

**WICHITA-SEDGWICK COUNTY**  
**METROPOLITAN AREA PLANNING COMMISSION**

**MINUTES**

**January 7, 2016**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, January 7, 2016 at 1:30 p.m., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Carol Neugent, Chair; David Dennis, Vice Chair; John Dailey; Bob Dool; Bill Ellison; David Foster; Matt Goolsby; Joe Johnson; John McKay Jr.; Debra Miller Stevens; Bill Ramsey; Lowell Richardson; John Todd and Chuck Warren. Staff members present were: Dale Miller, Director; Jess McNeely, Senior Planner; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Derrick Slocum, Associate Planner; Jeff Vanzandt, Assistant City Attorney; Justin Waggoner, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. Approval of the December 3, 2015 Planning Commission Minutes

**MOTION:** To approve the December 3, 2015 minutes.

**JOHNSON** moved, **RAMSEY** seconded the motion, and it carried (9-0-2). **DENNIS** and **RICHARDSON** – Abstained.

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2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2015-00045: One-Step Final Plat - HIEGER EAST 2ND ADDITION**, located east of 247th Street West, on the North side of 61st Street North (COUNTY)

**CHAIR NEUGENT** announced that the item had been deferred.

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3. **PUBLIC HEARING – VACATION ITEMS**

- 3-1. **VAC2015-00060: City request to vacate a utility easement contained in plattor's text on property**, generally located northeast of Oliver and Douglas Avenues, between First and Second Streets, on the west side of Pershing Avenue (235 N. Pershing Ave.)

**OWNER/APPLICANT:** Stephen K. and Pamela M. Lester (owner/applicant)

**LEGAL DESCRIPTION:** Generally described as vacating the 5-foot wide public utility easement (as referenced in the plattor's text) located in the west 5 feet of Lots 9, 10, 11 and 12, Pershing Terrace Addition, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located northeast of Oliver and Douglas Avenues, between 1st and 2<sup>nd</sup> Streets, on the west side of Pershing Avenue (235 N Pershing - WCC #I)

**REASON FOR REQUEST:** To allow for detached garage

**CURRENT ZONING:** The site and the abutting properties and are zoned SF-5 Single-Family Residential. Adjacent properties are zoned SF-5 and TF-3 Two-Family Residential

The applicant is requesting the vacation of the five-foot wide public utility easement (as referenced in the plattor's text) located in the west five feet of Lots 9, 10, 11 and 12, Pershing Terrace Addition; the subject site. Per the plattor's text "The City of Wichita is hereby granted an easement for the construction and maintenance of all public utilities in the rear five feet of each and every lot." The plattor's text also references a park, which has not been dedicated for public use; it is a private park. Access to the private park is through the SF-5 Single-Family Residential (SF-5) zoned private properties that abut it; all developed as single-family residences. The 38.25-foot wide park abuts the rear yards of Lots 3-22 (east side, which contains the subject site), Lots 27-36 (west side) and the interior side yards of Lots 2 and 47 (north side) and Lots 22 and 26 (south side), all in the Pershing Terrace Addition. The ownership description of the subject site, Lots 9, 10, 11 and 12, Pershing Terrace Addition, also includes a 1/24 interest in park. The applicant's interest/ownership in the park would push the rear yard 19.125 feet west (the east half of the 38.25-foot wide park) of the rear lot lines of the subject site, Lots 9, 10, 11 and 12, Pershing Terrace Addition. This would establish the SF-5 zoned site's 20-foot rear yard setback, of which 0.875 feet of it would be located over the west lot lines of the subject site. The vacation process can reduce the 20-foot rear setback by 20%, establishing a 16-foot rear setback, which would allow the applicant to build four feet into the private park. There are several abutting properties that have built into the private park, but staff has found no vacation of the utility easement. There is a sewer line and manholes located the length of the park. If approved a dedication of a sewer-utility easement by separate instrument, would establish a 10-foot wide (x) 100-foot long sewer and utility easement running from the center of the public sewer, east towards the subject site. The Pershing Terrace Addition was recorded April 11, 1923.

