CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

February 20, 2015

Wichita Memorial Post #3115 V.F.W., Inc.
4801 W. Douglas
Wichita, KS, 67209

RE: CON2015-00003 – City Conditional Use request to permit a nightclub in the city with restrictions on property generally located on the southwest corner of Douglas Avenue and Anna Street (4801 W. Douglas).

Dear Applicant

At its regular meeting on **February 19, 2015**, the Wichita - Sedgwick County Metropolitan Area Planning Commission (MAPC) considered the above captioned request. The action of the MAPC was to recommend APPROVAL on the requested Conditional Use, CON2015-00003, with the following conditions:

(1) The nightclub is not open to the general public, but is reserved for the members of Wichita Memorial Post #3115 Veterans of Foreign Wars and their guests.
(2) No outdoor entertainment, music, or recreation is permitted on the site.
(3) The applicant shall comply with all applicable development standards of the UZC, including but not limited to parking and screening, within one-year of approval of the Conditional Use or the request will be null and void.
(4) The applicant shall obtain, maintain, and comply with all applicable permits and licenses necessary for the operation of a nightclub in the city.
(5) The applicant shall file a covenant with the Register of Deeds noting the Conditional Use and its conditions is attached to Lot 1, Block A, Westbreeze Second Addition.
(6) 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.

NOTICE: The public hearing on planning items is conducted by the MAPC under provisions of State Law. Adopted policy is that the City Council will not take additional testimony on zoning/Conditional Use related applications and other issues for which the MAPC has held a public hearing. However, interested parties may file a written statement with the City Clerk by

5:00 PM on the Wednesday preceding this meeting, providing new facts on the issue or alleging an unfair hearing. The Council will determine from such statements whether to return the issue to the MAPC for reconsideration or to reverse their recommendation.

Property owners may file written protest petitions on Conditional Use requests heard by the MAPC. In order to be considered a valid petition, the signatures must reflect the correct and entire ownership of the property, the property must be at least partially within 200 feet of the property for which the application was filed, and must be submitted to the City Clerk within 14 days of the conclusion of the MAPC hearing, by **March 5, 2015, at 5 PM.** Such petitions may cause the application to be disapproved, if the land area encompassed by the protesting owners exceeds 20% of the land area within 200 feet of the perimeter of the application area, unless the City Council overrides such a protest and approves the application by a vote of 4 of its members. If there are protests this case will be scheduled for final action by the City Council at their **April 7, 2015, meeting** as a non-consent item.

If there are no protests the recommendation of the MAPC is final.

This is a reminder that the zoning notification signs should now be removed from the property. If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

Bill Longnecker
Senior Planner - Current Plans Division

BL/mc

Cc: Orchard Breeze, Stephanie Wells Wisecarber, 319 N. Hoover Road, Wichita, KS, 67212
Jeff Blubaugh, WCC IV, Mail Stop 1-13
Case Bell, CL IV, Mail Stop 1-135

CONDITIONAL USE RESOLUTION NO. CON2015-00003

WHEREAS, Wichita Memorial Post #3115 VFW, Inc. (owner); pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requests a Conditional Use for a " Nightclub in the City", on approximately 0.78-acres zoned LC Limited Commercial ("LC"), described as:

A Replat of Lot 1, Block A, Westbreeze Second Addition, Wichita, Sedgwick County, Kansas; located on the southwest corner of Douglas Avenue and Anna Street.

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

WHEREAS, the MAPC did, at the meeting of February 19, 2015, consider said application; and

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

NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Area Planning Commission that this application be approved to allow a Conditional Use for a "Nightclub in the City", on approximately 0.78-acres zoned LC Limited Commercial ("LC"), described as:

A Replat of Lot 1, Block A, Westbreeze Second Addition, Wichita, Sedgwick County, Kansas; located on the southwest corner of Douglas Avenue and Anna Street.

Approved subject to the following conditions:

(1) The nightclub is not open to the general public, but is reserved for the members of Wichita Memorial Post #3115 Veterans of Foreign Wars and their guests.
(2) No outdoor entertainment, music, or recreation is permitted on the site.
(3) The applicant shall comply with all applicable development standards of the UZC, including but not limited to parking and screening, within one-year of approval of the Conditional Use or the request will be null and void.
(4) The applicant shall obtain, maintain, and comply with all applicable permits and licenses necessary for the operation of a nightclub in the city.
(5) The applicant shall file a covenant with the Register of Deeds noting the Conditional Use and its conditions is attached to Lot 1, Block A, Westbreeze Second Addition.
(6) 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.

