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WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION AGENDA

Thursday, September 25, 2014

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission will be held on **Thursday, September 25, 2014**, beginning at **1:30 PM** in the Planning Department Conference Room City Hall - 10th Floor, 455 N. Main Street, Wichita, Kansas. **If you have any questions regarding the meeting or items on this agenda, please call the Wichita-Sedgwick County Metropolitan Area Planning Department at 316.268.4421.**

1. Approval of the prior MAPC meeting minutes:

Meeting Date: September 11, 2014

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

Items may be taken in one motion unless there are questions or comments.

- 2-1. **SUB2014-00031: Final Plat -TYLER'S LANDING 5TH ADDITION**, located at the southeast corner of 37th Street North and Tyler Road.

Committee Action: APPROVED 2-0
Surveyor: Baughman Company, P.A.
Acreage: 6.43
Total Lots: 22

3. **PUBLIC HEARING – VACATION ITEMS**

ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 PM

Items may be taken in one motion unless there are questions or comments.

Complete legal descriptions are available for public inspection at the Metropolitan Area Planning Department – 10th Floor, City Hall, 455 N. Main Street, Wichita, Kansas

- 3-1. **VAC2014-00029: City request to vacate a platted front setback on property**, generally located south of 13th Street North on the east side of Hillside Avenue.

Committee Action: APPROVED 2-0

PUBLIC HEARINGS

ADVERTISED TO BE HEARD NO EARLIER THAN 1:30 PM

4. Case No.: CON2014-00026
Request: City Conditional Use permit for a 8' X 40' portable outdoor storage container in GC General Commercial zoning.
General Location: South of West Third Street North (445 North Seneca Street).
Presenting Planner: Dale Miller
5. Case No.: CON2014-00027
Request: City Conditional Use to permit a nightclub in the City.
General Location: Southwest corner of Morris Street and South Washington Avenue (911 East Morris St.).
Presenting Planner: Jess McNeely

NON-PUBLIC HEARING ITEMS

6. Other Matters/Adjournment

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan Area Planning Commission

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

Minutes

September 11, 2014

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, September 11, 2014 at 1:30 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Matt Goolsby; Chair; Carol Neugent; Vice Chair; David Dennis; David Foster; M.S. Mitchell; John McKay Jr.; Bill Ramsey and Chuck Warren. Bill Johnson; Joe Johnson; Don Klausmeyer; Debra Miller Stevens; Don Sherman; George Sherman and were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Neil Strahl, Senior Planner; Robert Parnacott, Assistant County Counselor; Jeff Vanzandt, Assistant City Attorney, and Maryann Crockett, Recording Secretary.

1. Election of Chair and Vice Chair

MOTION: To nominate Matt Goolsby Chair and Carol Neugent, Vice Chair.

MITCHELL moved, **MCKAY** seconded the motion, and it carried (8-0).

1a. Approval of the August 7, 2014 MAPC meeting minutes, as amended:

MOTION: To approve the August 7, 2014 Planning Commission minutes, as amended.

DENNIS moved, **MCKAY** seconded the motion, and it carried (8-0).

Approval of the August 21, 2014 MAPC meeting minutes, as amended:

MOTION: To approve the August 21, 2014 Planning Commission minutes.

DENNIS moved, **RAMSEY** seconded the motion, and it carried (6-0-2). **MITCHELL** and **WARREN** – Abstained.

2. CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS

2-1. SUB2013-00053: Final Plat – WICHITA CROSSING ADDITION, located on the Southeast corner of K-96 Highway and Greenwich Road.

NOTE: This is a replat of a portion of the Kensington Gardens Addition. The site has been approved for a zone change (ZON2012-00026) from SF-5 Single-family Residential to LI Limited Industrial. This site is also contained within the K-96 and Greenwich South Community Unit Plan (CUP2012-00026, DP-328).

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that sewer is available (transmission) and water is available to Lots 1, 3 and 4. A guarantee is needed for sewer extension (laterals) and City water (distribution) to serve Lot 2. Lots 1, 2, 3 and 4 will be subject to in-lieu-of-assessment fees (transmission and distribution).
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management advises that the drainage plan has been approved, subject to additional drainage easements. A 20-foot drainage easement shall cover all storm drainage systems that serve multiple platted lots (aka, a public drainage system).
- D. Traffic Engineering has approved the access controls. The applicant has proposed one opening along Greenwich Road in accordance with the site plan.
- E. Traffic Engineering has approved the right-of-way subject to a restrictive covenant specifying that the property owner is responsible for maintenance starting 80 feet east of the center line.
- F. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- G. County Surveying advises that monuments need to be set along the west line of the proposed plat.
- H. The 35-foot setback line for the notch scales at 45 feet and is not parallel with the south line of Lot 3 or the north line of Lot 4.
- I. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- J. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- K. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- L. In accordance with the CUP approval, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots. Traffic Engineering requests that language in this document be added to permit cross-lot access with the property owner to the south.

- M.A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- N. County Surveying advises the easement at the southeast corner of Reserve B could be trimmed.
- O. County Surveying advises that the waterline easement needs to stop at the utility easement with the utility easement going straight through.
- P. County Surveying advises various building setback lines may be deleted when the adjoining easement is greater than the setback.
- Q. County Surveying advises the legal description needs corrected with the reference to the south line of Reserve "A". The south line of Reserve "A" is 1552.25 feet south of the south line of the proposed subdivision (e.g. the "most northerly south line"; the "westerly south line"; the "north line of Lot 1, extended east").
- R. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- S. On the final plat, the platator's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- T. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- U. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- V. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- W. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- X. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge

Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

Y. Perimeter closure computations shall be submitted with the final plat tracing.

Z. Westar Energy advises the plat needs to include the 15-foot Westar easement as recorded on Doc.#/Flm-Pg: 29454570 to cover existing Westar equipment. Any removal or relocation of existing equipment made necessary by this plat will be at the applicant's expense. Becky Thompson is the Construction Services Representative for the northeast area for Westar Energy and can be contacted at (316) 261-6320.

AA. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

MCKAY moved, **WARREN** seconded the motion, and it carried (8-0).

2-2. SUB2014-00034: One-Step Final Plat – CHAPARRAL FIELD ADDITION, located on the north side of 69th Street North, west of Meridian.

Note: This site is located in the County within three miles of Wichita's boundary. It is located in the Valley Center Area of Influence.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant has contacted Metropolitan Area Building and Construction Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum has been obtained specifying approval.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. County Public Works has approved the drainage plan subject to minor revisions. Any development that disturbs more than one acre will require a Notice of Intent from the state and a Sedgwick County Stormwater Permit. The drainage plan note shall be revised so that the Final Plat reads "A drainage plan has been developed for the plat and all drainage easements..."
- D. County Public Works has approved the access controls. The plat denotes complete access control along 69th Street North.

- E. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- F. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- G. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- H. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- I. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- J. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- K. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- L. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- M. Perimeter closure computations shall be submitted with the final plat tracing.
- N. Westar Energy has requested additional easements. Any removal or relocation of existing equipment made necessary by this plat will be at the applicant's expense. Marsha Jesse is the Construction Services Representative for the northwest area and can be contacted at (316) 261-6734.
- O. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

MCKAY moved, WARREN seconded the motion, and it carried (8-0).

3. **PUBLIC HEARING – VACATION ITEMS**

3-1. **VAC2014-00028: City vacation of an unused utility easement**, generally located southeast of Webb Road and Orme Street.

OWNER/AGENT: Michael E. Steven & Nevetts, Inc., c/o Brandon Steven (owners), Baughman Co., PA, c/o Phil Meyer (agent)

LEGAL DESCRIPTION: The platted 10-foot wide utility easement running parallel to the east lot line of Lot 2, Rosson Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located between I-135 and Kellogg Street and southeast of Webb Road and Orme Street (WCC #II)

REASON FOR REQUEST: No utilities located in the platted utility easement

CURRENT ZONING: The subject property, abutting east and adjacent north properties are zoned GC General Commercial. Adjacent west properties are zoned LI Limited Industrial and are Kansas Turnpike Authority/I-135 right-of-way. Abutting south property is I-135 right-of-way.

The applicants propose to vacate the platted 560.09-foot long (x) 10-foot wide utility easement running parallel to the common lot line of Lot 2, Rosson Addition (applicants' property) and Lot 1, Higgins Turnpike Addition. The described easement makes the west 10 feet of a 560.09-foot long (x) 20-foot wide platted utility easement located on the common lot line of Lot 2, Rosson Addition (applicants' property) and Lot 1, Higgins Turnpike Addition. The east 10-feet of the easement are located on Lot 1, Higgins Turnpike Addition. There are no public utilities located in the described easement. Comments from franchised utilities have not been received and are needed to determine if they have utilities located within the described easement. The Rosson Addition (applicants' property) was recorded with the Register of Deeds of Sedgwick County May 16, 1978. The Higgins Turnpike Addition was recorded with the Register of Deeds of Sedgwick County November 8, 1978.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from Public Works, Storm Water, Water and Sewer, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted utility easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time August 21, 2014, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by vacating the described portion of the platted utility easement, and that the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide franchise utilities with any required plans for review and approval for the relocation of franchise utilities. Approval by franchise utilities must be provided to Planning prior to the case going to Council for final action.
- (2) Provide Planning Staff with a legal description of the approved vacated portion of the platted utility easement on a Word document, via e-mail, to be used on the Vacation Order. This must be provided to Planning prior to the case going to Council for final action.
- (3) Provide any needed easements prior to the case going to Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense.
- (5) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide franchise utilities with any required plans for review and approval for the relocation of franchise utilities. Approval by franchise utilities must be provided to Planning prior to the case going to Council for final action.
- (2) Provide Planning Staff with a legal description of the approved vacated portion of the platted utility easement on a Word document, via e-mail, to be used on the Vacation

Order. This must be provided to Planning prior to the case going to Council for final action.

- (3) Provide any needed easements prior to the case going to Council for final action.
- (4) All improvements shall be according to City Standards and at the applicant's expense.
- (5) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

WARREN moved, **FOSTER** seconded the motion, and it carried (8-0).

PUBLIC HEARINGS

4. **Case No.: ZON2014-00021** - FHL Property Management, c/o BJ Sheu (agent) City zone change from GO General Office to LC Limited Commercial for a restaurant on property described as:

Lot 1, Block A, Frazey Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting LC Limited Commercial zoning on the approximately 0.23-acre (10,050-square feet) GO General Office zoned subject site; Lot 1, Block A, Frazey Addition. The subject site has an approximately 3,816-square foot office located on it. The office was originally built in 1886, as a single-family residence, the Anawalt House. The Queen Ann Classical Revival style building is one of four buildings that are part of the North Topeka Avenue – 10th Street Historic District, which was entered in the National Historic Register in 1983. The applicant has met on site with the Historic Preservation Planner, to review the standards for any use conversation/remodeling of this registered site/structure.

The applicant proposes to convert the 3,816-square foot building into a restaurant that would allow 75 customers. The GO zoning district does not permit restaurants. Restaurants are first permitted in the NR Neighborhood Retail zoning district, however they shall not exceed 2,000-square feet in gross floor area, nor shall they provide any drive-up window service or in-vehicle food service. Delivery and carry-out services are acceptable; Unified Zoning Code, UZC Sec. III-D.6.t. The LC zoning district does not have these restrictions on restaurants. A restaurant requires one on-site parking space per three customers; the proposed restaurant would need to provide 25 on-site parking spaces. A review of an aerial of the site shows maybe 10-12 parking spaces on the site, which would allow 30-36 customers. The current parking appears to provide the needed parking for an office or retail use; one parking space per 333-square feet. On-site parking would need to be resolved thru off-site parking or a variance.

The GO zoned Via Christi regional medical complex is the dominate development in the area; Community Unit Plan CUP DP-132. The northwest portion of Via Christi is located southeast of the site across 10th Street and Topeka Avenue. The site's close proximity to Via Christi and the other medical and dental facilities in the area make the possibility of walk up traffic to the restaurant a consideration. A NO Neighborhood Office zoned office abuts the south side of the site. The abutting south building was original constructed in 1886 as a single-family residence that was converted into an office and is included in the North Topeka Avenue – 10th Street Historic District. Both the subject site and the abutting NO zoned office have paved parking in the rear half of their properties and share a common drive onto 10th Street North. South of the NO zoned office, across 10th Street, NO, B Multi-Family Residential and LC zoned group residence (CON2008-00033), medical services and uncovered parking. The NO zoned group residence was originally constructed in 1885 as a single-family residence and is part of the North Topeka Avenue – 10th Street Historic District. The LC zoned sit down/full service restaurants, fast food restaurants, motels, offices, uncovered parking and social services located along Broadway Avenue abut and are adjacent to the west side of the site and the neighborhood it is located in. TF-3 Two-Family Residential, B and GO zoned medical and dental offices, a two story apartment building and a single-family residence are located east of the site across Topeka Avenue. A B zoned single-family residence (built 1920) abuts the north side of the site and is included in the North Topeka Avenue – 10th Street Historic District. B zoned medical and dental offices and a NO zoned social services building are located further north of the subject site.