NOTE: A similar vacation case, located a block south of this case, required the dedication of utility easement by separate instrument to cover the sewer equipment located in the Pershing Terrace 2<sup>nd</sup> Addition's private park; V-1832, Lots 29, 30 and 31, Pershing Terrace 2<sup>nd</sup> Addition. The design of the Pershing Terrace 2<sup>nd</sup> Addition mirrors the subject Pershing Terrace Addition.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, 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 public utility easement referenced in the plattor's text.

- 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 December 17, 2015, 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 utility easement referenced in the plattor's text 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 five-foot wide public utility easement (as referenced in the plattor's text) located in the west five feet of Lots 9, 10, 11 and 12, Pershing Terrace Addition.
- (2) Reduce the 20-foot rear setback by 20%, establishing a 16-foot rear setback. The 16-foot rear setback begins 19.125 feet west of the rear lot lines of the subject site, Lots 9, 10, 11 and 12, Pershing Terrace Addition, which is the middle of the 38.25-foot wide park abutting the subject site.
- (3) Dedicate a 10-foot wide (x) 100-foot long sewer and utility easement by separate instrument that shall be located in the center of the public sewer line, going east towards the subject site. This must be provided, with original signatures, to Planning prior to the case going to the City Council for final action and subsequent recording with the Register of Deeds.
- (4) As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (5) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
- (6) All improvements shall be according to City Standards and at the applicants' expense.
- (7) Per MAPC Policy Statement #7, all conditions are to 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 five-foot wide public utility easement (as referenced in the plattor's text) located in the west five feet of Lots 9, 10, 11 and 12, Pershing Terrace Addition.

- (2) Reduce the 20-foot rear setback by 20%, establishing a 16-foot rear setback. The 16-foot rear setback begins 19.125 feet west of the rear lot lines of the subject site, Lots 9, 10, 11 and 12, Pershing Terrace Addition, which is the middle of the 38.25-foot wide park abutting the subject site.
- (3) Dedicate a 10-foot wide (x) 100-foot long sewer and utility easement by separate instrument that shall be located in the center of the public sewer line, going east towards the subject site. This must be provided, with original signatures, to Planning prior to the case going to the City Council for final action and subsequent recording with the Register of Deeds.
- (4) As needed provide letters from franchised utility representatives stating that their utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (5) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
- (6) All improvements shall be according to City Standards and at the applicants' expense.
- (7) Per MAPC Policy Statement #7, all conditions are to 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.

There were no public comments.

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

**DENNIS** moved, **MCKAY** seconded the motion, and it carried (13-0).

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**PUBLIC HEARINGS**

4. **Case No.: ZON2015-00043** – HD Realty, LLC, Attn: Brian Happy (Owner/Applicant) and Baughman Company, PA, Attn: Russ Ewy (Agent) request a City zone change request from LC Limited Commercial to GC General Commercial with a Protective Overlay, generally located at the southwest corner of Lewis Street and Ellison Streets (north of Kellogg and Ease of Greenwich).

**CHAIR NUEGENT** announced that the item had been withdrawn.  
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5. **Case No.: ZON2015-00050** - F & R Investments (Applicant/Owner) and Kim Edgington (Agent) request a City zone change from NR Neighborhood Retail to LC Limited Commercial on property described as:

Lots 1, 2 and 3, Rebecca Addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The applicant requests a rezone from NR Neighborhood Retail (“NR”) to LC Limited Commercial (“LC”) zoning on three lots, 1, 2 and 3; Rebecca Addition (5308, 2314, 5320 and 5326 East Central Avenue) totaling 0.86 acres, located at the northeast corner of East Central Avenue and Old Manor Road. The parcels are currently developed with older quadraplexes, many of the units currently vacant. These three lots are the last remaining residential lots along Central Avenue at this location, between Edgemoor (to the east) and North Pinecrest Street (to the west).

