

CONDITIONAL USE RESOLUTION NO. CU-561

WHEREAS, Dillon Stores, Intrust Bank National Assn ETAL Trustees (owner); PEC, c/o Rob Hartman, pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requested a Conditional Use to allow a seasonal nursery and garden center on 5.6 acres zoned "LC" Limited Commercial described as:

Lot 1 & 2, Block 1, Westforn Addition, Sedgwick County, Kansas. Generally located at the northeast corner of 13th Street North and West Street.

WHEREAS, proper notice as required by the Unified Zoning Code and by the policy of the Metropolitan Area Planning Commission (hereinafter referred to as MAPC) has been given; and

WHEREAS, the MAPC did, at the meeting of January 27, 2000, consider said application; and

WHEREAS, the MAPC has authority to permit a Conditional Use, subject to any special conditions deemed appropriate in order to assure full compliance with the criteria of the Unified Zoning Code.

NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Area Planning Commission that this application be approved to permit a conditional use to allow a seasonal nursery and garden center on 5.6 acres zoned "LC" Limited Commercial described as:

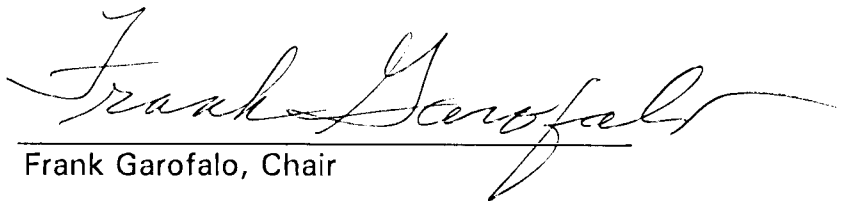
Lot 1 & 2, Block 1, Westforn Addition, Sedgwick County, Kansas. Generally located at the northeast corner of 13th Street North and West Street.

subject to the following conditions:

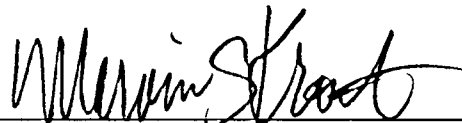
1. The seasonal nursery and greenhouse shall be developed in general conformance with the site plan, attached hereto and made a part of this application.
2. The seasonal nursery and garden center shall be located in a temporary structure and shall operate for no more than 120 days during a calendar year.
3. The nursery/garden center shall conform to all requirements of Section III-D.6.z of the Unified Zoning Code. No chain link fencing shall be permitted as part of the screening requirements.
4. Prior to the utilization of the outdoor garden area covered by this amendment, the applicant shall annually submit a report to the Zoning Enforcement Division of the Office of Central Inspection that demonstrates compliance with the approved site plan and conditions specified in this amendment.
5. Any violation of the conditions approved as a part of this request shall render the "Conditional Use" null and void.

Adopted this 27th day of January, 2000. This resolution shall become effective on the fifteenth day after the date last noted above unless the matter is forwarded to the Governing Body for final action under the provisions of Section V-D.6. When any one or more of the exceptions listed in Section V-D.6 exist, this resolution with its conditions of approval shall be considered a recommendation of the MAPC to the Governing Body which shall then have final authority to approve, approve with conditions or modifications, or deny the Conditional Use application.

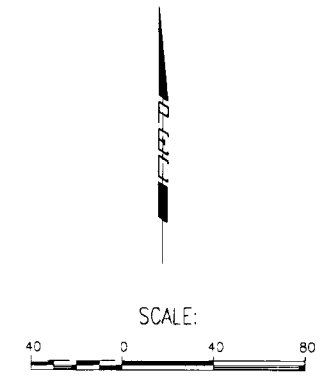
METROPOLITAN AREA PLANNING COMMISSION


Frank Garofalo, Chair

ATTEST:


Marvin S. Krout, Secretary

CONDITIONAL USE PLAN FOR DILLON'S STORE AT
 3932 W. 13TH STREET NORTH, WICHITA, KANSAS
 FOR SEASONAL NURSERY AND GARDEN CENTER SALES
 PREPARED FOR: DILLON'S STORES, 2700 E. 4TH
 STREET, HUTCHINSON, KANSAS 67501