CASE HISTORY: The subject site was rezoned, Z-2487, from B Multi-Family Residential to BB Office (now GO) on March 22, 1983, subject to replatting, the Frazey Addition. Lots 1 (the site) and 2, Frazey Addition was recorded with the Sedgwick County Register of Deeds October 20, 1983. The Frazey Addition was originally part of Harvey's Reserve in the Stafford and Wright's Addition, which was recorded on May 6, 1884. Board of Zoning Appeals case BZA40-83 was a variance to reduce parking on the Frazey Addition when it was still zoned B. The variance reduced the parking from 44 to 33 parking spaces. As previously noted the site is one of four buildings that are part of the North Topeka Avenue – 10th Street Historic District, which was entered in the National Historic Register in 1983. This historical district is located in the Midtown Neighborhood Plan; County Resolution 87-04, May 19, 2004 and City Ordinance 46-179, May 18, 2004.

ADJACENT ZONING AND LAND USE:

NORTH: B, NO	Single-family residence, medical/dental offices, social services building
SOUTH: NO, B, LC, GO	Office, medical services, uncovered parking lots, regional medical complex
WEST: LC	Sit down/full service restaurants, fast food restaurants, motels, offices
EAST: B, GO, TF-3	Medical/dental offices, two story apartment building, single-family residence

PUBLIC SERVICES: The site shares a common drive onto 10th Street North with the abutting south property. 10th Street is a paved, two-lane local street with 30 feet of right-of-way. The site has frontage on Topeka Avenue, a paved one-way south collector street with 80 feet of right-of-way. Currently the site has no access onto Topeka Avenue. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies this site as appropriate for Local Commercial category of uses. This category of use encompasses areas that contain concentrations of predominantly commercial, office, and

personal service uses that do not have a predominately regional market draw. The range of uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities.

The purpose of the LC zoning district (the requested zoning) is to accommodate retail, commercial, office and other complementary land uses. The LC and GO (as is NR zoning) zoning districts are generally compatible with the Local Commercial or Regional Commercial designations of the Wichita-Sedgwick County Comprehensive Plan.

The site is located within the Midtown Neighborhood Plan. The Plan recognizes the need for additional off-street parking and it also wants to identify locations where on-street parking would be appropriate. Due to its near proximity to the Via Christi medical complex and other medical offices in the immediate area, this portion of Topeka Avenue is heavily used for on-street parking. The Plan stresses the need to preserve the old homes in the area and even though the use of the subject site's building has evolved over the years from single-family residential to multi-family residential and most recently office, the building appears to be in reasonable good repair.

RECOMMENDATION: The request does not introduce LC zoning into the area along Topeka Avenue, as there are LC zoned parking lots and a medical office located a half-block south of the subject site. If approved the site will be the first LC zoned property located along this portion of Topeka Avenue, from 10th Street to 13th Street North. The requested LC zoning is less restrictive than the current GO zoning and NR zoning which would allow a full service restaurant that would not exceed 2,000-square feet in gross floor area, nor provide any drive-up window service or in-vehicle food service. The site's lack of access onto Topeka and its shared drive onto 10th Street makes a restaurant with drive-up window service unworkable, as there is no space for queuing. Its lack of parking makes in-vehicle food service unworkable. The 3,816-square foot building exceeds the NR zoning's 2,000 square feet in gross floor area, thus the possibility of a not being able to fully utilize the building as a restaurant, regardless of any resolution to the lack of on-site parking via off-site parking or a variance. BZA40-83 was a variance to reduce parking on the Frazey Addition and the subject site has not expanded to accommodate parking since that 1983 variance. An approved restaurant at this site that exceeds 30-36 customers means parking will continue to be an issue on this site in its current size and configuration. Based on the information available prior to the public hearing, MAPD staff recommends the application be **APPROVED**, subject to the following provisions of a Protective Overlay:

- (1) The uses allowed are those allowed by right in the NR Neighborhood Retail zoning district. Restaurants may exceed 2,000-square feet of gross floor area, but are not permitted with drive-up window service or in-vehicle food service.
- (2) Maximum occupancy for the restaurant may be 30-36 customers upon confirmation of the available on-site parking as provided by a site plan. Fire shall post the maximum occupancy, as determined by the approved site plan. More customers may be allowed with either an approved variance to the UZC's parking standards or approved off-site parking, per the standards of the UZC as shown on a site plan.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The GO zoned Via Christi regional medical complex is the dominate development in the area; Community Unit Plan CUP DP-132.

The northwest portion of Via Christi is located southeast of the site across 10th Street and Topeka Avenue. The site's close proximity to Via Christi and the other medical and dental facilities in the area make the possibility of walk up traffic to the restaurant a possibility. A NO zoned office abuts the south side of the site. The abutting south building was original constructed in 1886 as a single-family residence that was converted into an office and is included in the North Topeka Avenue – 10th Street Historic District. Both the subject site and the abutting NO zoned office have paved parking in the rear half of their properties and share a common drive onto 10th Street North. South of the NO zoned office, across 10th Street, NO, B and LC zoned group residence (CON2008-00033), medical services and uncovered parking. The NO zoned group residence was original constructed in 1885 as a single-family residence and is part of the North Topeka Avenue – 10th Street Historic District. The LC zoned sit down/full service restaurants, fast food restaurants, motels, offices, uncovered parking and social services located along Broadway Avenue abut and are adjacent to the west side of the site and the neighborhood it is located in. B Multi-Family Residential, TF-3 Two-Family Residential and GO zoned medical and dental offices, a two story apartment building and a single-family residence are located east of the site across Topeka Avenue. A B zoned single-family residence (built 1920) abuts the north side of the site and is included in the North Topeka Avenue – 10th Street Historic District. B zoned medical and dental offices and a NO zoned social services building are located further north of the subject site.

- (2) **The suitability of the subject property for the uses to which it has been restricted:** The 0.23-acre GO zoned site has a two-story office building located on it. The GO zoning permits residential uses, office uses (including medical), and civic uses. Medical facilities are the dominate feature of the area and most of the medical facilities in the area are zoned GO. The GO zoning district does not permit retail uses, which the requested LC zoning would allow, including restaurants.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested LC allows full service and fast food restaurants. Converting the subject site's 3,816-square foot building into a restaurant that would allow 75 customers on a site that has 10-12 parking spaces means the possibility of more on-street parking on this portion of Topeka Avenue, which is already appears to be heavily used for on-street parking for the area's medical facilities. Resolution of the parking issue can be resolved by off-site parking or a variance. The site's close proximity to Via Christi and the other medical and dental facilities in the area make the possibility of walk up traffic to the restaurant a consideration.
- (4) **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of the request would limit development to those permitted by right in the NR zoning district and a restaurant with a maximum of 30-36 customers (unless the parking issue can be resolved by off-site parking or a variance), with no drive-up window service or in-vehicle food service. Denial of the request could impose a financial hardship on the owner.
- (5) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies this site as appropriate for Local Commercial types of use. This category of use encompasses areas that contain concentrations of predominantly commercial, office, and

personal service uses that do not have a predominately regional market draw. The range of uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities.

The purpose of the LC zoning district (the requested zoning) is to accommodate retail, commercial, office and other complementary land uses. The LC and GO zoning district are generally compatible with the Local Commercial or Regional Commercial designations of the Wichita-Sedgwick County Comprehensive Plan.

The site is located within the Midtown Neighborhood Plan. The Plan recognizes the need for additional off-street parking and it also wants to identify locations where on-street parking would be appropriate. Due to its near proximity to the Via Christi medical complex and other medical offices in the immediate area this portion of Topeka Avenue is heavily used for on-street parking. The Plan stresses the need to preserve the old homes in the area and even though the use of the subject site's building has evolved over the years from single-family residential to multi-family residential and most recently office, the building appears to be in reasonable good repair.

- (3) **Impact of the proposed development on community facilities:** All services are in place and any increased demand on community facilities can be handled by current infrastructure, with the exception (but not limited to) of the UZC's on-site parking requirements for a restaurant.

BILL LONGNECKER, Planning Staff presented the Staff Report.

FOSTER asked for a DAB meeting update.

LONGNECKER said the DAB recommended approval with modifications to the PO which Staff and the applicant agreed to. He provided a copy of the DAB memo that outlined the specific details of the PO modifications as a handout.

MOTION: To approve subject to staff recommendation with the Protective Overlay as amended by the DAB.

MCKAY moved, **DENNIS** seconded the motion, and it carried (8-0).

5. **Case No.: ZON2014-00022 and CUP2014-00026** – NEVETS, Inc. c/o Brandon Steven (owner), Baughman Company, P.A. c/o Russ Ewy (agent) request a City zone change from SF-5 Single-family Residential to LC Limited Commercial along with a CUP amendment to add a parcel to DP-308 on property described as:

Lots 1 and 2, except the west 16 feet for street, Block A, Eastridge Sixth Addition to Wichita, Kansas; together with, Lots 27 and 28, Block A, Eastridge Sixth Addition to Wichita, Kansas.

BACKGROUND: The applicant requests expansion of LC Limited Commercial (LC) zoning and an amendment to DP-308, the Mike Steven Motors Community Unit Plan (CUP), by expanding the existing CUP onto this .88-acre site. The SF-5 Single-family Residential (SF-5) zoned site was originally platted as four residential lots with houses constructed in 1953. The applicant intends to create a new CUP

parcel with the subject site and restrict it to employee parking only (see the attached CUP document). The existing CUP has a masonry wall along the south property line, immediately north of the application area. The applicant intends to leave the masonry wall in place along the north boundary of the application area and enclose the remainder of the site with a wood screening fence. This request would require a Planning Commission waiver of the Unified Zoning Code (UZC) requirement for a masonry screening wall on the perimeter of CUPs where adjacent to residential zoning. The CUP would keep all other development standards in place regarding signage, light pole height, landscaping, etc.

This CUP has expanded incrementally into the residential neighborhood to the south as the applicant has been able to acquire houses; a portion of Whittier was previously vacated and improved with a hammer-head turn-around. The surrounding property to the north is mostly zoned LC and developed with commercial uses along Kellogg. South, east and west of the site is the remaining SF-5 zoned single-family residential neighborhood.

CASE HISTORY: The site was platted as four lots within the Eastridge 6th Addition in 1951, houses on the site were built in 1953. DP 308 was originally approved in 2008.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Outdoor vehicle sales
SOUTH:	SF-5	Single-family residential
EAST:	SF-5	Single-family residential
WEST:	SF-5	Single-family residential

PUBLIC SERVICES: Whittier is a local street with a 60-foot right-of-way (ROW). Gouverneur is a two-lane collector with a landscaped median and a 100-foot ROW. The CUP has one existing access point to Gouverneur north of the site, the applicant indicates that access to this parcel will also be from Gouverneur. All other urban public services are available.

CONFORMANCE TO PLANS/POLICIES: The *2030 Wichita Functional Land Use Guide* of the Comprehensive Plan identifies the site as “urban residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including multi-family units, typically found in large urban municipality. The *Land Use Guide* identifies property north of the site along Kellogg as “regional commercial.” The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials, should locate in compact clusters or nodes versus extended strip developments, should not put commercially generated traffic on residential streets, and should have site design features which limit noise, lighting and other activity from adversely impacting surrounding residential areas.

RECOMMENDATION: The existing CUP has standards for signage, access, light pole height, landscaping and screening which improve compatibility with surrounding residences. The proposed zone change and CUP amendment would allow only ancillary parking, which is less intense than commercial uses on the remainder of the CUP to the north. However, the UZC requires a perimeter masonry wall where adjacent to residential zoning. Staff feels that a waiver of this requirement could have a negative impact on the surrounding residences, and would demonstrate a lowering of development standards to the surrounding neighborhood. Based upon information available prior to the public hearings, planning staff recommends that the proposed CUP amendment and zone change be **APPROVED**, subject to replatting within one-year and the following conditions:

- A. The CUP shall require a masonry screening wall along the south, east, and west boundaries of Parcel 4.
- B. Access to the site shall be from Gouverneur only and on the north 30 feet of the site.
- C. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: This CUP has expanded incrementally into the residential neighborhood to the south as the applicant has been able to acquire houses; a portion of Whittier was previously vacated and improved with a hammer-head turn-around. The surrounding property to the north is mostly zoned LC and developed with commercial uses along Kellogg. South, east and west of the site is the remaining SF-5 zoned single-family residential neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned SF-5 and could continue to be used for single-family residences. The proposed zone change and CUP amendment would only allow ancillary parking on the site.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed use of this site for ancillary parking should have minimal impact on nearby property. The UZC masonry wall requirement would demonstrate consistent development requirements to the neighborhood and ensure that adjacent neighbors are screened from noise, debris and head lights with a permanent screening material.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The *2030 Wichita Functional Land Use Guide* of the Comprehensive Plan identifies the site as “urban residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including multi-family units, typically found in large urban municipality. The *Land Use Guide* identifies property north of the site along Kellogg as “regional commercial.” The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials, should locate in compact clusters or nodes versus extended strip developments, should not put commercially generated traffic on residential streets, and should have site design features which limit noise, lighting and other activity from adversely impacting surrounding residential areas.
5. Impact of the proposed development on community facilities: The proposed zone change and CUP amendment should have minimal impact on community facilities.

JESS MCNEELY, Planning Staff presented the Staff Report. He referred to Condition B. of the Staff Report which was amended to read the “north 50 feet of the site”. He said DAB II recommended approval based on staff recommendation. He added that staff has been contacted by two neighbors regarding encroachment into the residential neighborhood.