The current neighborhood character is a mix of LC and NR zoned retail, vehicle repair, medical services and personal care services along Central Avenue. The only other residential properties along this corridor are further west down Central Avenue, near Battin Street and backing up to the commercial properties that are located along Central Avenue. The proposed zone change, from NR to LC would require conformance to all property development standards in the Unified Zoning Code

Property north of the subject site is zoned SF-5 Single-family Residential (“SF-5”) and is developed with single-family residences. Property to the south of the subject site, across Central Avenue, is zoned LC and is developed with a medical service, personal care services and a restaurant. Property to the east of the subject site is zoned NR and is developed with a strip center and retail stores. Property west of the subject site, across Old Manor Road, is zoned LC and is developed with vehicle repair services and a car wash.

**CASE HISTORY:** The subject site was platted as Lots 1, 2 and 3; Rebecca Addition on October 15, 1988. Property directly to the west of the subject site, across Old Manor Road, was rezoned to LC from B Multi-family Residential (“B”) (Z-3352) in 2000.

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-5	Residential
SOUTH:	LC	Retail, Medical Services, Restaurant
EAST:	NR	Strip Center, Retail Stores
WEST:	LC	Vehicle Repair, Car Wash

**PUBLIC SERVICES:** The subject property has frontage along East Central Avenue (south side of property), a five-lane (center turn lane), and paved, arterial road with approximately 95-feet of right-of-way at this location. Along the west side of the property runs North Old Manor Road, a two-lane, paved, collector without traffic counts. Public water and sewer service are currently available to the subject property.

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

**RECOMMENDATION:** The request does not introduce LC zoning into this area located north of the East Central Avenue – Old Manor Road intersection, as the property across Old Manor Road from the subject site was recently rezoned from B to LC; Z-3352 and property south of the subject site, across Central Avenue, is also zoned LC. A persistent consideration with the subject site is the possible lack of on-site parking for nonresidential uses. It is reasonable to state that the possible lack of on-site parking would need to be resolved thru off-site parking or a variance.

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) All uses allowed as permitted uses in the LC Limited Commercial (“LC”) zone district except the following: adult bookstores; pawn shops; payday loan operations; funeral home; adult entertainment; convenience stores; hotel or motel; nightclub; recreation and entertainment, indoor; service station; tavern and drinking establishment; vehicle and equipment sales, outdoor and wireless communication facility;
- (2) The site shall be developed in conformance with code required noise, setback and height standards, zoning screening and buffering and landscaping requirements unless modified by this Protective Overlay;
- (3) No outdoor storage shall be permitted on the site;
- (4) Outdoor lighting on the site shall be restricted to 12 feet in height, including the base, and shall be shielded away from residential zoning;
- (5) Outdoor speakers and sound amplification systems shall not be permitted.
- (6) Access Control will be determined through Traffic Engineering approval.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** Property north of the subject site is zoned SF-5 Single-family Residential (“SF-5”) and is developed with single-family residences. Property to the south of the subject site, across Central Avenue, is zoned LC and is developed with a medical service, personal care services and a restaurant. Property to the east of the subject site is zoned NR and is developed with a strip center and retail stores. Property west of the subject site, across Old Manor Road, is zoned LC and is developed with vehicle repair services and a car wash.

- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site could be developed with residential and light commercial uses under the current NR zoning.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Rezoning and commercial development could have negative effects on the single-family residences north of the application area. Existing codes would require compatibility setbacks, screening, landscaping, limit noise, and prohibit certain uses within 200 feet of residences.
- (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 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 requested LC zoning district is to accommodate retail, commercial, office and other complementary land uses. The LC and NR zoning districts are generally compatible with the Local Commercial or Regional Commercial designations of the Wichita-Sedgwick County Comprehensive Plan.
- (5) **Impact of the proposed development on community facilities:** Traffic on the existing residential street could increase as a result of the proposed development. The site currently has a curb cut for access to Old Manor Road, a classified local street and two other access points along Central Avenue.

