requests change from "B" to "LC" for:
A tract in Government Lot 1 in the NW 1/4 of Section 7, Twp. 27-S, R-1-E, described as commencing at the NE corner of said Lot 1; thence south 0°04'05" west along the east line of said Lot 1, 1120.32 feet for a place of beginning; thence north 89°12'55" west, 130 feet; thence north 0°04'05" east 15 feet; thence south 89°56'09" west, 455.06 feet; thence north 54°26'07" west 194.13 feet; thence south 16°00" west to the left (north) bank of the Arkansas River; thence south easterly along said left bank to the east line of said Lot 1; thence north 0°04'05" east 885 feet more or less to the place of beginning. Generally located on the west side of Amidon in an area north of the Arkansas River.
- 20b. Case No. DP-23 (Amendment) - Marina Lake Drive, Inc. requests approval of an amendment to the Community Unit Plan as it relates to the following legally described property: All of Government Lot 1, in the NW 1/4 of Section 7, Township 27 South, Range 1 East, except that part of said Government Lot 1 which has been dedicated for public streets. A portion of the above described property has been platted into Lots 1 and 2 in Marina Lake Addition, Lot 1, Marina Lake Third Addition, Lots 1, 2 and 3 in Marina Lake Fourth Addition, and Lot 1 in Marina Lake Sixth Addition. Generally located at the southwest corner of 21st Street North and Amidon.

GALBRAITH pointed out the area on the map and reviewed the following staff report:

HISTORY

1. Z-0824 and DP-23 were two zone and Community Unit Plan applications for the entire area of the former Doless sandpit area of approximately 60 acres which the Planning Commission considered in 1967. Approximately 37 acres were requested for "LC" and "C" and 24.5 acres were requested for "B". A Community Unit Plan was submitted for both the commercial and residential parts. The Planning Commission recommended denial, without prejudice; however, after the City Commission heard the case, approximately 8 acres of "LC" and 22 acres of "B" was approved. The situation at that time hinged on the impact of traffic on the arterial system.

On December 12, 1968, the Planning Commission considered an application for an amendment to the CUP and request for an increase of Parcel 1 from 3.57 acres to 9.13 acres of light commercial zoning (Z-1032). Action of the Planning Commission was to recommend denial of both applications. The Board of City Commissioners, however, at their meeting on January 21, 1969, approved both applications, subject to certain conditions. Again, the impact of traffic on the arterial system was a prime consideration. (See attached minutes of November 14, 1968 and December 12, 1968 - Attachments 1 and 2.)

On March 11, 1971, the Planning Commission considered an application for an amendment to the CUP and a request for an increase in the area on Parcel 1 from 9.13 acres to 14.94 acres of light commercial zoning. Action of the Planning Commission was to recommend approval of both requests. This recommendation was concurred in by the Board of City Commissioners on March 30, 1971. (See attached Planning Commission minutes of March 19, 1971, and City Commission minutes of March 30, 1971 - Attachments 3 and 4.)

On January 25, 1973, the Planning Commission considered an application for an amendment to the CUP and a request for an additional amount of light commercial zoning - approximately

- 7.33 acres and an approximate 5.75 acres of "B" office zoning. Both requests, however, both applications were denied by the City Commission on March 20, 1973. (See attached Planning Commission minutes of January 25, 1973 and March 8, 1973, and City Commission minutes of February 27, 1973 and March 20, 1973 - Attachments 5, 6, 7 and 8.)
- On September 4, 1973, as an off-agenda item, the Board of City Commissioners considered the matter of litigation and zoning relating to Hartna Lakes, Inc. The action of the City Commission was to permit the applicant to refile the application without cost, conditioned upon the litigation being ended by dismissal of the suit and payment of the court costs by Hartna Lakes Drive, Inc.
- Based on this action, the zone case and CUP were advertised for hearing and notices mailed without cost to the applicant. Specifically, the applicant requested approximately 7.33 acres of "LC" zoning and an additional 5.75 acres for "B" Office zoning. On October 11, 1973, the Planning Commission considered and unanimously recommended approval of both requests, however, the City Commission referred the case back to the Planning Commission for reconsideration. The Planning Commission recommended the cases on November 26, 1973, and of both requests. The action of the City Commission was to deny both applications on December 11, 1973. (See attached Planning Commission minutes of October 11, 1973, and November 26, 1973, and City Commission minutes of October 30, 1973 and December 11, 1973 - Attachments 9, 10, 11 and 12.)
2. The applicant is now requesting a change of zoning from "B" Multiple-family to "LC" Light Commercial for a tract of land containing approximately 7.33 acres.
- The CUP request proposes the following:
- Increase in the size of Parcel 6 from 3.07 acres to approximately 7.33 acres.
- Creating a new Parcel 8 approximately 5.75 acres in size with a maximum building height of 65 feet with proposed uses to include high rise apartments, townhouses, and garden apartments at a density not to exceed 18 dwelling units per acre.
- Decreasing the size of Parcel 7 from 22.49 acres to 12.79 acres and a decrease in the proposed number of dwelling units from 335 to 219.
- Increasing the permitted square feet of retail space by 159,825 for a total of 544,385.
- It should be pointed out that the plan as submitted in 1973 proposed a floor area ratio for Parcel 6 of .35 or a total of 111,878 square feet. The proposed floor area has now been substantially increased to .50 for a total of 159,825 square feet.
3. The past history reflects intensive discussion relative to this shopping center location and related traffic projections. Traffic volumes on 21st Street and through the 21st-Arden Intersection have continued to increase as is evidenced by the following traffic counts.

7.33 acres and an approximate 5.75 acres of "BB" Office zoning. Action of the Planning Commission was to recommend approval of both requests; however, both applications were denied by the City Commission on March 20, 1973. (See attached Planning Commission minutes of January 25, 1973 and March 8, 1973, and City Commission minutes of February 27, 1973 and March 20, 1973 - Attachments 5, 6, 7 and 8.)

On September 4, 1973, as an off-agenda item, the Board of City Commissioners considered the matter of litigation and zoning relative to Marina Lakes, Inc. The action of the City Commission was to permit the applicant to refile the application without cost, conditioned upon the litigation being ended by dismissal of the suit and payment of the court costs by Marina Lake Drive, Inc.

Based on this action, the zone case and CUP were advertised for hearing and notices mailed without cost to the applicant. Specifically, the applicant requested approximately 7.33 acres of "LC" zoning and an additional 5.75 acres for "BB" Office zoning. On October 11, 1973, the Planning Commission considered and unanimously recommended approval of both requests, however, the City Commission referred the cases back to the Planning Commission for reconsideration. The Planning Commission reconsidered the cases on November 26, 1973, and recommended by a vote of 5 in favor and 1 opposed, the approval of both requests. The action of the City Commission was to deny both applications on December 11, 1973. (See attached Planning Commission minutes of October 11, 1973, and November 26, 1973, and City Commission minutes of October 30, 1973 and December 11, 1973 - Attachments 9, 10, 11 and 12.)

2. The applicant is now requesting a change of zoning from "B" Multiple-family to "LC" Light Commercial for a tract of land containing approximately 7.33 acres.

The CUP request proposes the following:

Increase in the size of Parcel 6 from 3.07 acres to approximately 7.33 acres.

Creating a new Parcel 8 approximately 5.75 acres in size with a maximum building height of 65 feet with proposed uses to include high rise apartments, townhouses, and garden apartments at a density not to exceed 18 dwelling units per acre.

Decreasing the size of Parcel 7 from 22.49 acres to 12.79 acres and a decrease in the proposed number of dwelling units from 335 to 219.

Increasing the permitted square feet of retail space by 159,825 for a total of 544,385.

It should be pointed out that the plan as submitted in 1973 proposed a floor area ratio for Parcel 6 of .35 or a total of 111,878 square feet. The proposed floor area has now been substantially increased to .50 for a total of 159,825 square feet.

3. The past history reflects intensive discussion relative to this shopping center location and related traffic projections. Traffic volumes on 21st Street and through the 21st-Amidon intersection have continued to increase as is evidenced by the following traffic counts.

7.33 acres and an approximate 5.75 acres of "BB" Office zoning. Action of the Planning Commission was to recommend approval of both requests; however, both applications were denied by the City Commission on March 20, 1973. (See attached Planning Commission minutes of January 25, 1973 and March 8, 1973, and City Commission minutes of February 27, 1973 and March 20, 1973 - Attachments 5, 6, 7 and 8.)