MCKAY asked for clarification regarding where the masonry wall was required.

MCNEELY said the masonry wall would be required along the south and east property lines per the UZC, unless the Commission waives that requirement. He said the west side of the site is where there will be access to the property and staff is open to having that screened per parking lot standards of the Landscape Code. He said Gouverneur has a landscaped median in the center of it and staff feels it would make the parking lot safer if it was not enclosed with a masonry wall.

WARREN asked if the two residents objected to the zoning change or waiver of the screening requirement.

MCNEELY responded that the neighbors objected to encroachment into the residential neighborhood.

FOSTER asked to see a copy of the zoning map again so he could see the encroachment into the neighborhood. He said he had concerns about the impact on the residences to the west of Gouverneur because the proposed parking lot would have 80 spaces in it.

MCNEELY commented that the CUP has encroached into the neighborhood over time and these four lots are a continuation of the existing pattern of development in the area. He said the site faces the side lots of the two residences directly to the west. He added that the lot contains 106 parking spaces.

GOOLSBY mentioned that it appears that the driveways of the residences to the west go out onto Orme and Gilbert.

FOSTER asked if there had been discussion with the applicant about not using Gouverneur for access and using internal circulation to lessen the impact of the encroachment.

MCNEELY responded that there was no discussion about that idea. He mentioned the existing building on the southwest corner.

RUSS EWY, BAUGHMAN COMPANY, AGENT FOR THE APPLICANT said this was an existing dealership with a service station, drive through and car wash on the southwest corner of the property. He referred to the aerial map of the area in reference to the location of Orme, Gilbert and the 10-12 foot wide landscaped median along Gouverneur which controls access past Gilbert. He said you would have to travel 600-800 feet south before you are able to cross over east to west on Gouverneur, so Gouverneur is highly controlled as far as access to residential areas to the west. He also mentioned that the area to the west of the site is currently zoned LC. He said this should be the best case scenario in terms of access control for residential traffic. He mentioned landscaping screening and that access to the property was to the extreme north of the location.

EWY said they currently have no intention of tearing into the existing masonry walls with the exception of a pedestrian access for the employees. He said there are sidewalks along Gouverneur that will lend access to this employee parking lot and the dealership. He said this parcel has been designated as ancillary parking for the dealership. He said the applicant could have request B Multi-family Residential or GO General Office zoning with a Conditional Use for the four lots, neither of which would be subject to the masonry wall standard requirement. He said the applicant decided to amend the CUP, which provided for a larger notification area/ownership list. He said by amending the CUP they are keeping this one homogeneous development.

EWY said what he tried to convey at the DAB meeting is that the CUP is landscaped and has 6-8 foot screening walls and that the requested ancillary parking lot is not a true LC or commercial use. He said they felt a wood screening fence and landscaping on the east and south sides of the lot would be appropriate for the ancillary parking and would also take care of any impact caused by the lot. He said they are in agreement with staff comments and request a waiver of the fencing requirement along the west side of parcel four for safety reasons. He said the question of further expansion also came up during the DAB discussion. He said at this point he has nothing concrete to tell the Commission; however, further expansion is likely which is another reason why they would like the wood fencing as opposed to a permanent masonry screening wall.

DENNIS commented with the median down Gouverneur employees will have to come in from the south and go out from the north which is going to add more traffic to the neighborhood.

EWY said Gouverneur was intended and designed as a major collector street, not a neighborhood or residential street.

DENNIS said he is not a big fan of wooden fences because they don't last as long as a business. He said if the business will be expanding in the future and want to put in a temporary wooden fence okay, but if the business isn't going to expand, he can't understand why the Commission would grant a waiver.

EWY said, in his opinion, ancillary parking in the GO zoning district does not require additional screening according to the UZC. He said they would like to screen this just like any other ancillary parking lot in the City with a wood fence and landscaping.

DENNIS asked what the life expectancy of the wood fence was.

EWY said the applicant would have to maintain the fence with 90 % opacity or they would be cited by OCI and forced to replace it. He mentioned development of the Schofield/Honda Community Unit Plan where they had one property owner that was a hold out to sell to the developer. He said although that development also required a masonry wall, because they felt they would be able to acquire the property at an undetermined time in the future, he said language in the CUP reflected that they were allowed to screen with a wood fence until the property was acquired or up to two years. He said the CUP stated they would then be required to finish the development with a masonry wall. He said if the Commission would entertain some type of temporary screening, they could live with that.

DENNIS asked if the applicant could live with a seven year waiver of the screening.

EWY replied yes.

SHERRY NASH, 602 WHITTIER said she lives directly east of the property. She said they were originally told that there would be a cul-de-sac but it turned into a hammerhead which has created problems with their driveways. She said there are commercial trucks that turn around and she is concerned about the kids running around in the neighborhood. She said people currently jump over the wall to get to the neighborhood now and this is just going to create more problems. She said the neighborhood already has problems with the parking beside them and the music and language that they

hear. She said there is a school two blocks down the street and kids traverse the area going to and from school.

FOSTER asked if Ms. Nash preferred the wood or masonry fence.

NASH said masonry but they are not going to be able to build it high enough to prevent people from jumping over it because that is what is happening now. She also mentioned that they have water built up and flooding in their backyards because of the current wall and the fact that there is no drainage. She said it adds water to the street which also floods because the drainage is inadequate. She said the employees congregate, play music and use bad language. She said the lights are on until 11:00 p.m. She said this will add more employees to the area. She said this is a residential neighborhood with a lot of kids. She concluded by saying that she would like to be able to have her kids out in her yard without concern about what is happening on the other side of the wall. She mentioned that the applicant has offered to buy her property but they did not want to sell because they don't want the applicant adding more to the development.

EWY said he had no further comments and would stand for questions.

RAMSEY asked if the site would be used for employee parking only or could vehicles be stored back there.

EWY said no customer parking or vehicles for sale or waiting for service will be stored at the site. He said this will move employee parking off the lots that need more customer parking and room for display of cars for sale.

FOSTER said he encouraged opening an access through the wall to make it easier for employees to get back and forth from the building.

EWY said he would bring that to the applicant's attention.

MCKAY asked if the agent guaranteed that the applicant won't use the site for anything else other than employee parking.

EWY reiterated that the applicant has no intention of this being part of the dealership as far as customer parking or vehicle storage. He said if in the future they want to use this area for vehicles sales they would have to come back to the Commission for specific approval of that use. He said vehicle storage also falls under vehicle sales.

MILLER said the wording of the CUP amendment expressly limits this area for parking.

MOTION: To approve subject to the staff recommendation and the amendments discussed at the meeting including access on the north 50 foot of the site and installation of a wooden fence for a maximum of seven years as a waiver.

DENNIS moved, **WARREN** seconded the motion, and it carried (8-0).

6. **Case No.: ZON2014-00023** – William B. Pitts Trust, c/o William Pittts (owner, Air Capital Finance c/o Becky O’connor (agent) City request to amend Protective Overlay PO #9 to allow vehicle sales on LC Limited Commercial zoned property on property described as:

Lot 1, Mount Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The subject site, Lot 1, Mount Addition, has LC Limited Commercial zoning on its west 200 feet (Z-3213 and Protective Overlay PO #9) and GO General Office zoning on its east 222-213 feet. The applicant is requesting an amendment to provision #1 of PO #9 to allow car sales on the LC zoned portion of the subject site:

- (1) The uses on this site shall be limited to a financial institution, plus other uses allowed in the zoning district.

The applicant, Air Capital Finance, is a financial institution with drive thru service that proposes to display and sale cars and light trucks that it has repossessed after the financing that it had provided failed. The Air Capital Finance building and its paved parking is located on the LC zoned western half of the lot and has frontage on Seneca Street. The GO zoned eastern portion of the lot is a large paved parking area that has its northeastern quarter separated by an eight-foot tall chain link fence with barbed wire topped on it. The GO zoning district does not permit vehicle sales, vehicle storage or wrecking and salvage. A tow truck has been seen parked on this east GO zoned portion.

The UZC Unified Zoning Code also requires a Conditional Use for car sales on LC zoned property, however in this case the amendment to PO #9 serves the same purpose as a Conditional Use. The following are the supplemental conditions (with comments on the site’s compliance) for car sales in the LC zoning district; UZC Sec. III-D.6.x:

- (1) Location shall be contiguous to a major street as designated in the Transportation Plan adopted by the Governing Bodies, and as amended from time to time. *The site has frontage and direct access onto Seneca Street, a paved four-lane arterial.*
- (2) Visual screening of areas adjacent to residential zoning districts shall be provided to protect adjacent properties from light, debris and noise and to preserve adjacent property values even when the change in use to vehicle and equipment sales replaces a previous use that is of equal or greater intensity. In no case shall screening be less than that required by Sec. IVB.1-3. *There is a six-eight foot tall wooden privacy fence around the north, south and east sides of the site where it abuts TF-3 Two-Family Residential zoning.*
- (3) All parking, outdoor storage and display areas shall be paved with concrete, asphalt or asphaltic concrete or any comparable hard surfacing material. Parking barriers shall be installed along all perimeter boundaries abutting streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public street right-of-way. *An aerial review of the site shows there is room for car sales’ display in the LC zoned portion on the paved surface immediately behind the financial institutional building that would not interfere with internal circulation on the site nor reduce the required parking on the site.*
- (4) The lighting shall be in compliance with the lighting requirements of Sec. IV-B.4. No string-type or search lighting shall be permitted. *The applicant is not proposing any additional lighting on the site.*
- (5) The noise levels shall be in compliance with the compatibility noise standards of Sec. IV-C.6. Outdoor speakers and sound amplification systems shall not be permitted. *The applicant is not proposing any additional lighting on the site*

(6) No repair work shall be conducted except in an enclosed building, and further provided that no body or fender work is done. *The primary use for the LC zoned portion of the site is a financial institution that wants to display and sale cars and light trucks that it has repossessed. No repair work is proposed on the site.*

(7) Only those signs permitted in the LC district shall be permitted on this site, except that no portable, flashing, moving or off-site signs shall be permitted and no streamers, banners, pennants, pinwheels, commercial flags, bunting or similar devices shall be permitted. *The applicant is not proposing any additional signage on the site*

(8) There shall be no use of elevated platforms for the display of vehicles. *The applicant is not proposing any elevated platforms for the display of vehicles on the site.*

Vacant TF-3 Two-Family Residential property abuts the south side of the site, with a LC and GO General Office zoned self-storage warehouse and vacant LC zoned land and a church located further south. LC zoned properties located west of the site across Seneca Street are developed as a loan on a car title building, a commercial strip building (with, but not limited to, two local fast food restaurants, computer repair and retail), the Seneca Bowl bowling alley and an appliance sales store. The MF-29 Multi-Family Residential zoned Aley Public Park is located north of the appliance store. TF-3 zoned single-family residences abut and are adjacent to the north side of the site. A TF-3 and LI Limited Industrial zoned scrap metal recycling yard and the City of Wichita's Central Maintenance complex abut and are adjacent to the east side of the site. The abutting TF-3 zoning acts as a buffer which the LI zoned scrap metal recycling yard cannot encroach into. A rail road track/spur separates the scrap metal recycling yard from the site.

CASE HISTORY: Lot 1, Mount Addition was recorded with the Sedgwick County Register of Deeds February 16, 1967. The west 200 feet of Lot 1, Mount Addition was rezoned, Z-3213, from GO to LC with Protective Overlay #9, January 7, 1997.

ADJACENT ZONING AND LAND USE:

NORTH: TF-3	Single-family residences
SOUTH: TF-3, LC, GO	Vacant properties, self-storage warehouse, church
WEST: LC	Small commercial strip building, vehicle repair garage, loan on car title business, bowling alley
EAST: TF-3, LI	Scrap metal recycling, City Central Maintenance complex

PUBLIC SERVICES: The site two drives onto Seneca Street, a paved, four-lane arterial with a center turn lane. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies this site as appropriate for Local Commercial category of uses. This category of use encompasses areas that contain concentrations of predominantly commercial, office, and personal service uses that do not have a predominately regional market draw. The range of uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities.

The purpose of the LC zoning district (the requested zoning) is to accommodate retail, commercial, office and other complementary land uses. The LC zoning district is generally compatible with the Local Commercial or Regional Commercial designations of the Wichita-Sedgwick County

Comprehensive Plan. The UZC Unified Zoning Code also requires a Conditional Use for car sales on LC zoned property, however in this case the amendment to PO #9 serves the same purpose as a Conditional Use.

RECOMMENDATION: The request would introduce car sales to this area as an accessory use to the existing financial institution. In the past the MAPC has considered car sales to this area as an accessory use to the existing financial institution with conditions. Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED, subject to the following amended provisions of a PO #9:

- (a) Only cars and light trucks that have been repossessed by the site's financial institution may be placed on the site for display for sale; the west 200 feet of Lot 1, the Mount Addition. A maximum of seven cars and light trucks may be displayed and offered for sale at any one time.
- (b) Provide a site plan showing the car and light truck display and sales area in the LC portion of the site; the west 200 feet of Lot 1, the Mount Addition.
- (c) Vehicle and equipment sales shall not be a principle use as defined by the UZC..