**DERRICK SLOCUM**, Planning Staff presented the Staff Report. He briefly reviewed changes that were made at the DAB I hearing. He said the PO in the Staff Report prohibited a number of items including a restaurant with drive up service or in vehicle food service. He also mentioned provision #2 limiting signage to what was allowed under NR zoning. He said DAB recommended restaurants with drive ups be removed from the PO restrictions and they also requested that provision #2 be completely eliminated. He said staff and the agent spoke regarding access control and they thought language to the effect that access control would be as approved by Traffic Engineering would be sufficient. He said they do not believe they need five openings along Central Avenue. He said DAB also requested adding that no Pay Day Loan businesses be allowed under provision #1. He said the application was approved by the DAB 8-0 with the changes outlined.

**MILLER STEVENS** asked what type of signage would be allowed.

**SLOCUM** said the same as allowed in LC zoning.

**RICHARDSON** asked what was the reasoning for adding a restaurant but not allowing a Pay Day Loan office.

**SLOCUM** said he couldn't answer that. He said the agent did want to leave the restaurant option open but the Pay Day Loan request came from the DAB.

**JEFF VANZANDT, ASSISTANT CITY ATTORNEY** said if a financial institution is authorized in the zoning he doesn't think you can then say except for this type of financial institution whether you like it or not. As an example he said it would be the equivalent of saying churches are allowed, but not Baptists. He said he did not believe you can restrict the specific type of business.

**MCKAY** asked if the Planning Commission could change the DAB recommendation to say no financial institutions or eliminate it entirely.

**VANZANDT** commented that the Planning Commission does not have to accept the DAB recommendation. He said the Planning Commission could modify the request to fall in line with the intent.

**JOHNSON** said he seemed to recall a case at Oliver and Central where the Planning Commission put a restriction that there be no Pay Day Loans.

**VANZANDT** admitted that it has been done in past and so far it has not been challenged. He said he would have a hard time defending that in court. He said Pay Day Loans are a legal business recognized by the state.

**DOOL** asked doesn't LC zoning include restaurants with drive up windows so if this is approved as LC zoning isn't that automatically included.

**SLOCUM** explained that the original PO prohibited that use.

**KIM EDGINGTON, 2532 NORTH CARDINAL DRIVE, AGENT FOR THE APPLICANT** said the applicant is fine with restricting Pay Day Loans as a use; however, they would prefer not to restrict all financial institutions to leave open some options. She said they are also asking that restaurants with drive thru service be removed from the PO restrictions. She added that they would like to keep the signage to what would be allowed in LC zoning.

**MOTION:** To approve subject to staff recommendation and take out restrictions in PO regarding drive thru restaurants and restaurants with in-vehicle food service, let the applicant voluntarily restrict Pay Day Loans and allow LC restrictions on signage.

**JOHNSON** moved, **GOOLSBY** seconded the motion, and it carried (12-1). **TODD** – No.

**CHAIR NEUGENT** asked for a legal opinion on letting the applicant voluntarily restrict Pay Day Loan operations.

**VANZANDT** said anyone can voluntarily put restrictions on their property. He said he didn't want the applicant to feel they were compelled to because of the DAB recommendation.

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6. **Case No.: ZON2015-00051** - Fidelity Bank, c/o Terri Rosenhammer (Owner/Applicant) and Baughman Company, PA, c/o Russ Ewy (Agent) request a City zone change from SF-5 Single-family Residential and GO General Office to LC Limited Commercial for a bank expansion on property described as:

Lot 3 EXCEPT the North 137.51 feet together with the South half of lots 4 and 5 EXCEPT the North 6 feet thereof, Robson Heights Addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The .70 acre application area is currently zoned SF-5 Single-Family Residential (SF-5), with a small squared area of GO General Office (“GO”) at the extreme southeast part of the application area. These three lots have remained vacant since platting in 1950. The applicant also owns the LC Limited Commercial (LC) zoned lot west of the site, developed with a strip retail commercial use. The applicant wishes to expand their banking operation to the subject site. Their nearest bank location is 400 feet northwest of the subject site and therefore requests a zone change request to LC. Under LC zoning, the Unified Zoning Code (UZC) would permit the following land uses on this site by right (which are not permitted under the current SF-5 zoning): duplex, multi-family, assisted living, group residence, correctional placement residence, hospital, nursing facility, university or college, animal care, automated teller machine, bank or financial institution, broadcast/recording studio, construction sales and services, convenience store, farmers market, funeral home, hotel or motel, medical service, nurseries or garden centers, general office, commercial parking area, pawnshop, personal care service, personal improvement service, post office substation, limited printing and copying, indoor entertainment and recreation, restaurant, general retail, secondhand store, service station, limited vehicle repair, vocational school, agricultural research, agricultural sales and service. Under LC zoning, the UZC would require compatibility setbacks from SF-5 zoning, parking, screening and landscaping; these requirements will limit development on the site. The UZC requires a 25-foot compatibility setback from SF-5 zoning to the north, it limits building height to 35 feet within 50 feet of SF-5 zoning, it limits light pole height to 15 feet within 200 feet of residential zoning, and it requires three parking spaces per 1,000 square feet for most commercial uses.

The three lots north of the application area are zoned SF-5 and developed with single-family residences. Property east of the site is also zoned SF-5 and developed with a single-family residence. South of the site, across Diane Street, is zoned LC and developed with a retail store (Walgreens). West of the site is property zoned LC and developed with a strip mall, with larger and more concentrated retail uses across Seneca Street.

**CASE HISTORY:** The site includes parts of Lots 3, 4 and 5 of the Robson Addition platted on July 26, 1950. CON2005-00029 was approved for an ancillary parking lot on SF-5 zoned property in 2005. Also in 2005, a lot split (SUB2005-00125) was approved and a dedication (DED2005-00033) of road right of way was required in association with SUB2005-00125.

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-5	Single-family Residences
SOUTH:	LC	Retail Store

EAST: SF-5 Single-family Residence  
WEST: LC Retail Stores and Strip Mall

**PUBLIC SERVICES:** South Seneca Street is a paved arterial with a 90-foot right of way. West Diane Street is a paved local road with a 30-foot right of way. All other public utilities 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 west of the site along Seneca as “local 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:** Staff notes that these lots, other than the westernmost lot (Lot 3), has remained vacant since platting in 1950. The requested zone change would extend contiguous LC zoning from the Seneca frontage to expand area available for a future bank location. Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The three lots north of the application area are zoned SF-5 and developed with single-family residences. Property east of the site is also zoned SF-5 and developed with a single-family residence. South of the site, across Diane Street, is zoned LC and developed with a retail store (Walgreens). West of the site is property zoned LC and developed with a strip mall, with larger and more concentrated retail uses across Seneca Street.
- (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 be developed with single-family residences. However, the site has remained vacant since platting, and existing commercial development bordering the site to the west and south may reduce the site’s desirability for future single-family residential development.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Residential neighbors to the north and east could be impacted with increased noise, light, trash, traffic and activity from development under LC zoning. These impacts would not be new to the area as significant commercial zoning and development already exists in the immediate area. The compatibility standards of the UZC should mitigate these impacts on nearby residences.

- (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 east of the site along Seneca as “local 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 could bring increased commercial traffic one lot further east on this portion of Diane Street. All other services are in place, any increased demand on community facilities can be handled by existing infrastructure.

**DERRICK SLOCUM**, Planning Staff presented the Staff Report.

**FOSTER** mentioned these transitional areas that have some nice residential backing up to them. He said LC zoning would allow a nightclub as a conditional use. He asked wouldn't NR be more appropriate zoning for this item.

**SLOCUM** replied that staff wouldn't have a problem with that; however, it would be up to the agent and applicant since they applied for LC zoning.

**ELLISON** commented that the Staff Report refers to the expansion of the bank, but there is no bank at the site.

**SLOCUM** indicated that was a typographical error. He said they are relocating the bank from the other side of the road.