On September 4, 1973, as an off-agenda item, the Board of City Commissioners considered the matter of litigation and zoning relative to Marina Lakes, Inc. The action of the City Commission was to permit the applicant to refile the application without cost, conditioned upon the litigation being ended by dismissal of the suit and payment of the court costs by Marina Lake Drive, Inc.

Based on this action, the zone case and CUP were advertised for hearing and notices mailed without cost to the applicant. Specifically, the applicant requested approximately 7.33 acres of "LC" zoning and an additional 5.75 acres for "BB" Office zoning. On October 11, 1973, the Planning Commission considered and unanimously recommended approval of both requests, however, the City Commission referred the cases back to the Planning Commission for reconsideration. The Planning Commission reconsidered the cases on November 26, 1973, and recommended by a vote of 5 in favor and 1 opposed, the approval of both requests. The action of the City Commission was to deny both applications on December 11, 1973. (See attached Planning Commission minutes of October 11, 1973, and November 26, 1973, and City Commission minutes of October 30, 1973 and December 11, 1973 - Attachments 9, 10, 11 and 12.)

2. The applicant is now requesting a change of zoning from "B" Multiple-family to "LC" Light Commercial for a tract of land containing approximately 7.33 acres.

The CUP request proposes the following:

Increase in the size of Parcel 6 from 3.07 acres to approximately 7.33 acres.

Creating a new Parcel 8 approximately 5.75 acres in size with a maximum building height of 65 feet with proposed uses to include high rise apartments, townhouses, and garden apartments at a density not to exceed 18 dwelling units per acre.

Decreasing the size of Parcel 7 from 22.49 acres to 12.79 acres and a decrease in the proposed number of dwelling units from 335 to 219.

Increasing the permitted square feet of retail space by 159,825 for a total of 544,385.

It should be pointed out that the plan as submitted in 1973 proposed a floor area ratio for Parcel 6 of .35 or a total of 111,878 square feet. The proposed floor area has now been substantially increased to .50 for a total of 159,825 square feet.

3. The past history reflects intensive discussion relative to this shopping center location and related traffic projections. Traffic volumes on 21st Street and through the 21st-Amidon intersection have continued to increase as in evidenced by the following traffic counts.

	Actual ADT 1970	Actual ADT 1972
Amidon north of 21st Street	16,069	16,065
Amidon south of 21st Street	14,673	14,904
21st Street east of Amidon	13,659	17,278
21st Street west of Amidon	8,832	12,141

The increase in these traffic counts on 21st street in 1972, in part, must be attributed to the improvement of the street and the new bridge across the Arkansas River.

The Traffic Engineering Division advises that their latest 24-hour traffic count on Amidon in the vicinity of the Marina Lakes Shopping Center entrance were taken on Saturday, October 26, 1974. At that time traffic volumes on Amidon recorded 11,397 vehicles southbound and 10,574 vehicles northbound for a total Amidon count of 21,971.

They also advise that in checking their continuous traffic count station located just south of the Big Arkansas River bridge on Amidon, average day of the week traffic counts ranged from a low of 15,516 in January to a high of 21,113. Average Saturday counts ranged from a low of 17,826 in July to a high of 25,168 in December. The highest day counts ranged from a low of 19,759 to a high of 27,563 in December.

They also advised that they had completed a study in early November which indicated the warrants for signalization of Marina Lakes entrance to Amidon and have advised the developer that he should consider a private contractor for installing this signal in the near future.

4. Arguments have been made in the past that regardless of increased traffic, the west side of Amidon deserved a comparable amount of "LC" zoning as granted to Twin Lakes to the east. The square footage of retail space now proposed for the west (544,385) now compares with the 330,000 previously approved for Twin Lakes.
5. As the existing "LC" is generally the same on both sides of Amidon, any consideration of extending "LC" zoning should be based on the submission of justification for additional need of services. Some office zoning and development exists to the east, the most compatible uses would be for Parcel 6 to be developed for professional offices.
6. Although the area now designated as Parcel 8 was originally proposed for townhouses and garden apartments, the proposed uses now include high rise apartments with a maximum height of 65 feet. Taking into consideration the newly constructed townhouses to the west, the high quality single-family homes across the River and the shallowness of the Parcel, it would appear questionable as to the feasibility or compatibility of high rise apartment construction on this parcel.
7. Visual qualities and the view of the rear of the existing buildings on Marina Lakes from the residential area south of the River were discussed by the City Commission in 1973. They suggested that proper coordination and beautification of Marina Lakes be considered to meet the needs of the property owners in the area. The plan now states that "A landscape plan for Parcels 6 and 8, indicating the location, type, and specifications of planting materials, shall be submitted to the Planning Department for approval prior to the issuance of any building permits on these parcels."
8. Should the Planning Commission recommend the approval of the zone change request and the amendments to the CUP, the following conditions would be consistent with other approved CUP's:

- a. The platting of Parcels 6 and 8 within one year from the date of approval by the Board of City Commissioners, or the zone case be considered denied and closed.
- b. Amend General Provision #1 to read as follows: "Sign Control: Signs as permitted by the zoning district."
- c. Delete comment #7 under Parcel 7 as this will be controlled by amended G.P. #1 above.
- d. Add a General Provision #7 to read as follows: Fire lane easements shall be provided in accordance with Section 15.01.055 Code of the City of Wichita.
- e. Under Parcel 8 add the following: "8. A Homes Association Agreement providing for the maintenance of non-public common areas, parking areas, private drives, community facilities, lake, fence, etc., shall be submitted with the final plat for Parcel 8 provided the dwelling units are to be owner occupied.
- f. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- g. Any major changes in this development plan shall be re-submitted to the Planning Commission and to the City Commission for its consideration.
- h. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for development and be binding upon the present owners, their successors and assigns, unless amended.

EVERETT FETTIS, attorney for the applicants, spoke in support of the requests, and said that two years ago in connection with rezoning in the Marina Lakes area, a petition was signed by about 400 residents in the general area, expressing approval of the change to "LC". Further, a half dozen letters were submitted from real estate people and developers recommending the need for additional commercial in the Marina Lake area, and approval of this requested zone change would round out the Marina Lake area for development.

FETTIS related that his client has never had an interest in the apartment area west of the lake (Parcel #7), and is only seeking the "LC" requested (Parcel #6), and an amendment for Parcel #8 as included in the CUP, to provide for highrise apartments.

It was the opinion of FETTIS that the claim of traffic increase is not valid particularly, because there will be free flow of traffic throughout the entire CUP area, and a private roadway will be located along the south line next to the River from Amidon and extending west to Meridian and north to exit on 21st Street.

As for open space, FETTIS said there will be 80% open space in the entire CUP, and that landscaping will be provided according to the specifications previously submitted to the City Commission and Planning Commission.

FETTIS next referred to the comparison of square footage as shown in the staff report, and suggested that when comparing amounts of light commercial, other areas of the City should be considered also, and not just this intersection. For example, at

Rock Road and Kellogg, 1,500,000 square feet of floor space has been approved, while Marina Lake and Twin Lakes combined amounts to only slightly over 500,000. Also, approval of this request would total 69 acres of "LC" at this intersection, while at Kellogg and Rock Road there are 184 acres of "LC".

As for increased traffic, FETTIS maintained that the addition of additional businesses in this location will not necessarily affect the traffic in proportion to the increase, because by development of subject area, it will round out the shopping services and make additional services available to people who already shop in the centers at 21st and Amidon. He did not consider it valid to suggest that this will generate additional traffic in connection with total development, but really will only provide additional facilities for shoppers already doing business at the centers.

FETTIS brought out the fact that this Commission has voted three times on this issue, recommending approval twice by a unanimous vote and the third time with only one dissenting vote.

In further discussion, it was pointed out that the major entrance to subject tract is opposite the entrance into the office and parking lot on the east side of Amidon, and that open space must be 70% of the "LC" because under a CUP, ground coverage by structures is limited to 30%. GRAGERT did not consider the 70% as open space when it could be used for parking. He asked if the group interested in riverfront development had responded in any way to this development plan, and GALBRAITH said they had not to his knowledge.

H. D. CHITWOOD, 2500 Columbine, spoke as Chairman of the recently organized Two Rivers Neighborhood Association, and 8 people stood to indicate their opposition to the request. CHITWOOD said they are compelled to go the organization route because of the persistence of developers in petitioning for zoning and amendments to the CUP. He said two of the Committee Chairmen of the organization would speak with respect to concerns on traffic and land use.

CHARLES EBY, 2212 Bella Vista (south of the River), said his principal concern was related to the quality of the development and the increased traffic which can be expected. He thought the developer was entitled to receive a reasonable return on his investment, but since the area is already zoned for apartments, and the apartments in Twin Lakes seem to be doing well, was in favor of similar development on the application property. He said the residents are proud of the Twin Lakes development and glad to have it as a part of the neighborhood, but were not particularly proud of the Marina Lake development.