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The Vacant TF-3 Two-Family Residential property abuts the south side of the site, with a LC and GO General Office zoned self-storage warehouse and vacant LC zoned land and a church located further south. LC zoned properties located west of the site across Seneca Street are developed as a loan on a car title building, a commercial strip building (with, but not limited to, two local fast food restaurants, computer repair and retail), the Seneca Bowl bowling alley and an appliance sales store. The MF-29 Multi-Family Residential zoned Aley Public Park is located north of the appliance store. TF-3 zoned single-family residences abut and are adjacent to the north side of the site. A TF-3 and LI Limited Industrial zoned scrap metal recycling yard and the City of Wichita's Central Maintenance complex abut and are adjacent to the east side of the site. The abutting TF-3 zoning acts as a buffer which the LI zoned scrap metal recycling yard cannot encroach into. A rail road track/spur separates the scrap metal recycling yard from the site.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The LC and GO zoned property could continue to operate as a financial institution within the provisions of the PO. The current zoning and use are not out of character with the area.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested amendment to PO #9 allows car and light truck sales as an accessory use to the existing financial institution. The amendment also prohibits the car sales lot as the principle use for the site, with a maximum of seven cars and light trucks on display at any one time. The intent of the amended PO #9 allows the applicant an opportunity to expand its services to its customers and the area with a minimum of visual change and a change of use to the area.
- (4) **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of the request would limit car sales to this area as an accessory use to the existing financial institution. Denial of the request could impose a financial hardship on the owner.

- (5) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies this site as appropriate for Local Commercial category of uses. This category of use encompasses areas that contain concentrations of predominantly commercial, office, and personal service uses that do not have a predominately regional market draw. The range of uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities.

The purpose of the LC zoning district (the requested zoning) is to accommodate retail, commercial, office and other complementary land uses. The LC zoning district is generally compatible with the Local Commercial or Regional Commercial designations of the Wichita-Sedgwick County Comprehensive Plan. The UZC Unified Zoning Code also requires a Conditional Use for car sales on LC zoned property, however in this case the amendment to PO #9 serves the same purpose as a Conditional Use.

- (6) **Impact of the proposed development on community facilities:** All services are in place and any increased demand on community facilities can be handled by current infrastructure.

BILL LONGNECKER, Planning Staff presented the Staff Report.

He referred to Condition B. of the Staff Report which was amended to read the “north 50 feet of the site”. He said DAB II recommended approval based on staff recommendation. He added that staff has been contacted by two neighbors regarding encroachment into the residential neighborhood.

MCKAY asked for clarification regarding where the masonry wall was required.

MCNEELY said the masonry wall would be required along the south and east property lines per the UZC, unless the Commission waives that requirement. He said the west side of the site is where there will be access to the property and staff is open to having that screened per parking lot standards of the Landscape Code. He said Gouverneur has a landscaped median in the center of it and staff feels it would make the parking lot safer if it was not enclosed with a masonry wall.

WARREN asked if the two residents objected to the zoning change or waiver of the screening requirement.

MCNEELY responded that the neighbors objected to encroachment into the residential neighborhood.

FOSTER asked to see a copy of the zoning map again so he could see the encroachment into the neighborhood. He said he had concerns about the impact on the residences to the west of Gouverneur because the proposed parking lot would have 80 spaces in it.

MCNEELY commented that the CUP has encroached into the neighborhood over time and these four lots are a continuation of the existing pattern of development in the area. He said the site faces the side lots of the two residences directly to the west. He added that the lot contains 106 parking spaces.

GOOLSBY mentioned that it appears that the driveways of the residences to the west go out onto Orme and Gilbert.

FOSTER asked if there had been discussion with the applicant about not using Gouverneur for access and using internal circulation to lessen the impact of the encroachment.

MCNEELY responded that there was no discussion about that idea. He mentioned the existing building on the southwest corner.

RUSS EWY, BAUGHMAN COMPANY, AGENT FOR THE APPLICANT said this was an existing dealership with a service station, drive through and car wash on the southwest corner of the property. He referred to the aerial map of the area in reference to the location of Orme, Gilbert and the 10-12 foot wide landscaped median along Gouverneur which controls access past Gilbert. He said you would have to travel 600-800 feet south before you are able to cross over east to west on Gouverneur, so Gouverneur is highly controlled as far as access to residential areas to the west. He also mentioned that the area to the west of the site is currently zoned LC. He said this should be the best case scenario in terms of access control for residential traffic. He mentioned landscaping screening and that access to the property was to the extreme north of the location.

EWY said they currently have no intention of tearing into the existing masonry walls with the exception of a pedestrian access for the employees. He said there are sidewalks along Gouverneur that will lend access to this employee parking lot and the dealership. He said this parcel has been designated as ancillary parking for the dealership. He said the applicant could have request B Multi-family Residential or GO General Office zoning with a Conditional Use for the four lots, neither of which would be subject to the masonry wall standard requirement. He said the applicant decided to amend the CUP, which provided for a larger notification area/ownership list. He said by amending the CUP they are keeping this one homogeneous development.

EWY said what he tried to convey at the DAB meeting is that the CUP is landscaped and has 6-8 foot screening walls and that the requested ancillary parking lot is not a true LC or commercial use. He said they felt a wood screening fence and landscaping on the east and south sides of the lot would be appropriate for the ancillary parking and would also take care of any impact caused by the lot. He said they are in agreement with staff comments and request a waiver of the fencing requirement along the west side of parcel four for safety reasons. He said the question of further expansion also came up during the DAB discussion. He said at this point he has nothing concrete to tell the Commission; however, further expansion is likely which is another reason why they would like the wood fencing as opposed to a permanent masonry screening wall.

DENNIS commented with the median down Gouverneur employees will have to come in from the south and go out from the north which is going to add more traffic to the neighborhood.

EWY said Gouverneur was intended and designed as a major collector street, not a neighborhood or residential street.

DENNIS said he is not a big fan of wooden fences because they don't last as long as a business. He said if the business will be expanding in the future and want to put in a temporary wooden fence okay, but if the business isn't going to expand, he can't understand why the Commission would grant a waiver.

EWY said, in his opinion, ancillary parking in the GO zoning district does not require additional screening according to the UZC. He said they would like to screen this just like any other ancillary parking lot in the City with a wood fence and landscaping.

DENNIS asked what the life expectancy of the wood fence was.

EWY said the applicant would have to maintain the fence with 90 % opacity or they would be cited by OCI and forced to replace it. He mentioned development of the Schofield/Honda Community Unit Plan where they had one property owner that was a hold out to sell to the developer. He said although that development also required a masonry wall, because they felt they would be able to acquire the property at an undetermined time in the future, he said language in the CUP reflected that they were allowed to screen with a wood fence until the property was acquired or up to two years. He said the CUP stated they would then be required to finish the development with a masonry wall. He said if the Commission would entertain some type of temporary screening, they could live with that.

DENNIS asked if the applicant could live with a seven year waiver of the screening.

EWY replied yes.

SHERRY NASH, 602 WHITTIER said she lives directly east of the property. She said they were originally told that there would be a cul-de-sac but it turned into a hammerhead which has created problems with their driveways. She said there are commercial trucks that turn around and she is concerned about the kids running around in the neighborhood. She said people currently jump over the wall to get to the neighborhood now and this is just going to create more problems. She said the neighborhood already has problems with the parking beside them and the music and language that they hear. She said there is a school two blocks down the street and kids traverse the area going to and from school.

FOSTER asked if Ms. Nash preferred the wood or masonry fence.

NASH said masonry but they are not going to be able to build it high enough to prevent people from jumping over it because that is what is happening now. She also mentioned that they have water built up and flooding in their backyards because of the current wall and the fact that there is no drainage. She said it adds water to the street which also floods because the drainage is inadequate. She said the employees congregate, play music and use bad language. She said the lights are on until 11:00 p.m. She said this will add more employees to the area. She said this is a residential neighborhood with a lot of kids. She concluded by saying that she would like to be able to have her kids out in her yard without concern about what is happening on the other side of the wall. She mentioned that the applicant has offered to buy her property but they did not want to sell because they don't want the applicant adding more to the development.

EWY said he had no further comments and would stand for questions.

RAMSEY asked if the site would be used for employee parking only or could vehicles be stored back there.

EWY said no customer parking or vehicles for sale or waiting for service will be stored at the site. He said this will move employee parking off the lots that need more customer parking and room for display of cars for sale.

FOSTER said he encouraged opening an access through the wall to make it easier for employees to get back and forth from the building.

EWY said he would bring that to the applicant's attention.

MCKAY asked if the agent guaranteed that the applicant won't use the site for anything else other than employee parking.

EWY reiterated that the applicant has no intention of this being part of the dealership as far as customer parking or vehicle storage. He said if in the future they want to use this area for vehicles sales they would have to come back to the Commission for specific approval of that use. He said vehicle storage also falls under vehicle sales.

MILLER said the wording of the CUP amendment expressly limits this area for parking.

MOTION: To approve subject to the staff recommendation and the amendments discussed at the meeting including access on the north 50 foot of the site and installation of a wooden fence for a maximum of seven years as a waiver.

DENNIS moved, **WARREN** seconded the motion, and it carried (8-0).

7. **Case No.: CUP2014-00025** – Beech Lake Investment, LLC (Johnny Stevens, Equity Bank (Gregory Klossover)) / MKEC Engineering, Inc. City Community Unit Plan Amendment to DP-286 The Foliage Center to add a GO General Office zoned parcel on property described as:

All of Lot 1, Block 1, Foliage Center Addition, an addition to Wichita, Sedgwick County, Kansas, TOGETHER WITH, the Lot 1, Block 1, Foliage Center Second Addition, an addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicants are seeking a number of amendments to the Foliage Center Community Unit Plan (CUP) DP-282 located at the northwest corner of North Webb Road and North 13th Street East. Amendments proposed by the applicants include:

- 1) Increase the area of the CUP from 7.431 acres to 8.554 acres. (General Provision 1)
- 2) Create a new Parcel 3 with the new 1.123 GO General Office (GO) zoned acres added to the original CUP. Establish for Parcel 3 a maximum building height of 35 feet, maximum building coverage of 30 percent, maximum gross floor area of 35 percent and building setbacks ranging from zero to 35 feet. (General Provision 2)
- 3) Parcel 3 shall be limited to the following GO zoning district use: "Bank or financial institution" with drive-thru permitted by right, and "office, general." (General Provision 3.A)
- 4) A 12-foot wide landscape buffer shall run parallel with the west and north property lines of Parcel 3 where abutting residential areas/zoning. Said landscape buffer may be reduced to allow for a drive aisle

on the north, so long as the landscaping with that portion of the buffer meets or exceeds 1.5 times the requirements of the Landscape Ordinance. (General Provision 6.C)

5) Trash receptacles, loading docks, outdoor storage and loading areas shall be appropriately screened to reasonably hide them from ground view except, if not visible from public rights-of-way or if not directly visible from ground view from adjoining residential/zoning area. The screening materials shall be consistent with materials and colors of the supported buildings. Trash enclosures shall be allowed within 20 feet of property lines if not visible from public rights-of-way but shall not be closer than five feet from the westerly property lines. *Trash enclosures are not permitted along the northern boundary of Parcel 3 and there shall be no outdoor storage on Parcel 3.* (General Provision 7.B)

6) All parcels shall adhere to the requirements of the Sign Code for the City of Wichita for the LC zoning district, except as provided herewith: (General Provision 9.A)

No flashing, animated or moving, portable, billboard, banner, off-site or pennant signs shall be permitted except; however, two electronic message signs are allowed along Webb Road, one on Parcel 1 and one on Parcel 3. (General Provision 9.B) All signs along and adjacent to 13th and Webb streets shall be monument type signs with a maximum height of 20 feet, except for Parcel 3 where no monument sign shall exceed 12 feet in height. (General Provision 9.C)

Eight monument signs are permitted: five along Webb Road and three along 13th Street. The sign areas shall be limited to a maximum of 150 square feet each along Webb Road and 145 square feet each along 13th Street. Stand alone development identification signs shall count against the above total allowed seven monument signs. Development identification signs may also have tenant signage. No illuminated monument signs over 10 square feet are allowed within the north 150 feet of Parcel 3. (General Provision 9.D)

Building signage shall be permitted within the CUP. Building signage on Parcels 1 and 2 shall be limited to 20 percent of the wall area with no single tenant sign exceeding 400 square feet in area, and there shall be no more than six signs for each tenant (business) on each building elevation. Building signage on Parcel 3 shall be limited to a total of 250 square feet. There shall be no building signage along the westerly facades of any buildings on Parcels 1 and 3 abutting the western boundary of the CUP nor shall any building signage of any kind be allowed on any building facing the northerly line of Parcel 3. (General Provision 9.F)

Accent lighting of monument and directional/way-finding signs shall be permitted. (General Provision 9. G)

7) Light poles including above ground bases shall be limited to 28 feet tall and no light poles shall be within 100 feet of residential zoning, except; however, on the north line of Parcel 3, two light poles may be located no closer than 12 feet of the north property line having a maximum height of 15 feet with shielding to cast light in a downward direction and directed away from residential areas/zoning to the north, and except however on the east line of Parcel 3, where one light pole may be located no closer than 30 feet of the west property line having a maximum height of 15 feet with shielding to cast light in a downward direction and directed away from residential areas/zoning to the west. No wall-pack lighting is allowed within the north 150 feet of Parcel 3, unless, however, such wall-pack lighting is shielded to cast light in a downward direction and directed away from residential areas/zoning and such wall-pack lighting shall not be placed higher than 10 feet off the ground. (General Provision 10.D)

Other amendments are proposed but those additional amendments deal with renumbering existing development standards and do not involve changes in existing development standards other than renumbering existing development standards that will be retained.