**DAILEY** asked for clarification on the possibility of a nightclub with residential zoning is so close.

**SLOCUM** said a nightclub would require a Conditional Use permit.

**JOSHUA BLICK, 2039 S. EVERETT, PRESIDENT, SOUTHWEST NEIGHBORHOOD ASSOCIATION** said they don't see any problem and have no objections to the request. He added that Fidelity Bank has been great.

**MOTION:** To approve subject to staff recommendation.

**MCKAY** moved, **GOOLSBY** seconded the motion, and it carried (13-0).

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7. **Case No.: CON2015-00037** - BOOP, LLC (Owner) Flint Hills Materials (Applicant) and K.E. Miller Engineering, c/o Kirk Miller (Agent) request a County Conditional Use permit for an Asphalt Plant or Concrete Plant on LI Limited Industrial zoned property, generally located on the west side of Woodlawn Boulevard/63rd Street East and 1/2 mile north of K-254.

**CHAIR NEUGENT** announced that the item had been deferred.

8. **Case No.: CON2015-00038** - Murfin, Inc. (Applicant) requests a City Conditional Use for Ancillary Parking in TF-3 Two-family Residential zoning on property described as:

Lots 2 and 4 EXCEPT the East 50 feet, Poplar Street, 2<sup>nd</sup> Subdivision of lots 3 & 4 Richland Addition to Wichita, Sedgwick County, Kansas.

**BACKGROUND:** The applicant requests a Conditional Use to allow ancillary parking on a TF-3 Two-family Residential (TF-3) zoned property. The property is developed with a duplex to be removed for the parking lot (see the attached site plan). The site is located one lot south of East Douglas on the east side of South Poplar (116 S. Poplar), across an alley and behind apartment buildings that front on Douglas. Similar parking exists along this alley in support of apartment and commercial uses along this portion of East Douglas.

Property north of the site is zoned LC Limited Commercial (LC) and developed with apartment buildings fronting East Douglas. Property south of the site is zoned TF-3 and primarily developed with single-family residences. East of the site is GO General Office (GO) zoning along the alley, and TF-3 zoning further south. Property immediately east of the site is developed with a single-family residence, but also has ancillary parking along the alley. Property west of the site is zoned GO and is used for parking in support of commercial buildings fronting Douglas.

Per the Unified Zoning Code (UZC) Sec.III-D.6.p., ancillary parking may be permitted with a Conditional Use in the TF-3 zoning district. The UZC supplementary use conditions for ancillary parking in TF-3 include: parking must be within 600 feet of the supported use, must be for passenger vehicles only, shall not permit parking spaces within the required front setback, must meet city paving and design standards, must be screened in accordance with the UZC and meet the Landscape Code, must meet UZC lighting requirements, is limited to signage for the orientation of the parking area, and is prohibited from being a fee based parking area. The UZC also allows for an Administrative Adjustment (Sec.V-I.2.1.) to allow parking in residential zoning districts within the front setback but no closer to the property line than eight feet.

**CASE HISTORY:** The site was platted as a portion of Lots 2 and 4 of the Richland's 2<sup>nd</sup> Addition to Wichita in 1885.

**ADJACENT ZONING AND LAND USE:**

NORTH:	LC	Multi-family residences
SOUTH:	TF-3	Single-family residences
EAST:	GO, TF-3	Ancillary parking, single-family residences
WEST:	GO	Ancillary parking

**PUBLIC SERVICES:** The subject property has direct access to Poplar, a residential street, and is one block south of East Douglas, a four-lane arterial.

**CONFORMANCE TO PLANS/POLICIES:** The ‘2030 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 typically found in large urban municipality.