EBY next referred to traffic, and stated that while the applicant is entitled to a return on his investment, questioned who would pay for a solution to additional traffic problems which would be created by additional light commercial development.

EBY next related the fact that there are 200,000 square feet of floor area occupied and 30,000 square feet already zoned, and if the present request is approved, this would result in 550,000 square feet, which would almost triple the amount of square feet that is already developed on Marina Lake alone.

He commented that maybe additional "LC" will not generate traffic in direct proportion to the increase, it is bound to generate at least some more. He said that after opening of the Woolco Store, traffic on McLean from the south increased from 14,000 vehicles per day to 21,000, which he considered very substantial.

As a resident of the area, EBY referred to the investment which he and others in the area have in their homes, and yet they must have Marina Lake, a rather unattractive center where the upkeep and maintenance is not good.

If there is a need for more "LC" zoning, EBY suggested the applicant make use of the 180,000 potential square feet in the center not now developed. He maintained that there are 10 different areas in the center which could be occupied by various shops, and also, he has been told by the Manager of the store, that the grocery store will be leaving the Center.

EBY also referred to the availability of space in the Sweetbriar Center and the Atlantic Thrift Building on the northwest and northeast corners of this intersection, and stressed the fact that there is actually a tremendous amount of vacant light commercial space at this intersection. He also referred to the fact that other centers are suffering from lack of tenants, Eastgate, as an example.

In closing remarks, EBY hoped the area would be developed with attractive apartments which would be lucrative to the applicant as well as desirable to the residential neighborhood.

When questioned by one of the Commissioners, EBY said the riverbank has not been beautified.

EDITH LEFLER, 2520 North Richmond, pointed out that the Level of Service for traffic movement at this major intersection now is E, where one must wait through four or more cycles. She said it was her understanding that if this is granted, an additional signal will be installed at the entrance to Amidon, which would impede traffic even more, because it would make three traffic lights on Amidon between the north end of the bridge and 21st Street.

DAN PHELAN, 2243 Cardinal, felt there has been no change in this area to justify a change in zoning since the last consideration when the governing body denied a similar request. In fact, he claimed, more and more of the presently zoned commercial space is becoming available daily or weekly, and the developer cannot justify this additional request for light commercial zoning on the basis of need. Nor can it be justified by comparing the area to the light commercial in Twin Lakes, since it is already more than that zoned in Twin Lakes, which has been the regular plea over the past several years.

In consideration of the many residents of the general area, PHELAN asked that the request be denied, and when asked if he would approve the zoning if the additional "LC" could be justified by need, PHELAN said he would not - that apartment development would be more beneficial. He referred also to the increase in vehicles which could be anticipated if this is approved.

H. D. BLEDSOE, representing the applicants, pointed out the free flow of traffic through the CUP by tracing on the plan the several private roads in the CUP, and the fact that it would be freeflowing from Amidon to 21st Street through the Center. He maintained this was much better and a different situation than at Twin Lakes, where there are only two ways of exiting from the Center.

BLEDSOE next referred to the petition submitted in connection with the previous request, which petition contained between 400 and 500 names of people in the area, who had indicated their opposition to more apartment development, and a preference for light commercial.

As for who is going to pay for possible street improvement as a result of increased traffic, BLEDSOE pointed out that property owners of the Marina Lake area have dedicated and paid for improvement of the right turn lane from 21st Street onto Amidon, while in a similar situation on 13th Street, the City at large absorbed the cost. BLEDSOE also pointed out that when subject property was owned by Dolese Brothers, the west half of Amidon right-of-way had never been paid for by them, so it was paid for by the then owners of the area to the extent of \$18,000, although the Twin Lakes Center has never paid for its portion. Further, instead of putting

an entrance from Marina Lake opposite the one from Twin Lakes onto Amidon, the City required that it be moved down to the south end, yet in less than a year a new traffic signal was installed at the Twin Lakes outlet. In the development of Marina Lake, a private roadway will be provided by the Marina Lake development the full length of their development on the west side of Amidon from 21st Street to the bridge. In summary of this particular point of streets, BLEDSOE said three lanes have been provided, all at the expense of the property owner.

BLEDSOE next spoke with respect to the beauty of the development of the Marina Lake Center, and displayed an architect's drawing of the original proposal, which was very attractive. At the time of initial plans and request for zoning, however, only a small portion was approved for light commercial, and the developer had no alternative but strip development. And any future approvals of rezoning have been piecemeal, so that it has been difficult to actually develop an overall beautiful center.

BLEDSOE referred to the amendment of the Towne East CUP and a recent article by the Traffic Engineer in which it was stated that 60,000 vehicles per day would be added to the traffic at Rock Road and Kellogg if the 20 acres more of "LC" were granted, which would be twice the volume at 21st and Amidon.

On October 26, 1974, traffic was 21,971; and if capacity is 17,000 then the street is running about 125% of capacity right now.

BLEDSOE pointed out further that Seneca and Pawnee is running 141% of capacity and yet the City Commission has indicated it would look with favor on additional "LC" from Pawnee south to I-235.

GRAGERT asked if the free flow traffic would also apply to the highrise area, and Bledsoe said that it would.

BLEDSOE said they are not asking for a change in zoning on Parcel #8, but only to add highrise units to be permitted, and for only 18 units per acre. He pointed out that where the lake bank comes in, they would have the choice of either filling in that area and building on a low scale, or going highrise, and develop marine docks and beautification.

RISING said he would like to hear an appraisal of the traffic situation from the Traffic Engineer, and his recommendation.

PAUL GRAVES, Traffic Engineer, said a count taken in October of 1974, indicated 11,397 vehicles southbound on Amidon and 10,574 northbound, or a total of 21,900, the count being taken at the south entrance (Straw Hat Pizza). Traffic on the driveway itself ranged from 4,500 to 5,000 at that same time, which would give around 26,000 cars in that location. Based upon the total development, Marina Lake would be something over 544,000 square feet, and if this development does take place, it would surpass Twin Lakes, which is about 330,000 square feet.

GRAVES said they have made many traffic studies in this area as well as for other areas in the City, and that this intersection operates from Level of Service A (which is excellent), during off hours, down to Level of Service D during heavy traffic times where one must wait through three or four signal cycles to clear the intersection.

The entrance at Twin Lakes on Amidon was planned for signalization initially as traffic warranted, and the Center paid for the installation and equipment, but it is owned and maintained by the City. He continued that there is also an agreement to make such an installation across the street when traffic warrants it, and it has now reached that figure, and due to the work load, he has suggested to the Marina Lake Center authorities that they seek outside contract for the installation, which would be the same type of operation as at the Twin Lakes entrance.

GRAVES continued that if development occurs as envisioned, it will add about 5,000 more cars per day on Amidon, but about half will come from other places in the area by shoppers going to more than one store. It was his opinion that during special days (Christmas), the intersection would be overloaded.

When asked what would be necessary to alleviate the traffic situation, GRAVES said several years ago a detailed study was made of this area, and it was concluded that 21st Street would have to be reImproved to six through lanes (three in each direction), plus a double left turn for westbound traffic on 21st Street, plus the existing right turns on all but one corner. It would also necessitate reconstruction of Amidon to a six lane facility, plus necessary turn bays and accel-decel lanes.

SAVINA asked if the 25th Street Thurway would relieve the traffic somewhat, and GRAVES said if it is developed as a limited expressway, it would relieve the load on 21st Street considerably, and the Canal Route would probably intercept some of the K-96 traffic, but doubted that it would have a significant affect.

TOM NAIPEH, 2109 Bullinger, commented that while this intersection has been compared trafficwise to Kellogg and Rock Road, and Pawnee and Broadway intersections, he wanted the Commissioners to realize that traffic congests in this area because of the Rivers and the lack of the usual mile line major streets.

BLEDSE spoke again, and said that 21st Street was rebuilt only two or three years ago, and that Amidon is only eight years old, and questioned if Amidon was so underbuilt by the City that a property owner cannot use it. He reasoned that too much emphasis is being given to the possibility of approximately 850,000 square feet being developed at this intersection, and yet there is over 1,000,000 square feet approved for "LC" at Kellogg and Rock Road. He stressed again the fact that the Marina Lake developers built the third lane all the distance from 21st Street South to the bridge, as well as the fact that with approval of this request there will be only 69 acres of "LC" on all four corners as compared to 184 at Kellogg and Rock Road.