Currently the Foliage Center contains 7.431 acres zoned LC Limited Commercial (LC) subject to the development standards found in the Foliage Center Community Unit Plan (CUP) DP-282. The existing Foliage Center CUP contains two parcels, and permits all uses allowed by-right in the LC zoning district except uses specified by General Provision 3 of DP-282, such as: adult entertainment, car wash, nightclub, tavern or drinking establishments. The applicants are seeking to add 1.123 GO zoned acres (proposed Parcel 3) to the northern boundary of the existing CUP, for a total CUP area of 8.554 acres. The area proposed to be added to the CUP is being developed with a financial institution. Approval of the request allows the bank under construction on proposed Parcel 3 to use LC zoning sign standards requested above instead of GO district sign standards. The City's Sign Code limits GO zoned property to 32 square feet for a pole sign. The City's Sign Code permits LC zoned properties to have pole signage of .8 square feet per foot of street frontage (151.59 square feet) or whatever signage area or number of signs that are permitted by the CUP. The signage requested for the CUP is described above in item 6 above.

The application area is located at the intersection of two arterial streets that carry between 14,700 and 20,700 average daily vehicle trips. Located north of the expanded application area is the easternmost edge of a SF-5 Single-family Residential (SF-5) zoned neighborhood named The Foliage. East of the site, across North Webb Road is a lake associated with the LI Limited Industrial (LI) zoned Waterfront commercial center. Southeast of the site is LI zoned land that was once a corporate private park and recreation area but is now privately owned. South of the site is property zoned GO and LC and is either developed with an office building or is undeveloped. Land to the west is developed with The Foliage single-family residential neighborhood. There is an existing five-foot tall masonry wall located along the north and west property line of the application area. There is also a significant berm and landscape buffer located along the west side of the application area that owned is by The Foliage Home Owners Association or by individual residential lot owners located in the Foliage 2nd Addition. The previously noted berm and landscaping ends approximately 100 feet short of the application area's northern boundary. It also appears that there is an access point to one of the residential lots located along the northern property line of proposed Parcel 3. Per General Provision 6.C a 12-foot wide landscape buffer shall run parallel with the west and north property line of Parcel 3 where abutting residential areas/zoning.

CASE HISTORY: The City Council approved CUP 2005-00009 and ZON2005-00006 on May 3, 2005, which created the Foliage Center Addition CUP DP-282. The Foliage Center Addition was recorded in January 2009. On June 9, 2008, administrative adjustment CUP2008-00020 was approved which permits building height to 40 feet and the height of unoccupied architectural elements up to 55 feet. On April 28, 2014, administrative adjustment CUP2014-00010 was approved; this administrative adjustment permitted a 28-foot maximum pole height for lighting and prohibited the placement of light poles within 100 feet of residential zoning. On November 4, 2013, administrative adjustment CUP2013-00039 was approved, which permitted: a main entry sign of up to 149.5 square feet plus the "Whole Foods Market" sign; temporary sign of 64 square feet that will have its message replaced three times during an 86 day time period and five blade signs, 16.84 square feet each or a total of 84.2 square feet. CUP2014-00017 and ZON2014-00014 were applications that were approved by MAPC on July 24, 2014, that rezoned a portion of the site (not including the bank) located immediately south of the bank from GO to LC and modified landscaping, screening, setback and signage standards (scheduled for City Council consideration on August 26, 2014). Conditional Use case CON2013-00007 and zone change ZON2014-00005 zoned proposed Parcel 3 to GO and permitted a bank or financial institution.

ADJACENT ZONING AND LAND USE:

North: SF-5; single-family residences
South: GO and LC; office and undeveloped
East: LI; retail, banking and office center
West: SF-5; single-family residences

PUBLIC SERVICES: The site is served by all normally supplied public and private services and utilities. At the subject site Webb Road and 13th Street have 75 feet of right-of-way at the intersection tapering to 60 feet and are four-lane arterials with left turn lanes. The Webb Road-13th Street intersection carries between 14,700 and 20,700 average daily trips.

CONFORMANCE TO PLANS/POLICIES: The May 2005 "Wichita Land Use Guide" map identifies a majority of the site as appropriate for low density residential; a smaller portion is recommended for commercial development. However, with City Council approval of CUP2005-00009 and ZON2005-00006 that expanded LC zoning from a smaller area, subject to CUP DP-282, the entire application area is appropriate for commercial development.

RECOMMENDATION: Based upon the information available at the time the staff report was prepared, staff recommends approval of the request subject to the following conditions (only those provisions listed below are amended, all other provisions remain in effect and unchanged (except for changes in general provision numbering):

General Provision 1. The total development contains 8.554 acres.

General Provision 2. Add Parcel 3 with the following development standards. Gross Area = 1.123 acs. or 48,951 s.f.; Maximum building height = 35feet; Maximum coverage = 30 percent; Maximum Gross Floor Area = 35 percent and Setbacks: front 35 feet, rear 35 feet, side (north) 25 feet and side (south) 0 feet subject to appropriate fire wall separation.

General Provision 3.A. In addition to allowable uses described for Parcels 1 and 2, add: Parcel 3 shall be limited to the following GO zoning district use: "Bank or financial institution" with drive-thru permitted by right, and "office, general."

General Provision 6.C. A 12-foot wide landscape buffer shall run parallel with the west and north property lines of Parcel 3 where abutting residential areas/zoning. Said landscape buffer may be reduced to allow for a drive aisle on the north, so long as the landscaping with that portion of the buffer meets or exceeds 1.5 times the requirements of the Landscape Ordinance.

General Provision 7.B. Trash receptacles, loading docks, outdoor storage and loading areas shall be appropriately screened to reasonably hide them from ground view except, if not visible from public rights-of-way *or if not directly visible from ground view from adjoining residential/zoning area*. The screening materials shall be consistent with materials and colors of the supported buildings. Trash enclosures shall be allowed within 20 feet of property lines if not visible from public rights-of-way but shall not be closer than five feet from the westerly property lines. *Trash enclosures are not permitted along the northern boundary of Parcel 3 and there shall be no outdoor storage on Parcel 3.*

General Provision 6.C. "no electronic signs are permitted on Parcel 3" is deleted.

General Provision 9.A. *All parcels* shall adhere to the requirements of the Sign Code for the City of Wichita for the *LC zoning district*, except as provided herewith:

General Provision 9.B. No flashing, *animated* or moving, portable, billboard, banner, *off-site* or pennant signs shall be permitted except; however, *two* electronic message signs *are* allowed along Webb Road, *one on Parcel 1 and one on Parcel 3.*

General Provision 9.C. All signs along and adjacent to 13th and Webb streets shall be monument type signs with a maximum height of 20 feet, *except for Parcel 3 where no monument sign shall exceed 12 feet in height.*

General Provision 9.D. *Eight* monument signs are permitted: *five* along Webb Road and three along 13th Street. The sign areas shall be limited to a maximum of 150 square feet each along Webb Road and 145 square feet each along 13th Street. Stand alone development identification signs shall count against the above total allowed seven monument signs. Development identification signs may also have tenant signage. *No illuminated monument signs over 10 square feet are allowed with the north 150 feet of Parcel 3.*

General Provision F. Building signage shall be permitted within the CUP. Building signage on *Parcels 1 and 2* shall be limited to 20 percent of the wall area with no single tenant sign exceeding 400 square feet in area, and there shall be no more than six signs for each tenant (business) on each building elevation. *Building signage on Parcel 3 shall be limited to a total of 250 square feet.* There shall be no building signage along the westerly facades of any buildings on Parcels 1 and 3 abutting the western boundary of the CUP *nor shall any building signage of any kind be allowed on any building facing the northerly line of Parcel 3, except for illumined drive-thru/ATM signage that is cumulatively not to exceed 6 square feet in area is allowed. Such drive-thru signage shall be illuminated during business hours only; such ATM signage may be illuminated outside business hours.*

General Provision 9. G. Accent lighting of monument and directional/*way-finding* signs shall be permitted.

General Provision 10.D. Light poles including above ground bases shall be limited to 28 feet tall and no light poles shall be within 100 feet of residential zoning, *except; however, on the north line of Parcel 3, two light poles may be located no closer than 12 feet of the north property line having a maximum height of 15 feet with shielding to cast light in a downward direction and directed away from residential areas/zoning to the north, and except however on the east line of Parcel 3, where one light pole may be located no closer than 30 feet of the west property line having a maximum height of 15 feet with shielding to cast light in a downward direction and directed away from residential areas/zoning to the west. No wall-pack lighting is allowed within the north 150 feet of Parcel 3, unless, however, such wall-pack lighting is shielded to cast light in a downward direction and directed away from residential areas/zoning and such wall-pack lighting shall not be placed higher than 10 feet off the ground.*

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The application area is located at the intersection of two arterial streets that carries between 14,700 and 20,700 average daily vehicle trips. North of the bank is the easternmost edge of SF-5 Single-family Residential (SF-5) zoned The Foliage neighborhood. East of the site, across North Webb Road is a lake associated with the LI zoned Waterfront commercial center. Southeast of the site is LI zoned land that was once a corporate private park and recreation area but is now privately owned. South of the site is property zoned GO and LC and is either developed with an office building or is undeveloped. Land to the west is developed with The Foliage single-family residential neighborhood. A significant berm and landscaping buffer is located along The Foliage neighborhood's east and northern property line.

2. The suitability of the subject property for the uses to which it has been restricted: The land located within the original CUP is currently zoned LC subject to the development standards contained in CUP DP-282. The site could be developed and used as currently zoned. Approval of the request permits the bank the opportunity to use the LC signage standards requested above instead of GO signage standards of 32 square feet for a pole sign.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site is currently not part of DP-282 and is limited to uses permitted in the GO zoning district and to GO district signage. The requested changes do not significantly increase the intensity of development already permitted on the site and are consistent with the development standards initially approved. The recommended conditions of approval minimize detrimental impacts to nearby properties.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Presumably denial would represent a loss of economic opportunity to the property owner. If approved, the CUP becomes flexible and potentially provides more choice to potential customers located in the neighborhoods in the general area.
5. Length of time the property has been vacant as currently zoned: Construction has begun on the site.
6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The May 2005 "Wichita Land Use Guide" map identifies a majority of the site as appropriate for low density residential; a smaller portion is recommended for commercial development. However, with City Council approval of CUP2005-00009 and ZON2005-00006 that expanded LC zoning, subject to CUP DP-282, the entire application area is appropriate for commercial development.
7. Impact of the proposed development on community facilities: Existing or planned facilities are adequate to serve programmed or anticipated demand.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to the staff recommendation, as amended.

MCKAY moved, MITCHELL seconded the motion, and it carried (8-0).

NON-PUBLIC HEARING ITEMS

8. **Case No.: Pedestrian Master Plan - Review and recommend endorsement of the Pedestrian Master Plan.**

Recommendation: It is recommended that the MAPC recommend endorsement of the Plan by the Wichita City Council.

Background: The DRAFT City of Wichita Pedestrian Master (Plan) is a 10 year guide for how the City of Wichita (City) should improve conditions for walking. More than 50 events have been held with opportunities for individuals to participate in the planning process by completing surveys, serving on

committees, participate in community meetings, and attending open house events. The Plan includes a vision, goals, actions, priorities, design guidance, and performance measures.

On April 16, 2013, the City Council approved a Wichita Bicycle and Pedestrian Projects Memorandum of Understanding (MOU) between the YMCA, acting as the fiscal agent for the Health and Wellness Coalition of Wichita, and the City. The MOU's purpose is to support projects that make it easier, safer, and more convenient for people to walk and bike within the City. The projects identified in the MOU included the creation of a Pedestrian Master Plan.

On May 14, 2013 the City Council approved the selection and contract with Toole Design Group to undertake the preparation of the Plan. A 16-member Steering Committee was created and appointed by the Wichita Bicycle and Pedestrian Advisory Board to help oversee the planning process. The Steering Committee included representatives that provided the following perspectives: USD259, Bike Walk Wichita, WAMPO, KDOT, Wichita Bicycle and Pedestrian Advisory Board, seniors, young professionals, Wichita-Sedgwick County Access Advisory Board, and other stakeholders.

Over the last year, the planning Steering Committee has worked closely with the Plan Technical Advisory Committee comprised of City staff members and the community at-large to create a plan that meets the needs of our community. There have been many different public input opportunities related to the Plan, including 11 Steering Committee meetings; 2 open house events, and 11 focus groups/listening sessions. Individuals have also had opportunities to provide comments online – 137 people completed the online survey, 157 comments were submitted on the interactive mapping tool, and 467 interactions on the Activate Wichita Pedestrian Plan topic.

The Plan was presented to all of the District Advisory Boards (DABs), and the Wichita Transit Advisory Board. All six DABs and the Wichita Transit Advisory Board recommend that the City Council endorse the Plan. In addition, the Plan was presented to the Wichita-Sedgwick Access Advisory Board. The Access Advisory Board recommended that the City Council adopt the Pedestrian Plan, provided that the Sidewalk Ordinance be amended such that: "Sidewalk must be installed or rehabilitated when any street is constructed, reconstructed, resurfaced, or restored. If sidewalk is not to be installed or rehabilitated, any waiver of the installation of the sidewalk must be by a separate vote of the City Council."

