

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

Minutes

September 25, 2014

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, September 25, 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; David Dennis; David Foster; Bill Johnson; M.S. Mitchell; John McKay Jr.; Don Sherman; Debra Miller Stevens and Chuck Warren. Joe Johnson; Don Klausmeyer; Carol Neugent; Bill Ramsey; 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. Approval of the September 11, 2014 MAPC meeting minutes.

MOTION: To approve the September 11, 2014 Planning Commission minutes.

MCKAY moved, DENNIS seconded the motion, and it carried (6-0-3). B. JOHNSON, MILLER STEVENS and D. SHERMAN – Abstained.

2. CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS

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

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 platlor'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 platlor'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.
- 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

Engineers (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 platting 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.
- 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).

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

DENNIS moved, **MILLER STEVENS** seconded the motion, and it carried (9-0).

3. PUBLIC HEARING – VACATION ITEMS

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.

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

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.

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

B. JOHNSON moved, **MCKAY** seconded the motion, and it carried (9-0).

PUBLIC HEARINGS

4. **Case No.: CON2014-00026** - Ronnie Beard (property owner) requests a City Conditional Use permit for a 8' X 40' portable outdoor storage container in GC General Commercial zoning on property described as:

Lots 133 and 135, Seneca Street, McCormick's 3rd Addition to Wichita, Sedgwick County, Kansas.

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 per 1,000 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.

DALE MILLER, Planning Staff presented the Staff Report.

FOSTER asked about the DAB recommendation on the case.

MILLER said the DAB recommended approval of the staff recommendation.

MOTION: To approve subject to staff recommendation.

B. JOHNSON moved, **MITCHELL** seconded the motion, and it carried (9-0).

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5. **Case No.: CON2014-00027** - the Maisch Family Limited Partnership, c/o Lynn Stewart (applicant) and Robert Kaplan (agent) request a City Conditional Use to permit a nightclub in the City on property described as:

Lots 145, 147 and the South 10 feet of vacated Morris Street EXCEPT 8.5 feet more or less for Washington Avenue, Kelsch’s Addition to Wichita, Sedgwick County, Kansas.

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.

JESS MCNEELY, Planning Staff presented the Staff Report.

WARREN asked what happens if the applicant can't obtain enough parking for the occupancy level. Do they just reduce the occupancy?

MCNEELY said the applicant can apply for an administrative adjustment that would reduce the parking requirement of the UZC by 25%. He said if that doesn't provide enough parking, they can apply for a variance from the Board of Zoning Appeals or limit occupancy to the amount of parking they can provide.

MCKAY asked if this conditional use limits the applicant to no outside activities such as providing tables with umbrellas like some of the other bars in downtown.

MCNEELY said the conditional use prohibits loudspeakers or outdoor entertainment; however, that would not preclude an outside seating or smoking area.

CHRIS MCFLYNN, 301 NORTH MAIN, AGENT FOR THE APPLICANT asked that their comments be deferred until after the public comments.

CHAIR GOOLSBY explained that agent rebuttal time was two minutes.

LONNIE HEFFNER, 737 SOUTH WASHINGTON said he owns the property just north of the tavern along with several other properties in the area. He said he was present to speak against the item because of all the problems associated with the tavern including increased trash and people going to the bathroom on the sidewalk, which the business owners have to clean up. He said he has lived and worked in the area for 65 years. He mentioned several other businesses in the area including a used car lot, moving company, Heffner TV, storage units that are open day and night, an emergency veterinary clinic open 24 hours a day and a heating and air conditioning company. He said they have improved the area and torn out old dilapidated houses for new businesses. He said they don't want people full of alcohol creating a mess like they have in the past when the tavern was open. He said he doesn't think

the area needs another tavern since there is a tavern just a block east of this location. He said there is enough alcohol consumption in the area and neighborhood. He concluded by asking the Commission to take that into consideration when they make their decision.

FOSTER asked Mr. Heffner if he has ever considered this location as a viable property purchase.

HEFFNER said no and added that the tavern used to be called the Red Garter when he lived across the street from it. He mentioned several shootings at the location.

CHRIS MCFLYNN, 301 NORTH MAIN said he was present to represent Bob Kaplan, agent for the applicant and that they understand the concerns about this being a non-conforming use, but he said this is a legal drinking establishment already and will continue if the application is approved. He said the advantage to approving this request is to allow the operator to require a dress code and charge a cover charge which may cut down on less than desirable patrons. He said this conditional use won't change anything else about the use of the property as it already exists. He said they spoke with the tenant and owners to the west of the site and they had no objections or concerns. He said he believes Mr. Heffner's concerns were aimed at the previous existing use rather than the current request. He said they believe the new site plan takes care of those concerns and meets the requirements for a conditional use. He said they plan to address the parking issue by securing spaces on the property to the west of the location.

WARREN asked if the applicant was going to do anything to curb any tavern patron activities outside that may expand onto property owned by other businesses, such as providing security or additional lighting.

MCFLYNN said the applicant will meet any licensing requirements and law enforcement requests. He said the other tenants and owners are not voicing any objections. He said in addition, the applicant will want to insure the best relationship they can in the area; they are motivated to do that. He said once they know the nature of any problems they can address them, but added that there have been no reports filed with the Wichita Police Department. He said they will insure the necessary steps are taken if and when they experience issues like in any other entertainment district.

FOSTER asked for additional information regarding remodeling of the property.

MCFLYNN said the applicant is upgrading the interior environment to make it more aesthetically pleasing, adding a stage and renovating the outside patio area. He said all renovations will comply with UZC requirements.

DENNIS asked the agent what the applicant will do to keep activities from spilling into the neighborhood.

MCFLYNN said the applicant will continue to use the property as it is being used today. He said they will provide the normal type of security measures and will effectively address any issues that arise. He said they have had no indications from adjacent tenants of problems but will address any that arise.

MOTION: To approve subject to the staff recommendation.

MITCHELL moved, **B. JOHNSON** seconded the motion, and it carried (8-1).

NON-PUBLIC HEARING ITEMS

Other Matters/Adjournment

The Metropolitan Area Planning Commission adjourned at 2:00 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)