RISING expressed concern for the "nibbling" or piecemealing of zoning and development in this area, and a desire to make a decision once and for all so that it would not be coming back for consideration from time to time.

BLEDSE repeated the fact that they previously submitted a landscape plan which had been accepted by the City, and which he would expect to carry out. BLEDSE contended that as requested is the most logical zoning of all because it is adjacent to light commercial, on a main thoroughfare, has free flow of traffic through the center, and further, he guaranteed that he would never ask for any additional light commercial in the center part (Parcel #8).

GARDENHIRE was confused that there should be a petition signed by over 400 residents of the general area in favor of the change, and yet the Neighborhood Association appears to be opposed.

JOAN SHEAPER, 2433 Benjamin Drive, said she had been involved in this matter since 1967, and she understood that when the petition was submitted to residents, it was on the basis of "would you rather have commercial or low cost housing type development" and naturally the residents favored commercial.

BLEDSE said the petition was obtained in 1973 and he read from the petition wherein it was stated a desire for approval of "LC" so construction could start immediately to provide more shopping facilities.

BAYOUTH wondered if there could be a compromise to result in apartments along the River, so that residents on the south side of the River would not have to look into commercial development.

BLEDSOE pointed out that a roadway is planned along the bank, and that the landscape plan calls for beautification.

PHELAN spoke again and inquired why the applicant does not develop the 180,000 square feet potential already zoned. As for the third traffic lane provided from the Marina Lake area, PHELAN considered it a death lane because of the difficulty in using it getting into the Marina Lake area. As for comparisons with other intersections, PHELAN maintained that they are not concerned with what traffic is elsewhere, but in this case, in order to get out of the area, one must usually go through the intersection of 21st and Amidon. As for the River being a buffer, it offers no visual screening, and sound from the shopping center carries much more readily across water.

TAYLOR asked why the floor area had been increased on Parcel #6 from that indicated in 1973. GALBRAITH responded that he could not answer why the applicant had increased the percentage.

GRAGERT indicated that in spite of all the discussion and arguments in favor, he could not accept the theory that "because Joe got it, why can't I", and in defense of the traffic situation, apparently the applicant feels that he is entitled to all the problems of traffic beyond street capacity the same as some other intersections, as well as any benefits, if there are any.

MOTION: That the Planning Commission recommend to the City Commission that these two cases be denied. Gragert moved.

TAYLOR commented that if the initial plan for development of the Marina Lake area had been accepted years ago, it would not have been forced to develop piecemeal and the Commission would not be in its present predicament. She had hoped it was being submitted on the same basis as before, but the increase in floor ratio is of concern to her, and she asked if there might be a possibility it could be adjusted downward.

Gardenhire seconded the above motion.

FETIS said if the Commission desired that the floor area be reduced back to what it was before, this client would agree to it, which would be 111,878 square feet.

SAVINA considered this a natural commercial center and suggested that development of apartments in the present zoning would actually generate as much traffic as commercial development, and apartment type traffic would go on all night long, while commercial would not.

VOTE ON ABOVE MOTION: Motion lost by a vote of 3 in favor (Gragert, Gardenhire and Bayouth) and 6 opposed (Goebel, Kamen, Rising, Hopper, Taylor and Savina). (Hennessy absent.)

MOTION: That the Planning Commission recommend to the City Commission that 7-1683 be approved, and that the associated Community Unit Plan (DP-23 amendment) be approved, subject to the following conditions:

- a. The platting of Parcels 6 and 8 within one year from the date of approval by the Board of City Commissioners; or the zone case be considered denied and closed.
- b. Amend General Provision #1 to read as follows: "Sign Control: Signs as permitted by the zoning district."
- c. Delete comment #7 under Parcel 7 as this will be controlled by amended G.P. #1 above.
- d. Add a General Provision #7 to read as follows: Fire lane easement shall be provided in accordance with section

Attachment # 14
COMMISSIONERS' PROCEEDINGS

March 31, 1975

ZONE CHANGE REQUEST
Z-1683 & DP-23

Report from the Metropolitan Area Planning Commission (Case Number Z-1683 and DP-23) in regard to zone change from multiple family dwelling district to light commercial on the west side of Avidon in an area north of the Arkansas River, presented.

Planning Commission recommended that the zone change and Community Unit Plan be approved subject to the conditions reflected in the transmittal documents provided to the Commissioners by the Planning Department.

Note: 24.25% of the property within 200 feet is represented by valid protest petitions which have been filed as provided by law. Therefore, a 4/5ths vote on the part of the City Commission will be required in order to approve the zone change.

Everett Pettis

Everett Pettis, Attorney for the applicant, requested that the zone change be returned to MAC for revision.

Tom Naifeh

Tom Naifeh, homeowner in the area, objected to the zone change. He stated that the residents were not within the 700' eligibility for a protest petition and the business establishments on the east side of Avidon signed the petition as a favor to the neighborhood area.

Dean Ritchie

Dean Ritchie stated that his main objection was the traffic problem and what the zoning would add.

*DOWELL EXCUSED

Joan Shearer

Joan Shearer, representing the Two Rivers Neighborhood Association, presented a group of petitions against the rezoning.

Motion --
carried

Stevens moved to receive and file the petitions. Motion carried 4 to 0.

She further stated there are nine (9) empty business locations in Marina Lakes at this time plus other empty stores in the area. The association was also objecting to the increase in traffic that the zone change would cause.

*DOWELL PRESENT

Motion --

Dowell moved that the application be returned to MAC for reconsideration. The City Commission states the following reasons for its action.

1. With the suggested wording that a transfer of title does not constitute a termination of a plan or any portion thereof, the development of the property shall proceed in accordance with the development plan, any substantial deviation as determined could constitute a violation of the building permit.

2. There has been an inadequate showing of any need or justification for additional LC to serve the area and that the additional LC would impose a totally unreasonable demand on the street and bridge system in the area and if this was granted it would be the first occasion in 20 - 40 years that LC has been granted on a river bank.

3. The Commission suggested that the apartment heights not be waived for partial B.

-- carried

Motion carried 4 to 1. Stevens "no".

- 175
- e. Under Parcel 8 add the following: "8. A Homos Association Agreement providing for the maintenance of non-public common areas, parking areas, private drives, community facilities, lake, fence, etc., shall be submitted with the final plat for Parcel 8, provided the dwelling units are to be owner occupied.
 - f. Amending the floor-area ratio under Parcel 6 to not exceed 35%, or a total of 111,878 square feet.
 - g. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
 - h. Any major changes in this development plan shall be re-submitted to the Planning Commission and to the City Commission for its consideration.
 - i. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for development and binding upon the present owners, their successors and assigns, unless amended.

Savina moved, Hopper seconded and it carried by a vote of 6 in favor (Savina, Hopper, Taylor, Goebel, Rising and Kamen) and 3 opposed (Gragert, Gardenhire and Bayouth). (Hennessy absent.)

Attachment # 15

EXCERPT FROM PLANNING COMMISSION MINUTES OF APRIL 10, 1975:

- 8a. Case No. 7-1683 - Marina Lake Drive, Inc. requests change from "B" to "BB" for:

A tract in Government Lot 1 in the NW 1/4 of Sec. 7, Twp. 27-S, R-1-E commencing at the NE corner of said Lot 1; thence south 0°04'05" west along the east line of said Lot 1, 1120.32 ft. for a place of beginning; thence north 88°12'55" west 130 ft. thence north 0°04'05" east 15 ft.; thence south 89°56'09", west 455.06 ft.; thence north 54°26'07" west 251.68 ft.; thence north 70°56'58" west 959.77 ft.; thence south 12°11'35" west, 282.9 ft. more or less to the left (north) bank of the Arkansas River; thence southeasterly along said left bank to the east line of said Lot 1; thence north 0°04'05" east 895 ft. more or less to the place of beginning, except therefrom a tract described as commencing at the NE corner of said Lot 1; thence south 0°04'05" west along the east line of said Lot 1, 1120.32 ft. for a place of beginning; thence north 88°12'55" west, 130 ft.; thence north 0°05'05" east 15 feet; thence south 89°56'09" west 455.06 feet; thence north 54°26'07" west 194.13 feet; thence south 16°00" west to the left (north) bank of the Arkansas River; thence southeasterly along said left bank to the east line of said Lot 1; thence north 0°04'05" east, 885 feet more or less to the place of beginning;

and change from "R" to "LC" for:

A tract in Government Lot 1 in the NW 1/4 of Sec. 7, Twp. 27-S, R-1-E, described as commencing at the NE corner of said Lot 1; thence south 0°04'05" west along the east line of said Lot 1, 1120.32 ft. for a place of beginning; thence north 88°12'55" west, 130 feet; thence north 0°04'05" east 15 feet; thence south 89°57'09" west, 455.06 feet; thence north 54°26'07" west 194.13 feet; thence south 16°00" west to the left (north) bank of the Arkansas River; thence southeasterly along said left bank to the east line of said Lot 1; thence

north 0°04'05" east 885 feet more or less to the place of beginning. All generally located on the west side of Amidon in an area north of the Arkansas River.