Analysis: The Plan includes the following three goals.

- Goal 1: Provide a safe and welcoming pedestrian network
- Goal 2: Improve community accessibility and connections for pedestrians
- Goal 3: Promote a citywide culture of walking

In order to accomplish the goals - the Plan contains strategic recommendations for improvements split into the following categories: Engineering, Encouragement, Education, Enforcement, Maintenance and Construction; and Plan Implementation.

Engineering

Since pedestrian infrastructure is located throughout the city, the Plan includes a mix of recommendations that can apply at different levels: city-wide, neighborhood, and specific locations. The Plan also includes recommendations for policies and programs to make improvements in the short-term and long-term.

The Plan includes design guidance for street-related improvements that can help to ensure that projects throughout Wichita reflect best practices – improving pedestrian safety and encouraging more walking trips. The design guidance includes a graphic representing the best practice design, a photo example, description, benefits, and the crash reduction factor. The guidance addresses roadway crossings, intersections, and traffic calming. The design guidance can benefit both public and private projects.

At the neighborhood level, the Plan identifies typical pedestrian related challenges and design treatments that can be used to address those challenges. The information is provided according to five types of general street patterns: Downtown Grid, Residential Grid, Grid and Curvilinear, High Density Curvilinear with Cu-de-Sacs, and Low Density Curvilinear with Cul-de-Sacs. The Plan provides a toolbox that residents can use to help make it safer and easier to walk in their neighborhood.

The Plan does not include a map that recommends where individual improvements are needed, instead it recommends processes and programs that can be used to identify specific location improvements based on strategic priorities. For example, the Plan includes recommendations for senior walking routes and student walking routes. Once walking routes are identified, then inventories can be used to identify specific improvements that are needed (i.e. crosswalks, sidewalks, etc.)

Encouragement; Education; Enforcement; Maintenance and Construction; and Plan Implementation

The Plan includes recommendations for 9 strategies with related actions related to the non-Engineering category improvements. A listing of the strategies is available in the attached Plan Executive Summary.

Prioritization and Funding

Recommendations within the Plan can be scaled up or down depending on available resources. Many of the recommendations are for activities that the City already does (i.e. marked crosswalks, intersection improvements, safety education, etc.). Although the Plan does not contain recommendations for improvements at specific locations, it does include planning level cost estimates for typical pedestrian treatments. The Plan also includes information on a variety of local, federal and other sources that can be used to fund pedestrian projects. The information includes a matrix for quick reference and descriptions of the funding sources.

The Plan includes information to assist with establishing priorities, because resources and timing don't generally allow for every project and improvement to be undertaken at once. The recommended prioritization criteria/considerations are: does it serve students; does it serve the senior population; does it fill in a gap in the existing system; is it on a safety corridor; is it on a transit route; does it connect to retail/service destinations; does it connect to a public park or public amenity; does it address a public concern.

Financial Considerations: No funding is attached to the Plan, and endorsement by the City Council does not involve any commitment by the City for future funding. It is a future guide for pedestrian related infrastructure, policies, and programs. Any funding to implement the Plan will need to be initiated through a separate process.

Recommendations/Actions: It is recommended that the MAPC recommend that the City Council endorse the Plan.

SCOTT WADLE, Planning Staff presented the PowerPoint presentation. He said this was the Planning Commission's opportunity to learn more about the Plan and provide input and recommendations to the City Council.

DENNIS said he was curious why the plan hadn't been presented to the Advance Plans Committee for review and recommendation prior to being presented to the Planning Commission.

WADLE said he did not know why the Plan had not gone to the Advance Plans Committee.

DENNIS said the seeing this Plan for the first time made it difficult for the Planning Commission to make a recommendation one way or the other.

CHAIR GOOLSBY said it is hard to drill deep down into the Plan with just this presentation.

MITCHELL asked about any estimated cost of additional sidewalks as recommended by the Wichita-Sedgwick County Access Advisory Board.

WADLE said there has been no cost analysis because that was just a recommendation. He said he thought costs would depend on how many streets are constructed/rehabilitated per year. He commented that was not a staff recommendation; however, staff wanted the Planning Commission and others to be fully aware of what other advisory boards had recommended.

WARREN said he would like to have a sense of the economic impact of that Board's recommendation. He said it is hard to make a recommendation without knowing that.

WADLE reiterated that the Plan does not include the Access Advisory Board's recommendation.

WARREN said he would not want the Planning Commission to include that recommendation until they knew the economic impact. He said he doesn't want people to get the impression that the Planning Commission agrees with that recommendation.

DENNIS said he feels the Plan should have been reviewed by the Advance Plans Committee prior to being brought to the Planning Commission. He mentioned installation of the sidewalks along Central between 119th and 135th Streets and said although he wasn't sure about the expense prior to their installation; he wanted to go on record to say that it was a good idea because they are used constantly by many people. He commented that he was not ready to endorse the Plan prior to its review by the Advance Plans Committee.

MCKAY said a committee has just spent the last year and one half reviewing the Comprehensive Plan and all they keep hearing is how much money they are going to need in the next 30 years. He said since there is no dollar cost he does not believe he can support the Plan one way or the other.

FOSTER noted several concerns including that the amenity zone seemed awful tight to him. He asked about the recommended dimensions of the amenity zones. In addition, he asked if the Plan got into connections of land uses and how pedestrian connections are made especially where walls are required between say LC and residential uses.

WADLE said the Plan does not address that issue; however, he added that it does have recommendations for connections from cul-de sacs to major streets. He referred Commissioners to a graphic of the amenity zone. He said the table in the Plan recommends varying widths starting with a minimum of 6 feet and a maximum of 12 feet.

FOSTER said he was on board with referring the issue to the Advance Plans Committee before it goes forward.

CHAIR GOOLSBY asked for further clarification of the dimensions of the amenity zones. He commented that in downtown, he specifically referred to First Street and Waco, some of those minimums, including the frontage zone and pedestrian zone are going to be difficult to meet. He mentioned that if the minimums are met, in some cases they may inhibit development in the downtown area.

WADLE briefly reviewed dimensions of each of the zones and streets (downtown, business and residential) and emphasized that those were the “recommended” minimum widths.

FOSTER asked staff if this was a “policy” document for the community to strive for pedestrian ways and connections. He asked staff if some type of price tag needed to be put on it but not an absolute cost.

DIRECTOR SCHLEGEL said he did not believe the recommendations in the Plan were meant to apply to every street in the City. He said there are different design guidelines for different types of streets.

WADLE added that the Plan offers guidelines and recommendations. The City is not going to go back and retrofit every street to meet the Plan. He said these are not “standards” per se, but design guidelines.

CHAIR GOOLSBY commented that in his experience recommendations end up becoming guidelines and he doesn't want that to happen.

MITCHELL asked if the minimums just described by staff fit the Douglas Design District at all.

WADLE commented that was a good question and added that sidewalks in the Douglas Design District are very wide from Washington over to Hydraulic, so he thinks they would meet the widths there; however, in downtown he would have to check.

DIRECTOR SCHLEGEL asked if the Plan recommend more sidewalks than what is required by Subdivision Regulations.

WADLE said after much discussion this Plan does not recommend any changes to Subdivision Regulations.

DIRECTOR SCHLEGEL clarified that the Plan is not recommending any new regulations or standards. He said it is suggesting optimal guidelines to pursue if appropriate for that particular street.

MOTION: To refer the item to the Advance Plans Committee for review and recommendation.

DENNIS moved, **MITCHELL** seconded the motion, and it carried (8-0).

Other Matters/Adjournment

The Metropolitan Area Planning Commission adjourned at 2:40 p.m.

State of Kansas)
Sedgwick County) ss

I, John L. Schlegel, 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, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2014.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)

STAFF REPORT

CASE NUMBER: SUB2014-00031 – TYLER’S LANDING 5TH ADDITION

OWNER/APPLICANT: R & R Realty, LLC, Attn: Jay Russell, 8100 East 22nd Street North, Wichita, KS 67226

SURVEYOR/AGENT: Baughman Company, P.A., Attn: Kris Rose, 315 Ellis, Wichita, KS 67211

LOCATION: Southeast corner of 37th Street North and Tyler (District V)

SITE SIZE: 6.43 acres

NUMBER OF LOTS

Residential:	21
Office:	
Commercial:	1
Industrial:	—
Total:	22

MINIMUM LOT AREA: 7,102 square feet

CURRENT ZONING: LC Limited Commercial

PROPOSED ZONING: Same

VICINITY MAP



SUB2014-00031 – Plat of TYLER'S LANDING 5TH ADDITION
September 25, 2014 - Page 2

NOTE: This is a replat of the Tyler's Landing Commercial Addition. The site has been approved (CUP2014-00013) for an Amendment to the Tyler's Landing Commercial Plaza Community Unit Plan (CUP DP-267) to allow residential uses for Parcels 2 through 5.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department requests that water be extended (distribution) to serve all lots. Sanitary sewer (laterals) is available. In-lieu-of-assessment fees are needed on transmission.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the drainage plan.
- D. Traffic Engineering has approved the access controls. The plat proposes two private street openings along Tyler Road and one rights-in/out opening. The applicant proposes one private street opening along 37th Street North and one rights-in/out opening.
- E. Traffic Engineering has required a guarantee for median improvements.
- F. City Fire Department has approved the turnarounds.
- G. The plattor's text should delete the language "The streets are hereby dedicated to and for the use of the public."
- H. The easement label on Lot 11 needs corrected to 15 feet.
- I. The access easement for the benefit of Lot 10 shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- J. Since this plat proposes the platting of narrow streets with adjacent 15-foot street, drainage and utility easements, a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- K. The applicant shall guarantee the paving of the private streets (Reserves A, B and C) to a public street paving standard as required by Public Works. As private improvements, such guarantee shall not be provided through the use of a petition.
- L. The final plat tracing shall state in the plattor's text the ownership and maintenance responsibilities of the proposed reserves.
- M. A restrictive covenant shall be submitted regarding the private streets, which sets forth ownership and maintenance responsibilities.
- N. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.

SUB2014-00031 – Plat of TYLER’S LANDING 5TH ADDITION
September 25, 2014 - Page 3

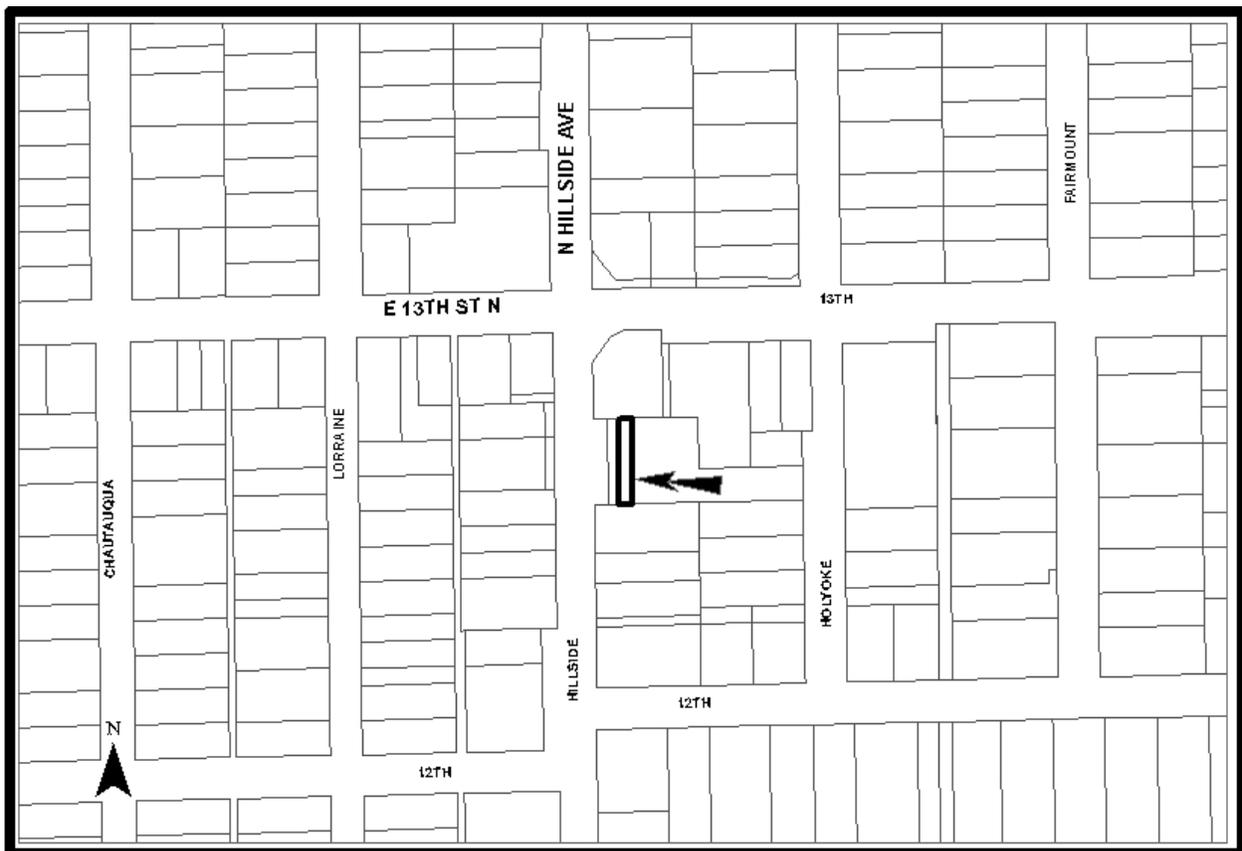
- O. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- P. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- Q. GIS has approved the street names.
- R. On the final plat tracing, the MAPC signature block needs to reference “Matthew J. Goolsby” as Chair.
- S. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineer (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- T. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- U. The platator’s text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer and unobstructed to allow for the conveyance of stormwater.
- V. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- W. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- X. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- Y. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant’s responsibility to contact all appropriate agencies to determine any such requirements.