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.

Adopted this 19 day of February 2015.

METROPOLITAN AREA PLANNING COMMISSION

Carol Chapman Nugent

~~Matthew J. Goolsby~~, Chair MAPC

Carol Chapman Nugent,

ATTEST:

John L. Schlegel, Secretary

WICHITA–SEDGWICK COUNTY
W-SC
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 13

STAFF REPORT

MAPC February 19, 2015
DAB IV March 2, 2015

CASE NUMBER: CON2015-00003

OWNER /APPLICANT: Wichita Memorial Post #3115 VFW, Inc., c/o William John Herrman and Warren K. Lingafelter (owner/applicant)

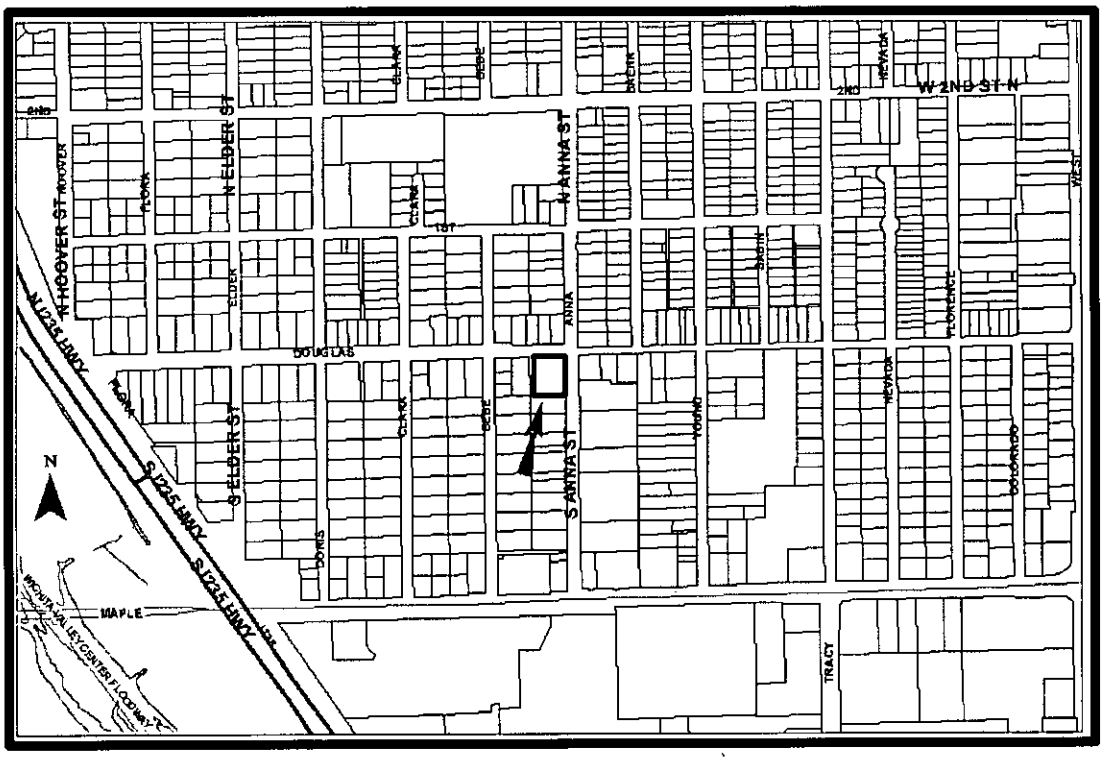
REQUEST: Conditional Use to permit a nightclub in the city

CURRENT ZONING: LC Limited Commercial

SITE SIZE: 0.78-acres

LOCATION: Generally located midway between West Street and I-235, on the southwest corner of Douglas Avenue and Anna Street (4801 W. Douglas)