8b. Case No. DP-23 - Marina Lake Drive, Inc. requests approval of an amendment to CUP for the following tract:

All of Government Lot 1, in the NW 1/4 of Section 7, Twp. 27-S, R1E, except that part of said Government Lot 1 which has been dedicated for public streets. A portion of the above described property has been platted into: Lots 1 and 2 in Marina Lake Addition, Lot 1, Marina Lake Third Addition, Lots 1, 2 and 3 in Marina Lake Fourth Addition, and Lot 1 in Marina Lake Sixth Addition. Generally located at the southwest corner of 21st Street North and Amidon.

GALBRAITH pointed out the area on the map and reviewed the following staff report:

Comments

1. The applicant is now requesting a change of zoning from "B" Multiple-family to "LC" Light Commercial for a tract of land containing approximately 7.33 acres, and to "BB" Office, for a tract of land containing approximately 5.75 acres.

The CUP request proposes the following:

Increase in the size of Parcel 6 from 3.07 acres to approximately 7.33 acres.

Creating a new Parcel 8 proposed for "BB" Office zoning, approximately 5.75 acres in size with a maximum building height of 35 feet with proposed uses to include professional offices, townhouses, garden apartments at a density not to exceed 18 dwelling units per acre. The proposed square feet of office space is 125,293 at a ratio of 50%.

Decreasing the size of Parcel 7 from 22.49 acres to 12.79 acres and a decrease in the proposed number of dwelling units from 335 to 219.

Increasing the permitted square feet of retail space by 111,878 for a total of 496,438.

2. Should the Planning Commission recommend the approval of the zone change request and the amendments to the CUP, the following conditions would be consistent with other approved CUP's:
 - a. The platting of Parcels 6 and 8 within one year from the date of approval by the Board of City Commissioners, or the zone case be considered denied and closed.
 - b. Decrease the floor area ratio on Parcel 8 to 35% for office development.
 - c. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
 - d. Any major changes in this development plan shall be re-submitted to the Planning Commission and to the City Commission for its consideration.
 - e. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for development and be

BAYOUTH said he would abstain from voting on this case because he is a landowner in the immediate area.

EVERETT FETTIS, attorney for the applicant, said the request has been amended and he was hopeful that this would be the last time zoning in the Marina Lake area would have to be considered. FETTIS said that after re-examination of the matter, and he thought in fairness to the Commission, it was decided that the particular property involved in the amendment should be considered for "BB" zoning. He said they have no immediate plans for it, but thought it should be considered for "BB" Office zoning at this time.

FETTIS said that while several comments were made at the City Commission hearing concerning a surplus of area already zoned light commercial, they have found from knowledgeable people in the field of development and investments, that there is no excess light commercial property, and he referred to a quotation recently in the newspaper where the manager of the Twin Lakes Center indicated that they had been fortunate at that center because the demand for space exceeds the supply. He maintained that this particular property is most logically suited to further "LC" and "BB" development when one considers the natural barrier of the river and other factors.

When questioned as to whether or not efforts had been made to compromise with those who had appeared in opposition, FETTIS said they have made no effort as there is no real basis on which an agreement can be reached. He said the opposition is entitled to their opinions and he recognized their right to appear and make known their objections; however, he did not feel the results of approval of this request would be as serious as the residents in the area think.

MARY PHELAN, 2243 Cardinal, speaking for the Twin Rivers Neighborhood Association, said there had been no contacts made with any of the residents to meet with the applicant or the attorney. She reported that the association has 73 paid membership families in the area between the Big and Little Rivers, 15th and 25th Streets North, and that a protest petition containing 426 signatures has been filed with the City Commission asking that this request be denied. Reasons given for their opposition were the serious traffic volume increase which would occur; the fact that there are presently vacant buildings in the Marina Lake area; the applicant in the past has pleaded for as much "LC" zoning as at Twin Lakes, and now the present zoning in the Marina Lake area is in excess of the "LC" at Twin Lakes, and yet the applicant is requesting 111,000 square feet more of potential floor area. PHELAN also indicated a desire for protection of the riverbank as a natural resource. Further, the quality of the present buildings in the Marina Lake Center have not been an asset to the neighborhood.

PHELAN pointed out, too, that while the applicant assured the Commission at the previous meeting that there would be no further requests for zoning than that requested at that time, the request has now been amended to request more, even before the original application was considered by the City Commission.

MARY BELLUMO, 2245 Bullinger, said they in the area are in favor of growth, but that it should be orderly, and they feel an investor is entitled to a reasonable rate of return on his investment, but in this case, such has already been reached, and she considered this request unreasonable which, if approved, would result in an unreasonable rate of return on the investment at the expense of the neighborhood, and she did not consider that such an action would be fair. BELLUMO stated they were in favor of apartments as long as they are not more than 35 feet in height. She said they felt that an office building would generate more traffic than apartments, and apartments are needed much more than commercial and office buildings.

MOTION: That the Planning Commission recommend to the City Commission that Z-1683 be approved for "LC" and "BB" as requested, and that the amended DP-23 be approved, subject to the following conditions:

- a. The platting of Parcels 6 and 8 within one year from the date of approval by the Board of City Commissioners; or the zone case be considered denied and closed.
- b. Decrease the floor area ratio on Parcel 8 to 35% for office development.
- c. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- d. Any major changes in this development plan shall be resubmitted to the Planning Commission and to the City Commission for its consideration.
- e. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for development and be binding upon the present owners, their successors and assigns, unless amended.

Savina moved.

HENNESSY asked what else the property could be useable for if not as requested, and KAMEN assumed that it could be used as now zoned.

Taylor seconded the above motion for the sake of discussion.

Hopper arrived.

GALBRAITH brought out the fact that the staff report had suggested a reduction of the gross square footage of floor area for the "BB" parcel and the fact that the attorney for the applicant had not spoken concerning this fact. FETTIS said he would agree to such reduction if the staff felt it should be done.

GOEBEL asked how the acreage of light commercial at this corner compared with that at the other three corners. GALBRAITH said he had not checked specifically, but recalled that at Twin Lakes there is approximately 330,000 square feet of approved floor area and if this request is approved it would result in approximately 496,000 square feet of floor area in the Marina Lake Center.

CHAIRMAN KAMEN brought out the fact that apartments could possibly create more traffic than "LC" inasmuch as there could be more traffic day and night whereas commercial traffic would be more or less limited to daylight hours.

VOTE ON ABOVE MOTION: Carried by a vote of 6 in favor (Savina, Taylor, Hopper, Goebel, Kamen, and Hennessy) and 1 opposed (Gardenhire). Ba-
youth abstained and Gragert and Rising were
absent.

Attachment
#16

COMMISSIONERS PROCEEDINGS

1925

April 29, 1975

ZONE CHANGE REQUEST Z-1603 & DP-23	Report from Metropolitan Area Planning Commission (Case Number Z-1603 & DP-23) in regard to zone change from "B" to "BB" and "LC" and approval of amendment to DP-23 an area generally located on the west side of Amidon in an area north of the Arkansas River, presented.
Recommendation	Planning Commission recommended approval subject to the conditions as outlined in the (February 13, 1975) MARC minutes provided to the City Commissioners. NOTE: Valid protest petitions of 13.16% have been submitted. The percentage is not sufficient to require a 4/5ths vote on the part of the City Commission in order to approve the zone change.
Chief Planner	Chief Planner reviewed the application and stated that the matter was readvertised and reheard and amendments made. He reviewed the proposed development and density involved and the changes to the development plan. He pointed out that previously the percentage of protests exceeded 20%, however, the applicant area has now been enlarged and has reduced that percentage.
Motion --	Shanahan moved that the application be returned to the Metropolitan Area Planning Commission for its reconsideration. The following reasons being that "LC" is determined to be inappropriate land use policy for this area adjacent to the river and the Planning Commission should take this into consideration for any future zoning applications, including this application.
Comm. Donnell	Commissioner Donnell expressed the opinion that if the river is part of the City boundary then the City Commission or some body should have jurisdiction or a vote when land comes up for zoning along the river to represent the public. He requested that the Planning Commission submit a policy determining if the amount of frontage represented on this petition is appropriate for the kind of setbacks along the river in its entirety, what would be ideal setbacks along the river and how to protect the river from development so it can be used by the public at large.
Amendment to motion carried	Peters moved an amendment to the motion that no further amendments be accepted on this application and this application be completed and any additional amendments or desires on the applicant part should be filed as a new application. Amendment carried 4 to 0.
-- carried -	Main motion as amended carried 4 to 0.