SUB2014-00031 – Plat of TYLER'S LANDING 5TH ADDITION
September 25, 2014 - Page 4

- Z. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- AA. Perimeter closure computations shall be submitted with the final plat tracing.
- BB. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- CC. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

STAFF REPORT

- CASE NUMBER:** VAC2014-00029 - Request to vacate a portion of a platted front setback
- OWNER/AGENT:** Wil-Ken Enterprises, c/o Willie L. Kendrick (owner), Savoy Co. PA, c/o Mark Savoy (agent)
- LEGAL DESCRIPTION:** The east 19 feet of the platted 35-foot front yard setback that runs parallel to the west lot line of Lot 1, W.F. Farha Second Addition and Hillside Avenue, Wichita, Sedgwick County, Kansas
- LOCATION:** Generally located south of 13th Street North on the east side of Hillside Avenue (WCC #I)
- REASON FOR REQUEST:** Rebuild
- CURRENT ZONING:** Subject property and all abutting and adjacent north, south and west properties are zoned LC Limited Commercial. Adjacent east properties are zoned B Multi-Family Residential
- VICINITY MAP:**



The applicant proposes to vacate the east 19 feet of the platted 35-foot front yard setback, on Lot 1, W.F. Farha Second Addition. The subject lot is zoned LC Limited Commercial. The Unified Zoning Code's (UZC) minimum front yard setback standard for the LC zoning district is 20 feet. If the front setback was not platted (but was the LC zoning district's 20-foot minimum front setback) the applicant could have applied for an Administrative Adjustment to reduce the setback by 20% resulting in a 16-foot front yard setback, which is the applicant's request. There are no platted easements in the described portion of the platted setback. There are no utilities within the described portion of the platted setback. The W.F. Farha Second Addition was recorded with the Register of Deeds July 20, 1965.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from Public Works, Storm Water, Water and Sewer, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted setback.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time September 4, 2014, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described portion of the platted front setback, and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Vacate the east 19 feet of the platted 35-foot front yard setback that runs parallel to the west lot line of Lot 1, W.F. Farha Second Addition and Hillside Avenue. Provide Planning Staff with a legal description of the approved vacated portion of the setback on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. This must be provided to Planning prior to the case going to Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide any needed easements prior to the case going to Council for final action.
- (3) All improvements shall be according to City Standards and at the applicant's expense.

- (4) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE’S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the east 19 feet of the platted 35-foot front yard setback that runs parallel to the west lot line of Lot 1, W.F. Farha Second Addition and Hillside Avenue. Provide Planning Staff with a legal description of the approved vacated portion of the setback on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. This must be provided to Planning prior to the case going to Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide any needed easements prior to the case going to Council for final action.
- (3) All improvements shall be according to City Standards and at the applicant’s expense.
- (4) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

STAFF REPORT
DAB VI 9-8-14
MAPC 9-25-14

CASE NUMBER: CON2014-26

APPLICANT/AGENT: Ronnie Beard (property owner)

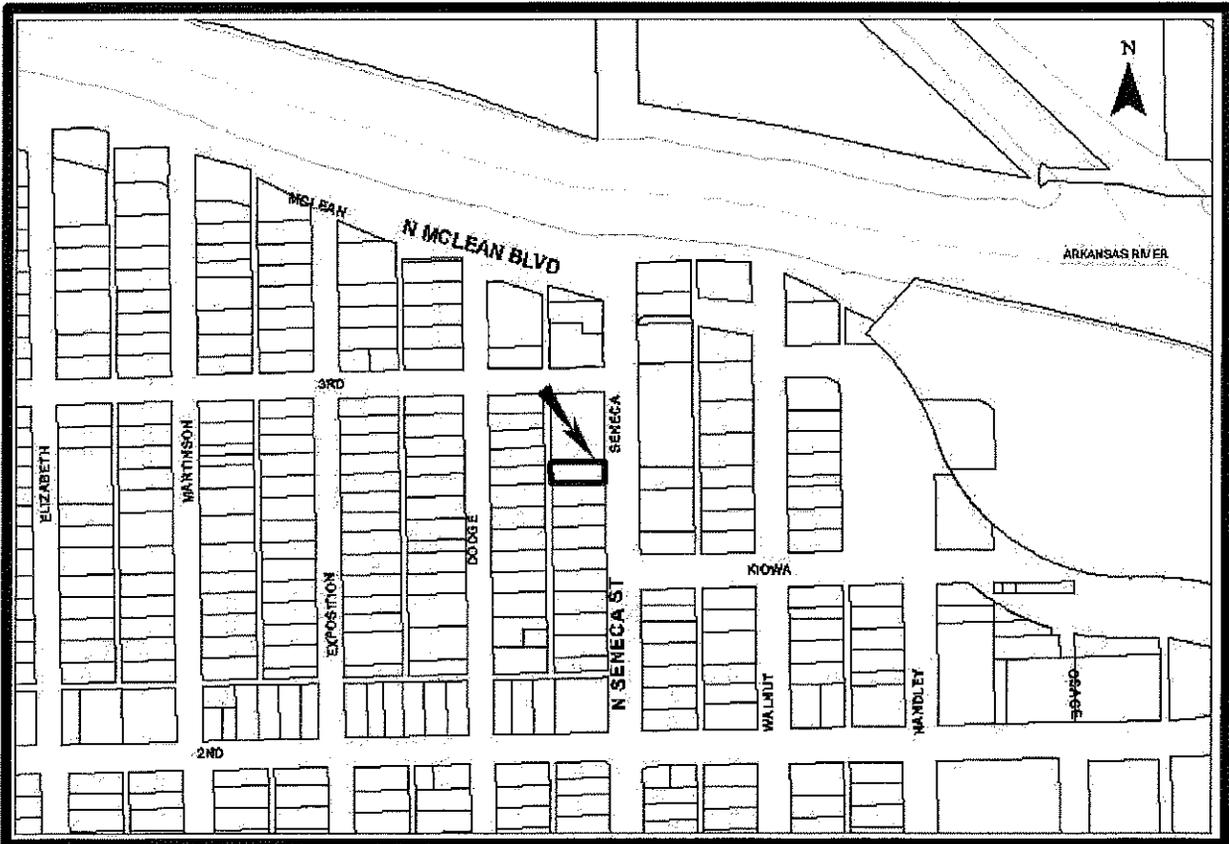
REQUEST: Conditional Use for Storage, Outdoor

CURRENT ZONING: GC General Commercial subject to Delano-Overlay

SITE SIZE: 0.3 acre

LOCATION: West of North Seneca and south of West 3rd Street North

PROPOSED USE: Location of Portable Storage Container



BACKGROUND: The applicant requests a Conditional Use as required by D-O Delano Overlay (D-O) Sec.III-C.8.b.(2) to permit “storage, outdoor” on property zoned GC General Commercial (GC). The site is located on the west side of North Seneca and south of West 3rd Street North. The property is currently developed with a single-family residence and side yard on the 0.3-acre site. As shown on the site plan, the applicant proposes to place an 8-foot X 40-foot X 9-foot portable storage container on the rear half of the side yard. The existing drive access from Seneca will remain. The site also has access from the alley abutting the west property line.

The properties located immediately north and south of the site are zoned GC with commercial and residential development. Property east of the site is zoned LI Limited Industrial (LI) with commercial and industrial uses. Abutting the site to the west is SF-5 Single Family Residential (SF-5).

The Wichita-Sedgwick County Unified Zoning Code (“UZC”) defines “storage, outdoor” (Art. II.Sec. II-B.12.u) as “the keeping, storing, placing or locating outside of an enclosed structure for more than 72 consecutive hours any property, goods, products, equipment, Trailers, Portable Storage Containers, or other similar items not considered Accessory Uses as listed in this Code. The term Storage, Outdoor (or Outdoor Storage) does not include Vehicle Storage Yard.

The GC zoning district property development standards call for a minimum front setback of 20 feet, no minimum for rear setback and an interior setback of zero feet unless one is provided and then it must be at least five feet. The GC zoning district maximum height is 80 feet. The UZC parking standards require one off-street parking space 10,000 square feet. The submitted site plan appears to conform to UZC requirements.

CASE HISTORY: The subject property was part of DR03-09 which created the Delano Overlay zoning district with adopted design guidelines. In the case of conflict between the Underlying zoning District, the regulations in this section shall prevail. The D-O zoning district specifies that outdoor storage use requires a Condition Use approval.

ADJACENT ZONING AND LAND USE:

NORTH:	GC	Commercial
SOUTH:	GC	Single-family residences, commercial
EAST:	LI	Commercial, light industrial
WEST:	SF-5	Single-family residences

PUBLIC SERVICES: The property is serviced by all publicly supplied municipal services. North Seneca is a paved arterial street at this location with 80 feet of right-of-way.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map depicts this site as “local commercial.” The “local commercial” category encompasses areas that contain concentration of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes medical or insurance office, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may include mini-storage warehousing and small scale light manufacturing uses.

RECOMMENDATION: The surrounding area has a mixture of commercial and residential land uses. This parcel is 100 feet wide and 125 feet deep, and therefore has enough room to accommodate the Portable Storage Container. Based on information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The applicant shall build a six-foot screen wall in front of the Portable Storage Container to limit

visibility from North Seneca and should the existing residential screening on the alley to the west of the property become in a state of disrepair; the applicant shall construct a six-foot screening fence on the west property line.

2. The site shall be developed and maintained in general conformance with the approved site plan and in conformance with all applicable regulations, including but not limited to: local zoning, including UZC Article III, Section III-D.6.a.(1)-(4); building, fire and utility regulations or codes.
3. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property located immediately north and south of the site is zoned GC with commercial development and some residential uses, properties east of the site is zoned LI with commercial and industrial uses. Property abutting the site to the west is SF-5 separated by an alley.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned GC which permits “storage, outdoor.” The existing structure on the site could continue to be used for single-family residence and accommodate a portable storage container.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should not detrimentally impact nearby properties. The conditions of approval should minimize any anticipated detrimental impacts.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map depicts this site as “local commercial.” The “local commercial” category encompasses areas that contain concentration of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes medical or insurance office, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities. On a limited presence basis, these areas may include mini-storage warehousing and small scale light manufacturing uses.
5. Impact of the proposed development on community facilities: If this request is approved, the site is served by municipal services that are able to accommodate projected demand created by this request.

STAFF REPORT
DAB III 10-6-14
MAPC 9-25-14

CASE NUMBER: CON2014-27

APPLICANT/AGENT: Maisch Family Limited Partnership, c/o Lynn Stewart (applicant),
Robert Kaplan (agent)

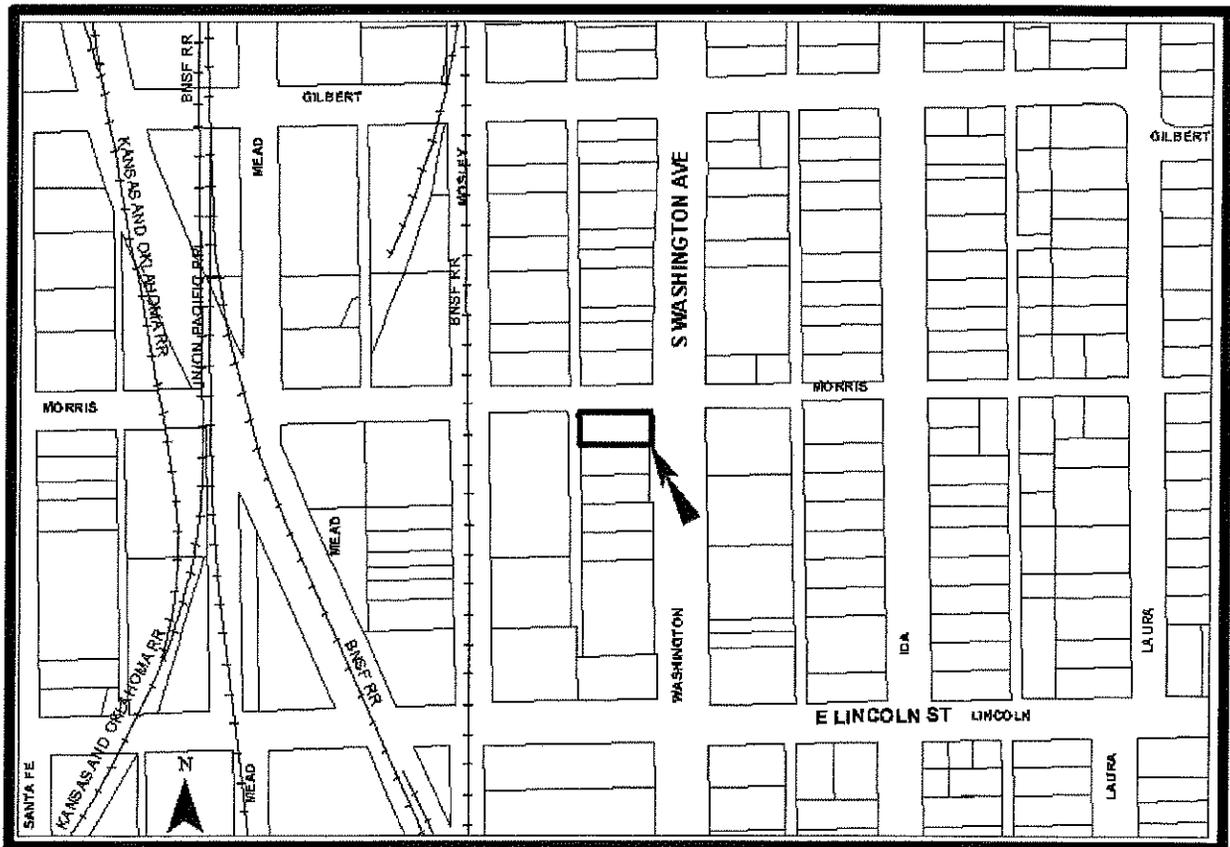
REQUEST: Conditional Use for a Nightclub in the City within 300 feet of
residential zoning