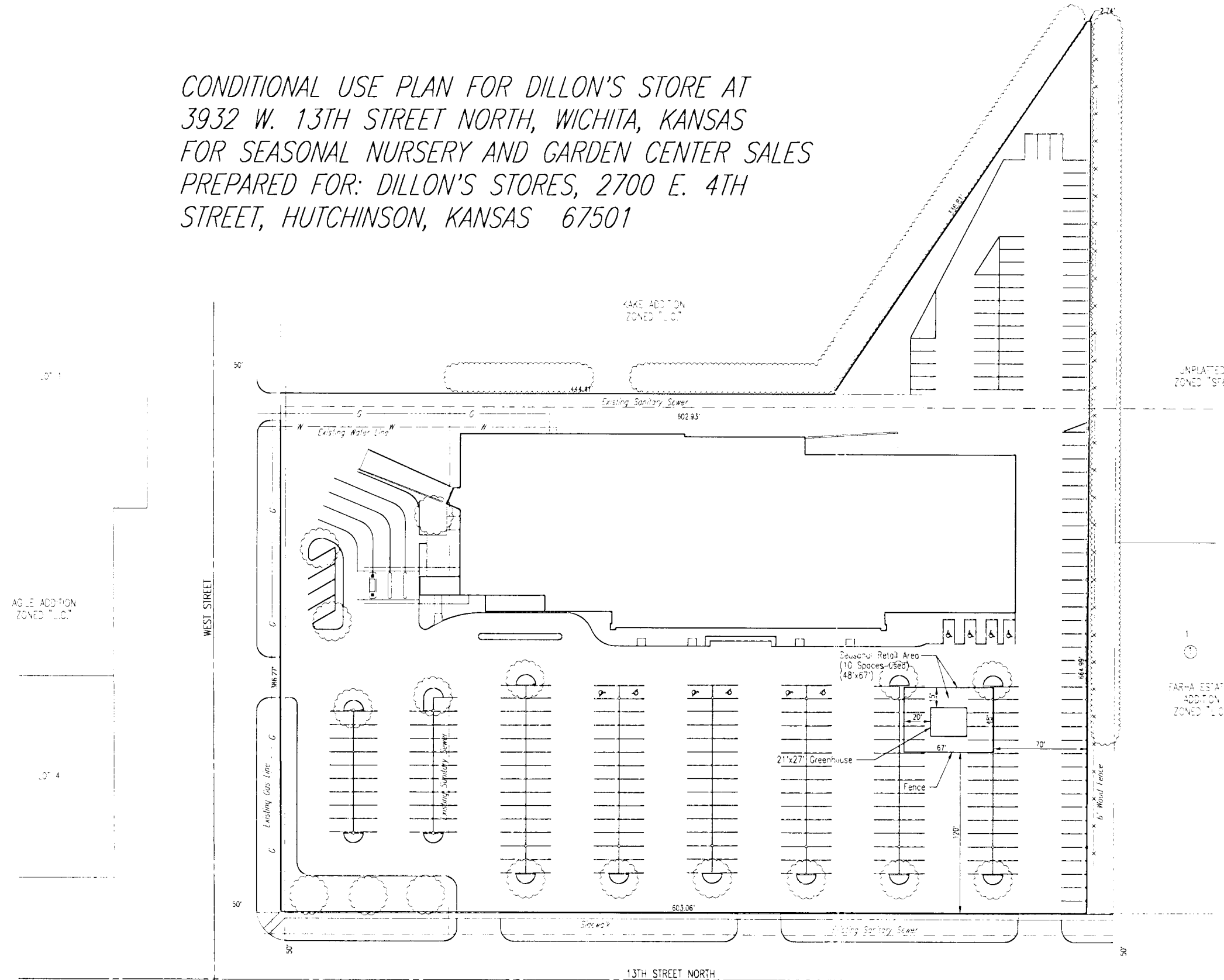


DECEMBER 21, 1999

PARKING INFORMATION

PROVIDED PARKING: 295 STALLS (10 ACCESSIBLE)
 STALL TAKEN BY GREENHOUSE SALES AREA: 10 STALLS
 SALES AREA: (67'x48')=3216 SF. (13 STALLS)
 TOTAL PARKING REQUIRED: 272 STALLS

THE SEASONAL NURSERY AND GARDEN CENTER SHALL BE LOCATED IN A TEMPORARY STRUCTURE AND SHALL OPERATE FOR NO MORE THAN 120 DAYS DURING A CALENDAR YEAR. PRIOR TO UTILIZATION OF THE OUTDOOR GARDEN AREA, THE APPLICANT SHALL ANNUALLY SUBMIT A REPORT TO THE ZONING ENFORCEMENT DIVISION OF THE OFFICE OF CENTRAL INSPECTION THAT DEMONSTRATES COMPLIANCE WITH THE APPROVED SITE PLAN (SEE RESTRICTED AREA) AND CONDITIONS SPECIFIED HEREIN.