#17

EXCERPT FROM PLANNING COMMISSION MINUTES OF June 12, 1975:

- 10a. Case No. Z-1683 - Marina Lake Drive, Inc. requests change from "B" to "BB" for: (See excerpt of minutes of April 10, 1974 for legal description.) And change from "B" to "LC" for: (See excerpt of minutes of April 10, 1974 for legal description). Generally located on the west side of Amidon in an area north of the Arkansas River.
- 10b. Case No. DP-23 (Amendment) - Marina Lake Drive, Inc. requests approval of an amendment to the Community Unit Plan as it relates to the following described property: (See excerpt of minutes of April 10, 1974 for legal description). Generally located in an area on the west side of Amidon in an area north of the Arkansas River.

GALBRAITH pointed out that the Commission has considered these two applications twice before (in February and April of this year). (See minutes of those two meetings for original discussion and action. He pointed out the area being considered, noting specifically that the request for "LC" would be an additional 111,000 square feet of gross leasable area, and that the request for "BB" is to accommodate development of townhouses, garden apartments and offices to a maximum height of 35 feet.

GALBRAITH recalled that on the two previous hearings, the Planning Commission had recommended approval, subject to several conditions, but that the City Commission has again referred the cases back for reconsideration as they felt that "LC" might not be appropriate adjacent to the River.

The question was raised as to ownership of the riverbank and how far back from the River it extends. GALBRAITH reported that the River is in public ownership (Federal Government) and that the riverbank location varies, depending on the low bank line, high bank line, and that such is indicated as platting along the river occurs and at that time a dedication is granted for purposes of river beautification, flood control, maintenance, etc.

In further discussion of the reason for return of this matter by the City Commission, it was brought out that one of the City Commissioners was interested in the Planning Commission submitting a policy determination as to the amount of frontage represented on this petition and how much is appropriate for setbacks along the river in its entirety, so that the river would be protected from development and thus could be used by the public at large. GALBRAITH said the staff is presently reviewing this matter and would have a policy statement later, but at this time would have no recommendation aside from the present policy of acquiring necessary dedications and establishing a minimum setback at the time of platting. The Chairman agreed that there is not sufficient information available at this time for the Planning Commission to make such a recommendation.

In the discussion, it was brought out that at the time of platting, a determination is made by the Flood Control Office as to how much easement is needed for maintenance and that it could vary from 30 to 50 feet, and in some instances in the city along a drainage channel as much as 100 feet and more has been required (Central and Rock Road).

BERETT FETTIS, attorney for the applicant, said that every time a zone change in the Marina Lake Center has been considered, new questions have been raised as to the appropriateness of the request. In view of the policy statement just read by the Chairman, FETTIS said he would go into details with his presentation since this would be the only way it would be available to the City Commission, since the applicant cannot make presentations there unless denied the opportunity at the Planning Commission hearing.

FETTIS said it appears four points have been brought up at this time - traffic, feasibility as to the need for more "LC"; whether or not there should be commercial adjacent to the River; and concerns relative to the amount of "LC" in this area.

FETTIS questioned the previous statement on the part of the staff that with approval of the light commercial requested by the above application there would be something like 500,000 square feet of gross leaseable area. He related that since the last meeting, he had investigated and determined that there is a total of approximately 375,290 square feet. He pointed out that while the CUP indicates 195,000 square feet; the Woolco Store, the lease permitted only 175,000 square feet; the service station at the corner under the CUP was allowed 6,750 square feet, while only 2,500 is so utilized; another business in the center utilizes only 5,500 square feet although 7,200 was allowed. The property along 21st is permitted 59,340 square feet, yet only 20,000 is so utilized, but there is more area behind the 21st Street frontage which is available for commercial development.

As for traffic, FETTIS brought up that the neighbors in this area have appeared and presented protests both to this Commission and the City Commission; likewise, on behalf of the applicant, petitions containing 400 or 500 names of people in the area have been presented in favor of the request. Some of the residents of the general area, however, do feel that any more light commercial zoning will add considerably to traffic in the area. He said the neighbors have every right to protect their neighborhood and speak in that behalf, but one must consider beyond what someone feels and judge which is the overriding consideration in making a determination of this nature. FETTIS felt that it is recognized by all that people should be permitted to make the best economic use of their property so long as it does not infringe upon the rights of the public.

FETTIS explained that initially, the owners of the Twin Lakes Center did not file a protest to the above applications, and they were the only ones eligible to file a legal protest; however, they did appear in opposition at the first hearing before the City Commission, indicating that their appearance was at the request of the neighborhood residents. At that time, one of the City Commissioners pointed out that they had appeared in opposition to earlier requests for rezoning in Marina Lakes because of the traffic congestion matter. FETTIS continued that it was his understanding that Ritchies (owner of Twin Lakes) also have an interest in Towne East at Rock Road and Kellogg, at which intersection the traffic is considerably more than at Amidon and 21st, and yet apparently there was no concern for traffic related to Towne East Center.

FETTIS said that the City Traffic Engineer has taken a position in opposition to the above applications, and figures obtained from his office indicate that the average daily traffic in 1970 on Amidon was 14,600; in 1972, 14,900 and in 1975, 15,1271. These figures, he felt, did not indicate a significant increase from 1970 to 1975. During the period of time the bridge was opened on 21st Street west of Amidon, there has been considerable development, which has increased traffic on that street considerably. In addition, the Woolco Store was developed in Marina Lakes during this period of time, and all of these developments contribute substantially to additional traffic problems.

FETTIS said he had obtained traffic count figures from the City Traffic Engineer's office, which figures are relied on by the public in making their own projects. He reported that the latest counts provided by the office with respect to 21st and Amidon are as follows: Amidon, south of 21st, 15,271; north of 21st, 15,794; 21st, east of Amidon, 17,207; and west of Amidon, 13,052. For sake of comparison, he reported that the count on U. S. 54 west of West Street was 18,463, and east of West Street was 30,451; west of I-235 it was 37,577. He pointed out that there are other intersections in the city which, according to the traffic count figures, show more capacity than at 21st and Amidon. He said that in 1972 the volume at 21st and Amidon was only 85% of the design capacity of the intersection; while at West Street and Central it was 131% of design capacity; at Seneca and Pawnee considerably more than design capacity; and at Douglas and Broadway it indicated 152% of the design capacity, and yet the Fourth Financial Center was allowed to be built without apparently any question or consideration of the traffic volume.

FETTIS asked the Commission to keep in mind also that subject request is not at the principal intersection. He pointed out also that since the compilation of the figures within the last year, right turns are permitted on red signals which he estimated increased traffic flow by 15 to 255 and has considerable impact on the movement of traffic.

FETTIS introduced Maurice Martin from Topeka, who was Director of the Kansas State Highway Department for four years and head of the Federal Housing Administration in Kansas for five years, and asked him to speak concerning traffic generated by apartments as compared to that generated by light commercial development.

MAURICE MARTIN said that his past experience has given him an insight into some of the traffic problems that are created by new developments, such as being proposed at subject location. He related an incident in Topeka when he was associated with the Highway Commission, on 25th Street, where the average daily trips amount to about 15,000 and although the staff of the Commission recommended that access be limited so that there could be no further development along the street, the Highway Commission overruled the recommendation and allowed access, and since that time there have been two major shopping centers developed along the route and lots of other business.

As an illustration of the vast difference of ideas in various parts of the country, MARTIN said that in San Francisco, a six lane highway has just been completed with limited access that carries 128,000 vehicles per day.

MARTIN stated also that he has been involved in building large apartment complexes over the State of Kansas, and they have found that during peak traffic periods, apartment complexes generate more congestion than many commercial areas in that commercial area traffic is usually spread over the entire day. He agreed with the previous statement that the right to make right turns on a red light has alleviated traffic movement somewhat. He suggested that accel/decel lanes in areas such as being considered are very helpful in handling traffic also.

FETTIS commented that it has been suggested several times that there is no need for additional "LC" because of the vacancies in the present light commercial development. He reminded the Commission that they have been furnished about six letters from various realtors in the City attesting to the fact that there is need for additional commercial development in this particular area. While it is true there are vacancies, FETTIS said he had asked John Frieden, representing Hanson Development Company which has a 99 year lease on a major part of the Marina Lake Center, to offer his comments.