PROPOSED USE: A nightclub in the city with restrictions



BACKGROUND: The applicant, Wichita Memorial Post #3115 Veterans of Foreign Wars (VFW), Inc., is requesting consideration for a Conditional Use for nightclub in the city, with restrictions, on the LC Limited Commercial zoned lot located on the southwest corner of Douglas Avenue and Anna Street. Per the "Wichita-Sedgwick County Unified Zoning Code" (UZC, Sec II-B.3.f) a war veterans' club that operates for the exclusive use of their families and guests accompanying them is defined as a Class A Club. VFW Post #3115 is not open to the general public, but is reserved for its members and their guests; VFW Post #3115 is a Class A Club. The applicants' liquor license is current and there is no restriction on the amount of liquor served and consumed on the site. The applicant proposes to provide a venue for special events, such as hosting welcome home parties, weddings, birthdays, karaoke and dances with or without live music and similar activities for the members of VFW Post #3115 and their guest. The applicant needs an entertainment license for these activities. An establishment that serves unrestricted amounts of alcohol for consumption on the site and that also provides live entertainment or dancing is defined as a nightclub in the city. When a LC zoned proposed nightclub in the city is located within 300 feet of a church, public park, school or residential zoning district a Conditional Use is required. The proposed site abuts and is adjacent to SF-5 Single-Family Residential and TF-3 Two-Family Residential zoning in all directions, i.e., the site less than 300 feet from residential zoning. Staff has found no previous Conditional Use or Use Exception for a tavern/drinking establishment or nightclub for this site.

Currently the VFW Post #3115 is open, for its members and their guest, seven days a week, typically 3 p.m. to 11 or 12 a.m., Monday through Friday and 11 a.m. to 11or 12 a.m. Saturday and Sunday; the site is not open to the general public. A nightclub in the city can stay open until 2 a.m. The Fire Marshal has posted an occupancy of 270 people. A nightclub requires one parking space for two people, meaning the site would need 135 parking spaces. The applicant has stated that the site has approximately 90 parking spaces. The parking considerations could be addressed by a variance or other considerations. The UZC requires solid screening separating the LC zoned site from the abutting and adjacent SF-5 and TF-3 zoned properties.

The site (built 1940 with expansion in 1969) is located in a predominately SF-5 zoned single-family residential neighborhood, with most of the homes built in the 1950s. SF-5 zoned single-family residences abut and are adjacent to the south side of the site. SF-5 zoned single-family residences are adjacent, across a 20-foot wide alley, to the west side of the site. SF-5 and TF-3 zoned single-family residences are adjacent, across Douglas Avenue, to the north side of the site. East of the site, across Anna Street, are a LC zoned single-family residence, LC and GO General Office zoned single-family residence, undeveloped land, a GO zoned apartment and SF-5 zoned single-family residences.

CASE HISTORY: Z-0238 was a denied request (May 5, 1960) for rezoning the site from LC Light Commercial to C Commercial. The minutes from May 5, 1960, meeting note that the LC zoning was established after annexation (1951-1960) to accommodate the existing light commercial uses (no mention of those uses) on the site and the southeast corner of Douglas Avenue and Anna Street. There was no mention of a bar or drinking establishment on the site in the May 5, 1960 minutes. The site is Lot 1, Block A, Westbreeze Second Addition, which was recorded with the Sedgwick County Register of Deeds September 7, 1962. Staff has received several calls with questions about the request, but none of them protested the proposed use as requested by VFW Post #3115. The VFW has been at this location for 13-years. Oral history has stated that prior to the VFW the site was occupied by a tavern/drinking establishment known as Frankie's Lounge. Staff has found no previous Conditional Use or Use Exception for a tavern/drinking establishment or nightclub for this site.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5, TF-3	Single-family residences
SOUTH:	SF-5	Single-family residences
EAST:	LC, GO, SF-5	Single-family residences, vacant land, apartment
WEST:	SF-5	Single-family residences,

PUBLIC SERVICES: Douglas Avenue is a paved two-lane local street at this location with a 70-foot right-of-way. Anna Street is a paved two-lane collector street at this location with a 75-foot right-of-way. The site has two drives onto Douglas Avenue and two drives onto Anna Street. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The "2013 Land Use Guide of the Comprehensive Plan" (Plan) identifies the site and the larger area as "urban residential." The area's (but not the site) predominant zoning is SF-5 which is compatible with the urban residential category. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in large urban municipality, plus such institutional uses such as a parks, schools and churches. The site's LC zoning is not compatible with the urban residential category. The LC zoning is compatible with the Plan's "local commercial" category, which contains concentrations 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 offices, auto repair or service stations, grocery stores, florist shops, restaurants and personal service facilities. When a LC zoned proposed nightclub in the city is located within 300 feet of a church, public park, school or residential zoning district a Conditional Use is required. The LC zoned site less than 300 feet from residential zoning, thus the Conditional Use request. A LC zoned site needs to have direct access onto an arterial street to direct traffic away from residential neighborhoods. The subject site does not meet the locational criteria; Douglas Avenue is a paved two-lane local street at this location and Anna Street is a paved two lane collector street.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request for a nightclub in the city be APPROVED, subject to the following conditions:

(1) The nightclub is not open to the general public, but is reserved for the members of Wichita Memorial Post #3115 Veterans of Foreign Wars and their guests.
(2) No outdoor entertainment, music, or recreation is permitted on the site.
(3) The applicant shall comply with all applicable development standards of the UZC, including but not limited to parking and screening, within one-year of approval of the Conditional Use or the request will be null and void.
(4) The applicant shall obtain, maintain, and comply with all applicable permits and licenses necessary for the operation of a nightclub in the city.
(5) The applicant shall file a covenant with the Register of Deeds noting the Conditional Use and its conditions is attached to Lot 1, Block A, Westbreeze Second Addition.
(6) 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.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site (built 1940 with expansion in 1969) is located in a predominately SF-5 zoned single-family residential neighborhood, with most of the homes built in the 1950s. SF-5 zoned single-family residences abut and are adjacent to the south

side of the site. SF-5 zoned single-family residences are adjacent, across a 20-foot wide alley, to the west side of the site. SF-5 and TF-3 zoned single-family residences are adjacent, across Douglas Avenue, to the north side of the site. East of the site, across Anna Street, are a LC zoned single-family residence, LC and GO General Office zoned single-family residence, undeveloped land, a GO zoned apartment and SF-5 zoned single-family residences.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC, which allows a wide variety of retail, office and residential uses. The LC zoning was established after the site was annexed into Wichita (1951-1960) to accommodate the existing light commercial uses (no mention of those uses) on the site. Post #3115 has been operating as a Class A Club for at least the last 13 years and prior to that the site was a tavern/drinking establishment. Staff has found no record of a Conditional Use or a Use Exception that would have allowed a tavern/drinking establishment on the site. Past use has established what appears to be a non-conforming use in a residential neighborhood. If the Conditional Use request for a nightclub, with restrictions, is approved the site will need to come into compliance with the development standards of the UZC.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site appears to have been a long time non-conforming tavern/drinking establishment located within a predominately single-family residential neighborhood. The Conditional Use should minimize detrimental impact on nearby properties, in establishing that the facility can be used only by members of Wichita Memorial Post #3115 Veterans of Foreign Wars and their guests. It would take an amendment to the Conditional Use to allow the facility to be open to another group and/or the general public. Without the Conditional Use the positive benefits generated by the facility to the area's SF-5 zoned residences, beyond not having a vacant building on the site, are questionable; a nightclub or a tavern/drinking establishment is not an appropriate use for the area. The site needs to meet the code required parking, screening and landscaping standard to further minimize detrimental impact on nearby property.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2013 Land Use Guide of the Comprehensive Plan" (Plan) identifies the site and the larger area as "urban residential." The area's (but not the site) predominant zoning is SF-5 which is compatible with the urban residential category. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in large urban municipality, plus such institutional uses such as a parks, schools and churches. The site's LC zoning is not compatible with the urban residential category. The LC zoning is compatible with the Plan's "local commercial" category, which contains concentrations 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 offices, auto repair or service stations, grocery stores, florist shops, restaurants and personal service facilities. When a LC zoned proposed nightclub in the city is located within 300 feet of a church, public park, school or residential zoning district a Conditional Use is required. The LC zoned site less than 300 feet from residential zoning, thus the Conditional Use request. A LC zoned site needs to have direct access onto an arterial street to direct traffic away from residential neighborhoods. The subject site does not meet the locational criteria; Douglas Avenue is a paved two-lane local street at this location and Anna Street is a paved two lane collector street.

5. Impact of the proposed development on community facilities: None identified.

con2015-03





Legend

- Lot Number Labels
- Parcels
- Lot and Block
- Subdivisions
- Quarter Sections
- Wichita City Limits
- Urban Area of Influence
- McConnell AOI
- Water Hydrants
- Water Valves
- Water Nodes
- Water Mains
- Sewer Manholes
- Sewer Mains
- Storm Structures
  - Manhole
  - Inlet
  - Outfall
  - BMP
  - Other
- Storm Headwalls
- Storm Conduit
- Open Channel Structures
- Open Channel Conduit

This information is not an official record, and cannot be used as such. The user should rely only upon official records available from the custodian of records in the appropriate City and/or County department. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita.

1: 674

SITE PLAN APPROVED Dec 23, 2016 BY BillLongnecker

* NOTE: Applicant's site has been improved per conditions