**RECOMMENDATION:** The proposed parking is similar to parking lots on this block and in the immediate surrounding blocks. The existing parking lots do not appear to have any impact on nearby residences, and improve the on-street parking within the immediate neighborhood. Based on the information available prior to the public hearing, staff recommends that the request be APPROVED, subject to the following conditions:

1. The Conditional Use for Ancillary Parking shall conform to the UZC, Sec.III-D.6.p.
2. Paved parking surface shall be no closer than eight feet from the front or west property line.
3. The applicant shall submit a revised site plan for planning staff approval, which demonstrates the eight-foot front setback for parking, screening from residential property to the south, and landscaping within the eight-foot front setback.
4. The site shall be maintained in conformance with the approved site plan.
5. No light poles shall be permitted on the site.
6. The applicant shall submit a landscape plan, to be approved by planning staff, in conformance with the Landscape Ordinance.
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 Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Property north of the site is zoned LC and developed with apartment buildings fronting East Douglas. Property south of the site is zoned TF-3 and primarily developed with single-family residences. East of the site is GO zoning along the alley, and TF-3 zoning further south. Property immediately east of the site is developed with a single-family residence, but also has ancillary parking along the alley. Property west of the site is zoned GO and is used for parking in support of commercial buildings fronting Douglas.

2. **The suitability of the subject property for the uses to which it has been restricted:** The property is zoned TF-3 and was developed with a single-family residence in 1910. The non-residential zoning and uses abutting this site to the north provide the opportunity for consideration of ancillary parking on the site.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Ancillary parking on a site this size, when developed with the UZC supplementary conditions, should have little impact on nearby property. The proposed parking will support the abutting multi-family residential uses, alleviating on-street parking in the neighborhood.
4. **Conformance of the requested change to adopted or recognized Plans/Policies:** The ‘2030 Land Use Guide of the Comprehensive Plan’ (Plan) identifies the site as “Urban Residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in large urban municipality.
5. **Impact on Community Facilities:** Impact on community facilities will be minimal.

**JESS MCNEELY**, Planning Staff presented the Staff Report. He reported that DAB I approved the request unanimously subject to staff recommendation.

**RICHARDSON** clarified that the house would be torn down and the lot used for parking. He said they do not have the right site plan that reflects that.

**ELLISON** asked if the home being torn down was historical.

**MCNEELY** said the structure is at least 50 years old, but he did not know if it was in a designated Historical District.

**MILLER STEVENS** asked if there would be access to the parking from Poplar.

**MCNEELY** replied there would be no access to the parking from Poplar; just from the alley.

**JEREMY HURT, 12305 EAST TIPPERARY CIRCLE, APPLICANT** referred to the site plan and said what was reflected was the most parking that could be fit on that lot. He said they cannot access the lot from Poplar unless they applied to vacate the alley. He said they had engineers double check that for them. He concluded by saying it was their intent to get as many parking spaces on the lot as possible. He said there is no parking at the apartment complex so some of their tenants are forced to park along Poplar. He said all utilities have been shut off and taken care of and they will be applying tomorrow to tear down the building. He said the vacant house has been broken into at least a dozen times in addition to vandalism. He said it is an eyesore for the neighborhood.

**DAILEY** asked how much of the lot was going to be paved.

**HURT** referred to the site plan and indicated that they would pave just where the parking stalls are located. He said there is not enough room to get two sides of parking on the lot.

**STEPHANIE COFFEY, OWNER OF 121 AND 128 SOUTH POPLAR** said she is excited about this. She said it sounds like there will be a privacy fence between her property and the parking lot. She asked for clarification about access routes to the parking lot. She asked what will they do to keep high school students from parking in there.

**HURT** clarified that the only access to the parking lot was the alley to the north. He said most of the traffic is going to come from Poplar and Green Streets. He said as far as policing the cars and parking, they will rely on their tenants and management company to keep an eye on that. He said they will also post a sign and just do the best they can.

**MOTION:** To approve subject to staff recommendation.

**JOHNSON** moved, **RAMSEY** seconded the motion, and it carried (13-0).

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**DIRECTOR MILLER** referred to the “Draft Workshop Agenda” he forwarded to the Commission. He said the Workshop is scheduled for January 21, 2016, right after the Planning Commission Meeting. He asked if there were any further comments.  
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The Metropolitan Area Planning Commission adjourned at 2:05 p.m.

State of Kansas            )  
Sedgwick County        ) <sup>SS</sup>

I, W. Dale Miller, 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 \_\_\_\_\_, 2016.

\_\_\_\_\_  
Dale Miller, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)