JOHN FRIEDEN of Topeka, representing Hanson Development Company, displayed a survey showing their portion of the Center and existing buildings. He pointed out that Building A is the location of the Woolco Store; Building B is the location of the former supermarket (vacant at this time), and that they are negotiating with a furniture store for this space; Building C has five spaces with two occupied; Building D has 10 spaces with two occupied. FRIEDEN related that the problem in leasing is not because of lack of demand, but because of the traffic and parking congestion at this particular point in the Center, and the demise of the food market was contributed specifically to the very serious problem of parking and traffic congestion. He pointed out that the affect on the Center is very serious and it is regrettable because this is an outstanding location and millions of dollars have been invested.

In their efforts to reach a solution, FRIEDEN said they have hired experts within the last six months to analyze the situation and make recommendations so far as parking and traffic, or whatever can be done to improve the Center and lead to the leasing of their spaces. The experts have made three recommendations.

FRIEDEN said it has been suggested that parking in front of Building D be adjusted and possibly to lease Building C space to low traffic generation tenants, and create additional parking behind Building D, which would be on a part of the application area.

FRIEDEN said that with the approval of this application, parking could be provided behind Building D; that they have contemplated trying it, but without some commercial development to the back, it would be extremely difficult to attract parkers there. He said for this reason they are in favor of the application and have entered into an agreement with the applicant whereby they are permitted a free flow of traffic between the properties as well as reciprocal parking privileges. He felt that what has happened in the Center is a tragedy, but that he believed it could be remedied as outlined above. He stated that he represents Hanson Development Company in about 35 centers west of the Mississippi River and that while there are difficulties, none are as serious as this one. He felt that if this application is approved, they could have all their space leased within 60 days, as it is an excellent location, and the approval of this request would greatly benefit the Hanson Company as well as the area.

RISING asked Frieden how he knew that the applicant would not develop his property in such a way that the anticipated parking arrangement would not be beneficial to the Hanson Development Company. FRIEDEN said their agreement is in writing, and he would assume the owner of the application area would develop his property in a reasonable and feasible manner, otherwise he would have the same problem as being experienced by Hanson Development Company now. He said he does have some idea of what is planned by the developer and it is satisfactory with his company. In further discussion, and in looking back, FRIEDEN felt that the entire area could have been better, if planned and developed as a unit which was prior to his representation of the Hanson Development Company. He related that the first application for zoning he understood, was with access to Amidon in line with the Twin Lakes opening, which was felt to be the most appropriate location; however, the owners of Twin Lakes offered objection and the entrance was moved farther south toward the present D Building, which eliminated a great deal of parking right in front of the building. He felt, however, that with the adjustment of the parking and additional parking provided on subject area, most of the problems so far as leasing space would be eliminated.

When asked if access to the Center at the central point (across from Twin Lakes), would really make a great deal of difference, FRIEDEN said that according to the traffic experts his company has employed, it would.

JACK McGUIRE, 8930 Suncrest, related his experience in operating a liquor store in this center. He said he opened the middle of December in 1973, which was three months before the opening of the supermarket and 5 months prior to Furrs Cafeteria. His business was growing and he had high hopes; however, with the coming of the cafeteria and in view of the business and related parking generated by the cafeteria, the supermarket failed and his business was reduced to the point that it became uneconomical to operate and he closed it in February of this year. During his time of operation of his store, McGUIRE noted that the entrance to the center should have been in the center opposite the entrance to Twin Lakes. He considered this a must for any center, and in subject center, he pointed out that it was impossible for customers of the supermarket to park anywhere close to the store because of the parking generated by the cafeteria.

FETTIS spoke again, pointing out the discussion by the City Commission and its concern for commercial development along the River. He pointed out the numbers of commercial activities along the River particularly in the downtown area (i.e., Southwest Grease, etc.). Also, the fact that in subject request, it is planned to provide a private street along the south side of this property (along the north side of the River). In addition, landscaping of the area will be provided, and it was his opinion that there is no legitimate reason for

complaint so far as beautification of the River. He continued that the first mistake was made when zoning was not granted as first requested, when the requested CUP and zoning embraced the total Marina Lake area. At that time, there was opposition from others in the area, and the result was a strip of "LC" along 21st Street and since, additional zoning has been granted as a result of several applications. He maintained that if the development and zoning had been approved as originally requested, then the subsequent problems so far as zoning, development and the predicament of Hansons and McGuire would not have occurred. He considered it only reasonable to finish up the zoning by approval of this request.

TAYLOR was skeptical about this applicant being willing to solve the problem for Hanson so far as parking, when it conceivably could make their own parking facilities questionable.

FETTIS answered that Mr. Frieden has reviewed the number of vacancies which his company has and the applicant and Hanson favoring additional light commercial and have agreed on a method of alleviating the parking and traffic situation which they feel will in the end result in leasing of the vacant spaces. He said his client has agreed that there will be free flow of traffic through the area and such agreement will be in writing, and will provide for mutual parking on the others property. When questioned further, FETTIS pointed out that his client is limited to 30% coverage of land and that there will be 70% of the area left for parking; further, it is possible that the total allowable floor area, if this is approved, of 111,000 square feet, may not actually be built, and any structures erected will be based on a use for that structure. FETTIS said his client will be responsible for the entire development of subject property, and so far as an agreement for parking, FETTIS pointed out that it was done in the development of Cobblestone Alley at Rock Road and Central.

HENNESSY pointed out some difficulty experienced by the supermarket at The Mall on East Harry so far as adequate or convenient parking, and that a change in access to Harry had improved the condition, and the supermarket at that location now is apparently successful.

LAKIN said that the Assistant Traffic Engineer for the city is present to discuss how traffic and the intersection were handled. He continued that in the past there have been numerous hearings before this Commission and other Commissions or Committees concerning the traffic in this area and the original granting and subsequent expansion of light commercial zoning. An engineering report was submitted on behalf of the applicant, and also one submitted by the City Traffic Engineer. Essentially, an entrance was not placed in line with the Twin Lakes entrance on Amidon, based on the Traffic Engineer's recommendation that the two access points to Amidon be offset to avoid as much as possible, the backing up of traffic to interfere with the movements taking place at 21st and Amidon, which was based on extensive engineering and written reports. LAKIN said he did not mean to infer that such could not be changed, and there are pros and cons, but since the original action so far as planning has resulted in more traffic. As for the claim that if the entire area could have been approved for zoning originally, it could have been developed as a unit, he pointed out that at the time policy decisions were made based on information available at that time - right or wrong, and with every piece of development that has occurred since, the problem has been aggravated.

LAKIN said if the Commission is to become involved in a complete re-examination of this area, then perhaps the Traffic Commission should have an opportunity to consider the situation.

OLIVER ANDERSON, 2219 Bullinger, representing the Twin Rivers Neighborhood Association (between the Little and Big Arkansas Rivers, 15th and 25th Streets), spoke in opposition. He related that pre-

viously a protest petition containing 426 names of property owners in the area (not within 200 feet, however), which would be affected, had been filed, and he again presented reasons for opposition. First, light commercial has not been granted along the Riverbank in recent years in accordance with efforts to preserve and protect the natural beauty of the River; traffic is a big concern and he related the difficulties encountered in moving in or out of the general area and the fact that most of the residential area is hemmed in by the two Rivers, the Flood Control Project and I-235, and the street pattern being such as it is, necessitates that in most cases a motorist must pass through the 21st Street/Amidon intersection. A third concern is related to the land use, and he pointed out that this Center already has more square feet of leaseable floor area than Twin Lakes and if this request is approved, they would have about 495,000 square feet as compared to 330,000 square feet in Twin Lakes. He maintained that on the basis of need, it is impossible to justify more commercial zoning, especially when one considers the fact that there is still empty light commercial area in Sweetbriar Center and the fact that the Atlantic Thrift Store has recently closed at the northeast corner of 21st and Amidon.

ANDERSON said it was the feeling of his group that townhouses and garden apartments would be more compatible with this area than additional light commercial and he asked that the request not be approved. It was his opinion that the developer should be controlled so far as the providing of adequate landscaping and screening to protect other areas and the development in this center has not taken advantage of the River itself.

ANDERSON said residents of the area have appeared at various meetings since 1967 to oppose light commercial zoning in Marina Lake and it was their report that the application be denied and thus end the necessity for frequent appearances.

GOEBEL did not like the statement that they opposed any light commercial zoning in the Marina Lake Center, and questioned why they would pick on just this one spot and this one developer, and not any other area within the jurisdiction of the neighborhood group.