SITE PLAN

APPROVED 1/27/00 BY DG
 MAPD Copy 2 of 2

STAFF REPORT
 MAPC January 27, 2000

CASE NUMBER: CU-561

APPLICANT/AGENT: Dillon Stores, Intrust Bank National Assn ETAL Trustees (owner); PEC, c/o Rob Hartman (agent)

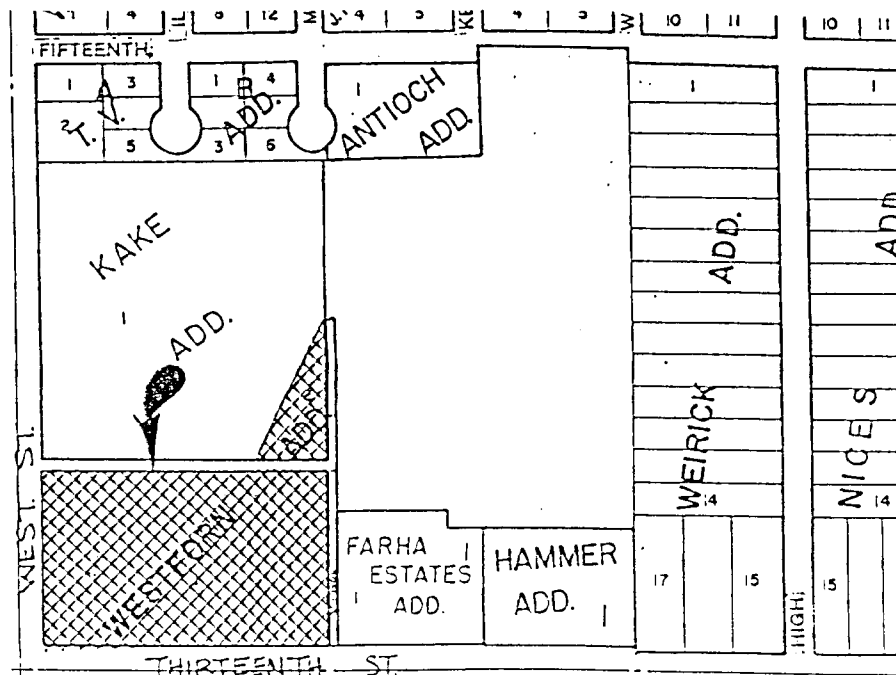
REQUEST: Nursery and Garden Center

CURRENT ZONING: "LC" Limited Commercial

SITE SIZE: 5.6 acres

LOCATION: Northeast corner of 13th Street North and West Street

PROPOSED USE: Seasonal nursery and garden center



BACKGROUND: The applicant proposes to add a seasonal nursery and garden center to the Dillons Store located at the northeast corner of 13th Street North and West Street. The property is currently zoned "LC" Limited Commercial. Nurseries and garden centers that do not meet the outdoor display and storage restrictions of the "LC" Limited Commercial district are permitted only as a "Conditional Use," in conformance with requirements in Section III-D.6.z of the Unified Zoning Code.

The nursery/garden center is proposed for location on the eastern side of the lot, situated between the Dillons Store and 13th Street. The remainder of the 5.6± acre tract is occupied by Dillons Super Store, parking, and a drive-up bank facility. The greenhouse is 21' X 27' in size, and is surrounded by a seasonal retail area for outdoor storage plants and landscape supplies. A fence encloses the outdoor display area. The overall size of the nursery/garden center is 3,216 square feet, less than 0.1 acres, and eliminates 10 parking spaces. After removal of 10 spaces, the amount of parking provided would still exceed required parking requirements, including requirements for the garden center.