CURRENT ZONING: GC General Commercial

SITE SIZE: .15 acres

LOCATION: Southwest corner of Morris Street and South Washington Avenue
(911 E. Morris)

PROPOSED USE: Nightclub with Entertainment License



BACKGROUND: The application area, 911 E. Morris, is located at the southwest corner of Morris Street and South Washington Avenue in GC General Commercial (GC) zoning. The site is developed with a one-story brick building and approximately 13 off-street parking spaces. The County Tax Assessor lists “bar/tavern/lounge” as the current land use, a drinking establishment has functioned on the site as a legal non-conforming use. The applicant wishes to obtain an entertainment license and therefore requests this conditional use for a “nightclub in the city.” Nightclub in the city is defined by the Unified Zoning Code (UZC) as an establishment that provides entertainment and/or dancing, where alcoholic beverages are served and where food may or may not be served. The UZC permits a nightclub in the city in the GC zoning district by right, but requires a conditional use if the property is located within 300 feet of a church, park, school or residential zoning district. The application area is approximately 100 feet from a residential zoned property at the northeast corner of Morris and Washington, and is within 300 feet of residential zoned property one block to the east along S. Ida Ave. All residential zoned properties within 300 feet of the application area are zoned B Multi-family Residential and are developed with single-family homes.

All surrounding properties to the north, south and west are zoned GC or LI and developed with retail, warehousing, and some residential uses. Rail spurs exist west of the site along Mosley and Mead Avenues. East of the site, along the Washington frontage is primarily zoned GC with some B zoning; land uses along the east side of Washington include auto repair and some residential uses. Further east, Ida and Laura Avenues are zoned B and developed primarily with single-family residences.

CASE HISTORY: The site was platted as Lots 145 and 147 and the south 10 feet of vacated Morris Street of Kelsch’s Addition in 1886.

ADJACENT ZONING AND LAND USE:

North: GC	Retail, warehousing
South: GC	Single family residences, warehousing, bar/tavern
East: GC, B	Vehicle repair, warehousing, single and multi-family residential
West: LI	Warehousing, rail operations, manufacturing

PUBLIC SERVICES: Morris is a paved local street at this location with a 46-foot right-of-way (ROW), the site has paved alley access from Morris. Washington is a 4-lane urban collector at this location with additional turn lanes and a 98-foot ROW. The 2030 transportation plan designates this portion of Washington as becoming a 5-lane arterial. All other urban utilities and services are available.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “local commercial” and adjacent to an area designated as “employment/industry center.” The local commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The employment/industry center category encompasses areas with concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials, should locate in compact clusters or

nodes versus extended strip developments, should not put commercially generated traffic on residential streets, and should have site design features which limit noise, lighting and other activity from adversely impacting surrounding residential areas. The application area is within the South Central Neighborhood Plan, adopted in 2006. That plan recommends that the site remain commercial, the plan also encourages the expansion of existing businesses. The UZC requires one parking space per two seats for nightclubs, the application area appears to have 13 total parking spaces on the north and west sides of the building.

RECOMMENDATION: Staff notes that a bar has existed on this site for some time, and another bar exists within this block to the south. This application does not introduce a new use to this location, and the use does not appear to be incompatible with the residential zoning within 300 feet. Staff also notes that limited parking is available on the site. However, the industrial area west of the site offers on-street parking during evening hours. Based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a Nightclub in the City be **APPROVED**, with the following conditions:

- (1) The applicant shall submit a revised site plan, to be approved by planning staff, which identifies all off-street parking spaces for the nightclub, to include off-site parking spaces.
- (2) The site shall be developed in conformance with the approved site plan.
- (3) The site shall meet code required parking of one space per two patron seats; or, the site shall obtain a variance or adjustment to reduce the required parking; or, the applicant shall submit a parking study, to be approved by planning staff, which reasonably accommodates the anticipating parking demand.
- (4) No outside loudspeakers or outdoor entertainment is permitted.
- (5) The site shall maintain all necessary licenses for a nightclub in the city.
- (6) The site shall conform to all applicable codes and regulations in include but not limited to zoning, building, fire and health.
- (7) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All surrounding properties to the north, south and west are zoned GC or LI and developed with retail, warehousing, and some residential uses. Rail spurs exist west of the site along Mosley and Mead Avenues. East of the site, along the Washington frontage is primarily zoned GC with some B zoning; land uses along the east side of Washington include auto repair and some residential uses. Further east, Ida and Laura Avenues are zoned B and developed primarily with single-family residences.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned GC and developed with a building previously used as a bar. The site could be used as zoned for other commercial uses.

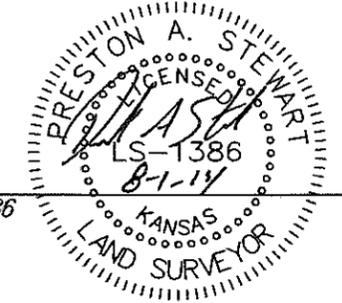
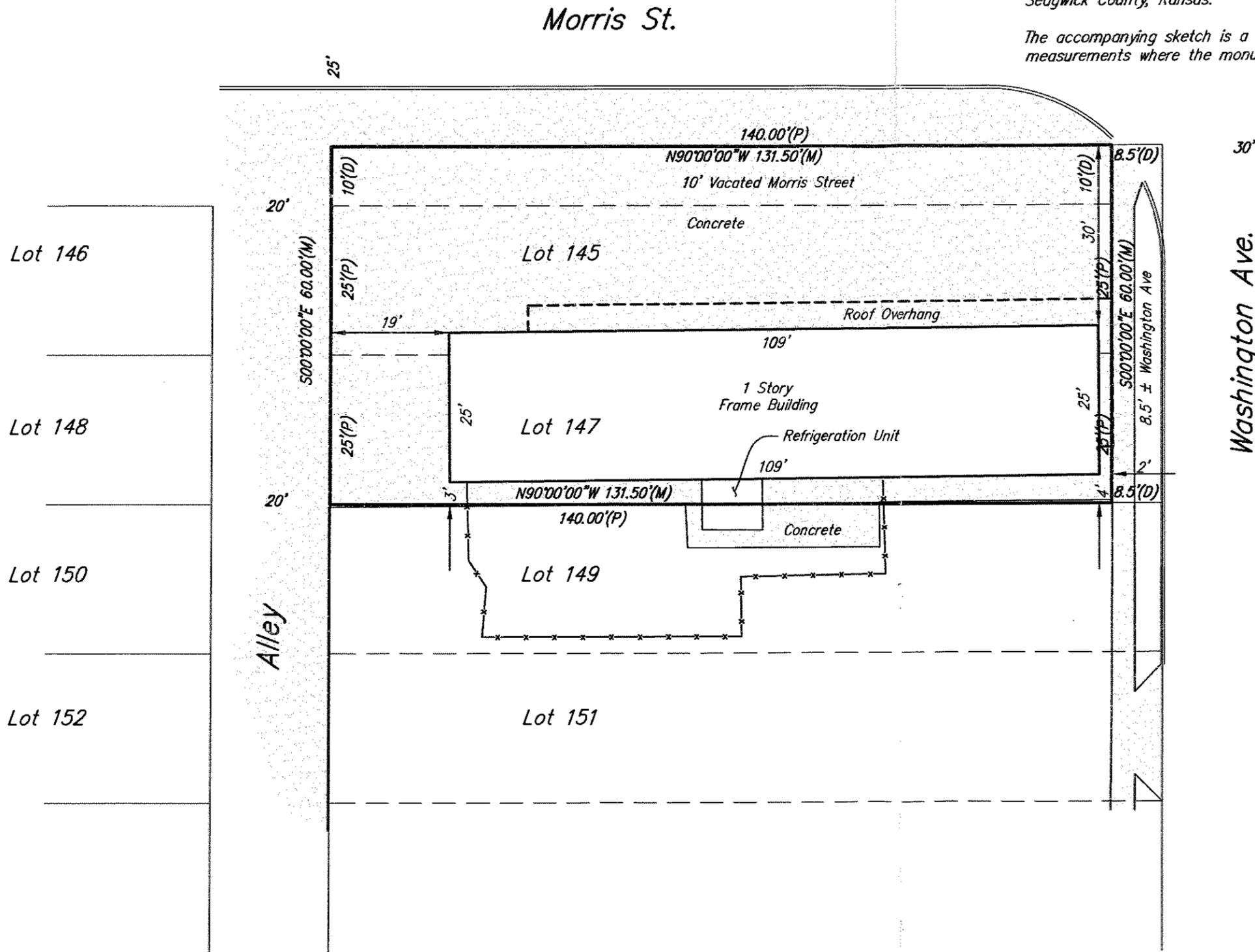
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site is zoned GC and could be developed with any range of permitted uses in that district. The proximity of residential zoning on the east side of Washington triggers the conditional use review for a nightclub. Noise and activity from the nightclub could impact the residential neighborhood east of Washington, although traffic and parking would remain on the west side of Washington, possibly using on-street parking along industrial streets to the west of the site. The limited size of the site will prevent expansion beyond a neighborhood scale, and proposed conditions should mitigate impacts on surrounding properties.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial of the request would presumably be an economic hardship upon the property owner, as the applicant owns the property and desires to operate the proposed business within GC zoning.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “local commercial” and adjacent to an area designated as “employment/industry center.” The local commercial category encompasses areas that contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The employment/industry center category encompasses areas with concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials, should locate in compact clusters or nodes versus extended strip developments, should not put commercially generated traffic on residential streets, and should have site design features which limit noise, lighting and other activity from adversely impacting surrounding residential areas. The application area is within the South Central Neighborhood Plan, adopted in 2006. That plan recommends that the site remain commercial, the plan also encourages the expansion of existing businesses. The UZC requires one parking space per two seats for nightclubs, the application area appears to have 13 total parking spaces on the north and west sides of the building.
6. Impact of the proposed development on community facilities: The proposed use will impact on-street parking within the surrounding area. The proposed Conditional Use should not impact community facilities to any greater extent other uses permitted in the GC zoning district.

State of Kansas)
 County of Sedgwick) SS

Klenda Austerman, LLC
 July 22, 2014

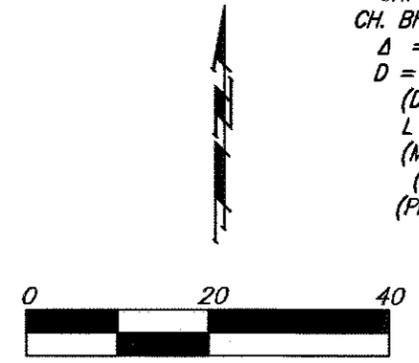
We, Baughman Company, P.A., Surveyors in oforesaid county and state do hereby certify that, under the supervision of the undersigned, we did on this 22th day of February, 2014, perform a survey of Lots 145-147 & S. 10 ft Vac Morris St except 8.5 ft M-L for ST Washington Ave, Kelsch's Addition, Wichita, Sedgwick County, Kansas.

The accompanying sketch is a true and correct exhibit of said survey based on actual field measurements where the monuments are of the character and occupy the positions as indicated.



Preston A. Stewart #1386 Date

- (C) = Calculated
- CH. = Chord Length
- CH. BR. = Chord Bearing
- Δ = Delta Angle
- D = Degree of Curve
- (D) = Described
- L = Arc Length
- (M) = Measured
- (P) = Platted
- (Pro) = Prorated
- R = Radius



NOTE: Baughman Company, P.A. has not researched any title examination of subject property. An abstract or title insurance company would need to be contacted to research and provide to us any easements, rights-of-ways or dedications.

	Conditional Use Site Plan 911 E. Morris St. Wichita KS L145-147, Kelsch's Addition	
	<small>Baughman Company, P.A. 315 Ellis St. Wichita, KS 67211 P 316-262-7271 F 316-262-0149 ENGINEERING SURVEYING PLANNING LANDSCAPE ARCHITECTURE</small>	
REVISIONS	APPROVED PAS	DRAWN KHS
	SCALE 1"=30'	DATE 07/28/2014
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