GALBRAITH reported that in checking again the square footage, the staff report for the April 10, 1975 meeting is in error, that this request for amendment of the square feet of retail space would increase the potential total to 452,563 rather than 496,438 square feet. He further commented that the original figure included the area for Parcel 5 which proposed medical offices rather than retail sales.

McKINLEY said that the traffic flow indicated above is correct as shown on their maps. He said they were collected over a 3 year period, however, they were compiled after the gathering of counts for the latter part of 1973, all of 1974 and the first part of 1975. Some counts are for one or two days at a time, and the accuracy is about 20%.

BILL McKINLEY, Assistant Traffic Engineer, said they had submitted a report to the developer with regard to the continuous count station located on Amidon just south of the bridge, and the count runs as high as 27,563 (Monday before Christmas), and in April 1975 on a Friday and Saturday, there were several counts of 20,100, 20,500 and the average was 22,000, so it is substantially more than the 15,000 figure quoted earlier in this meeting. He reported that traffic on 21st Street since the opening of the bridge, has also increased considerably.

MOTION: That the Planning Commission again recommend the approval of the zone change request, and the approval of the amendment to the CUP, subject to the following conditions:

- a. The platting of Parcels 6 and 8 within one year from the date of approval by the Board of City Commissioners; or, the zone case be considered denied and closed.
- b. Decrease the floor area ratio of Parcel 8 to 35% for office development.
- c. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the governing body, and any substantial deviation of the plan, as determined by the Superintendent of Central Inspection and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
- d. Any major changes in this development plan shall be resubmitted to the Planning Commission and to the City Commission for its consideration.
- e. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for development and be binding upon the present owners, their successors and assigns, unless amended.

Hennesy moved and Savina seconded.

TAYLOR did not feel the Commission had considered all the questions raised by the City Commission and felt the motion might be premature if this Commission does not consider the possibility of lessening the initial request in order that something might be accomplished.

CHAIRMAN KAMEN said it was pretty evident as many times as the application has been before the Commission that they do not desire to ask for any less than the original request. FETTIS said they do not propose to make any amendments to the request.

TAYLOR said that while she has in the past voted for this application, she now has mixed emotions, particularly with respect to the relationship of the parking between subject area and the Hanson Development Company property adjoining and the hope that parking and congestion of traffic will be solved by approval of this amendment to the CUP and zoning. She thought it just might make matters more complicated by approval of the requests.

GOEBEL said he did think additional parking on subject property would make a difference so far as leasing other space in the present structures, but even if the zoning is approved now, the Commission would have a chance to consider the actual design of the development when it is platted.

LAKIN pointed out that the CUP being considered at this time is as far as this Commission will be able to see the actual development, and that location of buildings is not purported to be exact at this time. He said the plan does provide for a private drive and not a public street along the river, and that this access will be considered at the time of platting.

LAKIN further stated that the Department of Law has recently ruled for the City Commission that as long as a subdivision conforms to the text and does not violate the City Code, the City Commission is honor bound to approve it, and he assumed such a decision was based on statutory authority.

SAVINA asked if the drive along the riverbank would be a part of the provisions of the CUP, and LAKIN said it is provided in the CUP which provides access through the site and it will be at the top of the bank within a very few feet of the top of the berm.

As to the width of the drive, LAKIN said he assumed it would be 18 to 24 feet, depending on the parking layout, and that such would be determined at the time of platting. He did not think it wise to try to "pin down" the developer now as to the driveway, and that such can be adequately controlled at the time of platting and issuance of building permits so far as structures are concerned. He said the parking layout has to be approved by the Traffic Engineer before a permit can be issued.

SAVINA asked Pettis if he would be adverse to having a driveway width specified along the river road. FETTIS agreed that such would be done at the time of platting anyway.

VOTE ON MOTION: Carried by a vote of 5 in favor (Hennessy, Savina, Goebel, Hopper and Kaman) and 3 opposed (Taylor, Rising and Gragg). Gardenhire and Bayouth were absent.

Attachment
18
2170

COMMISSIONERS PROCEEDINGS

July 1, 1975

ZONE CHANGE
west side Amidon
Z-1683 & DP-23

Z-1683 and DP-23 - zone change from multiple family dwelling district to office and light commercial on the west side of Amidon in an area north of the Arkansas River presented.

Planning Commission recommends that the zone change request be approved and the amendment to the CUP be approved subject to platting of parcels 6 and 8 within one year, a decrease in the floor area ratio for office development in parcel 8 and other standard platting conditions, and more specifically set out in the Planning Commissions minutes of June 12, 1975.

It is noted that this is the third consideration of this request by the City Commission.

Jack Galbraith

Jack Galbraith, Chief Planner, reviewed the zone change request and outlined the proposed CUP amendment in detail, which would allow for additional "LC" adjacent to Amidon between the present commercial area and the river and "BB" office district to the west. He pointed out that in March this application was considered and a 24% protest petition was filed by the property owners directly to the east. When it was returned to the Planning Commission the plan was amended and "BB" zoning was requested for the one tract. Protest petitions were again filed and were calculated to be 13.16% which does not require a 4/5 vote to approve this change.

Discussion

Discussion was had regarding the necessity for additional parking.

Everett Fattis

Everett Fattis, attorney for the applicant, stated in answer to the Commission that agreement had been reached between the applicant and Hanson Development Company regarding the free flow of traffic between the area to the north and the south and throughout the Marina Lakes Center, and further, that mutual parking will be allowed on the "LC" area being requested and the area to the north. He also stated that Hanson Development Company representative had previously indicated that if the area to the south was developed for apartments as presently zoned there would be no chance in the future to solving the traffic flow problem nor their additional parking needs.

Jack Galbraith

Mr. Galbraith pointed out that the request, if approved, will allow for 111,000 square feet of additional retail floor area which will also require parking space. He pointed out that an access and utility easement along the west side of Amidon north from the southern access point will provide for traffic flow into the area. He also stated that control can be made for parking there at the time of platting and location of the building.

Everett Fattis

Mr. Fattis stated that they would be agreeable to a 100 foot setback from the north line of the requested "LC" area.

Shanahan's motion

Shanahan move that the application be denied.

Stevens' motion

Stevens moved a substitute motion that the zone change and CUP be approved as recommended by the HARC subject to the recommended conditions and the Planning Department be instructed to forward the ordinance for first reading when the plat is forwarded to the City Commission showing a 100 foot setback south from the north line of the requested "LC" area.

Comm. Casado

Commissioner Casado stated that he could only support 50,000 square feet of retail floor area in order to provide more parking area.

COMMISSIONERS PROCEEDINGS

July 1, 1975

2171

Mr. Fettis in ans.
to Comm. Stevens

In answer to inquiry by Comm. Stevens, Mr. Fettis stated that 50,000 square feet for retail area would be acceptable if the balance would be allowed for office construction. Mr. Fettis also stated that the triangle on the south of the access road could be zoned "BB" rather than "LC".

Casado's motion

Casado moved an amendment to the substitute motion that the light commercial be limited to 50,000 square feet in Parcel 6 and "BB" office space be granted for the balance.

H. D. Bledsoe

H. D. Bledsoe stated that they would landscape the area as required by the Planning Commission or they would use their own landscape design. He stated that 50,000 square feet of retail area would be satisfactory as well as deleting the "LC" on the triangle portion.

Joan Shearer

Joan Shearer, 2433 Benjamin Drive, recommended that the Commission deny the request at this time and the Commission establish a policy for development along the river before further zoning is granted.

Comm. Donnell

Commissioner Donnell stated that he could not vote to approve the "BB" zoning along the river as he would like to see a total area development plan without much increase in light commercial zone.

Paul Graves

In discussing the traffic generation, Paul Graves, Traffic Manager, stated in answer to inquiry by the Commission that "BB" office district would generate about 20 trips a day while apartment development would generate 8.

Casado's motion--
--failed

Commissioner Casado's amendment failed 2 to 3. Donnell, Shanahan, Peters, "NO".

Discussion

Discussion was had regarding maintenance of the river bank area.

Motion--
--Carried

Shanahan moved a substitute motion that the question be called on the substitute motion. Motion carried 5 to 0.

Stevens' motion--
--failed

Commissioner Stevens' substitute motion failed 1 to 4. Casado, Donnell, Shanahan, Peters, "NO".

Motion--
--carried

Commissioner Shanahan's original motion to deny the application carried 4 to 1. Stevens "NO".

*

This DP File
Has a Large Drawing
On 35mm Microfilm.
Roll #1

*