The requirements of Section III-D.6.z of the UZC stipulate that garden centers should be located on arterial streets or expressways, be screened when adjacent to residential zoning districts, and have display/storage areas within an enclosed building or screening fence (if required) or be adjacent to the building. Additionally, the display/storage areas should not be within 25 feet of the right-of-way or be located within required parking spaces. Other restrictions include: having lights shielded away from adjoining properties, prohibiting string lights, prohibiting sound projecting devices or loudspeakers that could be heard beyond the property boundaries, and prohibiting the outdoor repair or servicing of vehicles and equipment. A site plan is required that shows the location of structures, ingress/egress, off-street parking, loading, on-site circulation, and designates storage/display areas. One final aspect of this section is the provision that MAPC may establish other conditions it deems necessary for the protection of adjacent property, and including the maintenance of property. It can also require periodic reports of compliance to be prepared.

The proposed site plan addresses requirements for this "Conditional Use." There is no separate provision for loading/unloading at the garden center site, but would use the adjacent parking area.

The site is located on a portion of Lot 1 of Westforn Addition, which also includes the Dillons Store and the drive-in bank facility on the western side of Dillons. Lot 2 of Westforn Addition is a triangular parcel on the northeast of Lot 1 that is zoned "B" Multi-Family and is used for parking, pursuant to a use exception for off-street parking on property zoned "B" (BZA 33-94). A seasonal garden center has been located at this Dillons Store in the past, but not for the last few years.

Commercial uses are located on the four corners of the intersection, and to the east

of the site. Sycamore Park is located to the northeast, and has a common boundary line for a short distance along Lot 2.

CASE HISTORY: Westforn Addition was recorded June 5, 1957. As previously discussed, a use exception was granted for Lot 2 to be used for off-street parking on property zoned "B" Multi-Family on November 22, 1994.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC" Limited Commercial;	KAKE
SOUTH:	"LC" Limited Commercial	Commercial uses
EAST:	"LC" Limited Commercial; "B" Multi-Family;	Wichita Municipal Federal Credit Union; Sycamore Park
WEST:	"LC" Limited Commercial;	Vacant restaurant building

PUBLIC SERVICES: This site has access to West Street, a four-lane arterial, and 13th Street North, a four-lane arterial, both with left-turn lanes. 1997 ADTs were 17,141 on 13th Street North and 11,750 on West Street. 13th Street is scheduled for widening to a five-lane standard, with a continuous two-way center left turn lane from West Street to St. Paul in 2008 in the City of Wichita 2000-2009 Capital Improvements Plan. Municipal water and sanitary sewer, services are available.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area for commercial use. The Plan recommends that commercial developments of this size should be located in "planned centers" versus extended strip developments. Such "centers" should be designed with shared internal vehicular and pedestrian circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations.

RECOMMENDATION: Based on information available prior to the public hearing, Staff recommends that the requested "Conditional Use" for nursery and garden center be APPROVED, subject to the following conditions:

1. The seasonal nursery and greenhouse shall be developed in general conformance with the site plan, attached hereto and made a part of this application.
2. The seasonal nursery and garden center shall be located in a temporary structure and shall operate for no more than 120 days during a calendar year.
3. The nursery/garden center shall conform to all requirements of Section III-D.6.z of the Unified Zoning Code. No chain link fencing shall be permitted as part of the screening requirements.
4. Prior to the utilization of the outdoor garden area covered by this amendment,

the applicant shall annually submit a report to the Zoning Enforcement Division of the Office of Central Inspection that demonstrates compliance with the approved site plan and conditions specified in this amendment.

5. Any violation of the conditions approved as a part of this request shall render the "Conditional Use" null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area has commercial uses located on four corners of 13th Street North and West Street, and to the east of the site, although none of the other uses involve outdoor display/storage. The proposed seasonal nursery and garden center is located close to the Dillons building and away from 13th Street and West Street. A park is located to the northeast of the rear triangular portion of the site that is used as off-street parking.
2. The suitability of the subject property for the uses to which it has been restricted: This portion of the Dillons site is currently used for parking, but has been used as a temporary seasonal nursery and garden center in previous years.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The nursery and garden center would be visible to traffic travelling along 13th Street North, but visibility would be lessened by its placement near the front of the grocery store rather than near the street and by existing screening on the east of the parking lot.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: Commercial development on this site conforms to the adopted Comprehensive Plan.
5. Impact of the proposed development on community facilities: The addition could potentially generate a small amount of additional traffic by increasing the number of retail functions operating on the site. However, most patrons would be expected to be shopping at Dillons for other retail items, rather than making a separate trip to the garden center. The existing arterial should be adequate for handling the modest traffic increase generated by the nursery and garden center.