



Wichita-Sedgwick County Metropolitan Area Planning Department

April 14, 2014

Gibson Wholesale Company, Inc.
c/o Scott Riffel
12219 Huntersview, Wichita, KS, 67235

REF: CON2014-00004 - City request to amend Conditional Use CON2012-00033 to remove restrictions on days when alcohol is served, removed restrictions on hours of operation and remove affiliation with a fraternal order on LC zoned property generally located east of Zoo Boulevard on the northeast corner of Mt Carmel and Central Avenues

Dear Applicant

At its regular meeting on April 10, 2014, the Wichita - Sedgwick County Metropolitan Area Planning Commission (MAPC) considered the above captioned request. The action of the MAPC was to APPROVE the request, subject to the following conditions:

- A. The site shall be in conformance with the approved site plan, which includes the parking – occupancy breakdown. Occupancy as determined by the Fire Marshall cannot increase the maximum number of occupants, but it may lower the maximum number of occupants (see attached parking – occupancy breakdown).
- B. No outdoor entertainment, recreation, loud speakers, music, dancing, cooking, food or drink services are permitted on the site.
- C. The facility, an Event Center, shall be rented out for public or private activities such as weddings, receptions, graduation parties, dances and similar activities that are not repeated on a weekly basis and that are not open to the public on a daily basis at times other than when an event is schedule. The exception is a weekly dance class. Hours of operation are 9 am- midnight Thursday-Sunday and 9 am-2 am Friday and Saturday.
- D. The consumption and serving of alcohol and/or cereal malt beverages (drinking) is an option for these events, as is dining. No consumption and serving of alcohol and/or cereal malt beverages during the weekly dance class. Live music or music provided by a DJ is an option for these events, including the dance class. The site shall not obtain a Drinking Establishment (DE) or Drinking Establishment Restaurant (DER) license. Alcohol may only be served on the site through a licensed caterer
- E. The facility will not be affiliated with any fraternal association or private club.
- F. The applicants shall comply with all applicable development standards of the Unified

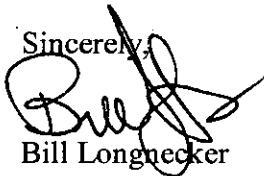
- Zoning Code, including but not limited to parking, screening, and landscaping.
- G. The applicant shall obtain, maintain, and comply with all applicable permits and licenses necessary for the operation of an Event Center/night club in the city.
- H. If the Zoning Administrator finds that there is a 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.

Property owners may file written protest petitions on zoning related items 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 1,000 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 April 24, 2014, at 5 PM. Protests filed before the MAPC's recommendation on a Conditional Use request will not be considered valid protests. If there are no valid protests the recommendation of the MAPC on a Conditional Use request is final.

Valid protest petitions may cause the application to be disapproved, if the land area encompassed by the protesting owners exceeds 20% of the land area within 1,000 feet of the perimeter of the application area, unless the City Council overrides such a protest and approves the application by a vote of six (6) of its members. If there are valid protests, or appeals, this case will be scheduled for final action by the City Council at their May 13, 2014 meeting as a non-consent item.

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

Copies to: Allen R. Williams, 9709 W. Britton, Wichita, KS, 67205

Janet Miller, WCC VI, e-mail

Martha Sanchez, NA VI, e-mail

Sunflower, c/o Jim Underwood, 3033 W 2nd St, N, Wichita, KS, 67203

LaPlacita Park, c/o Greg Boyaijan, 3325 W. 9th St., Wichita, KS, 67203

JR Cox, MABCD, e-mail

Poe & Associates, c/o Tim Austin, 5940 E Central Avenue, St.,200, Wichita, KS, 67208

CONDITIONAL USE RESOLUTION NO. CON2014-00004

WHEREAS, Gibson Wholesale Company, Inc., c/o Scott Riffel (owner); pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requests an amendment to CON2012-00033, a Conditional Use for a “Night Club in the City”, on approximately a 1.48-acres property zoned LC Limited Commercial (“LC”), described as:

Lot 1, Dotzour’s Addition AND The South 3 feet of the following described tract: Beginning 637.5 feet East and 330 feet North of the Southwest corner of the Southeast Quarter of Section 13, Township 27, Range 1 West of the 6th P.M. Sedgwick County, Kansas; thence West 82.5 feet; thence North 330 feet; thence East 82.5 feet; thence South 330 feet to the beginning, all in Wichita, Sedgwick County, Kansas; generally located on the northeast corner of Central and Mt. Carmel Avenues.

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 April 10, 2014, 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 amend CON2012-00033, a Conditional Use for a “Night Club in the City”, on approximately a 1.48-acres property zoned LC Limited Commercial (“LC”), described as:

Lot 1, Dotzour’s Addition AND The South 3 feet of the following described tract: Beginning 637.5 feet East and 330 feet North of the Southwest corner of the Southeast Quarter of Section 13, Township 27, Range 1 West of the 6th P.M. Sedgwick County, Kansas; thence West 82.5 feet; thence North 330 feet; thence East 82.5 feet; thence South 330 feet to the beginning, all in Wichita, Sedgwick County, Kansas; generally located on the northeast corner of Central and Mt. Carmel Avenues.

Approved subject to the following conditions:

- A. The site shall be in conformance with the approved site plan, which includes the parking – occupancy breakdown. Occupancy as determined by the Fire Marshall cannot increase the maximum number of occupants, but it may lower the maximum number of occupants (see attached parking – occupancy breakdown).
- B. No outdoor entertainment, recreation, loud speakers, music, dancing, cooking, food or drink services are permitted on the site.
- C. The facility, an Event Center, shall be rented out for public or private activities such as weddings, receptions, graduation parties, dances and similar activities that are not repeated on a weekly basis and that are not open to the public on a daily basis at times other than when an event is schedule. The exception is a weekly dance class. Hours of operation are 9 am- midnight Thursday-Sunday and 9 am-2 am Friday and Saturday.
- D. The consumption and serving of alcohol and/or cereal malt beverages (drinking) is an option for these events, as is dining. No consumption and serving of alcohol and/or cereal malt beverages during the weekly dance class. Live music or music provided by a DJ is an option for these events, including the dance class. The site shall not obtain a Drinking Establishment (DE) or Drinking

Establishment Restaurant (DER) license. Alcohol may only be served on the site through a licensed caterer

- E. The facility will not be affiliated with any fraternal association or private club.
- F. The applicants shall comply with all applicable development standards of the Unified Zoning Code, including but not limited to parking, screening, and landscaping.
- G. The applicant shall obtain, maintain, and comply with all applicable permits and licenses necessary for the operation of an Event Center/night club in the city.
- H. 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.

Adopted this 24 day of April 2014.

METROPOLITAN AREA PLANNING COMMISSION

Don Klausmeyer
Don Klausmeyer, Chair MAPC

ATTEST:

John L. Schlegel
John L. Schlegel, Secretary



AGENDA ITEM NO. 4

STAFF REPORT

MAPC March 6, 2014

DAB VI March 3, 2014

DAB VI April 7, 2014

MAPC April 10, 2014

CASE NUMBER: CON2014-00004

OWNER / APPLICANT: Gibson Wholesale Co., Inc., c/o Scott Riffel (owner/applicant)

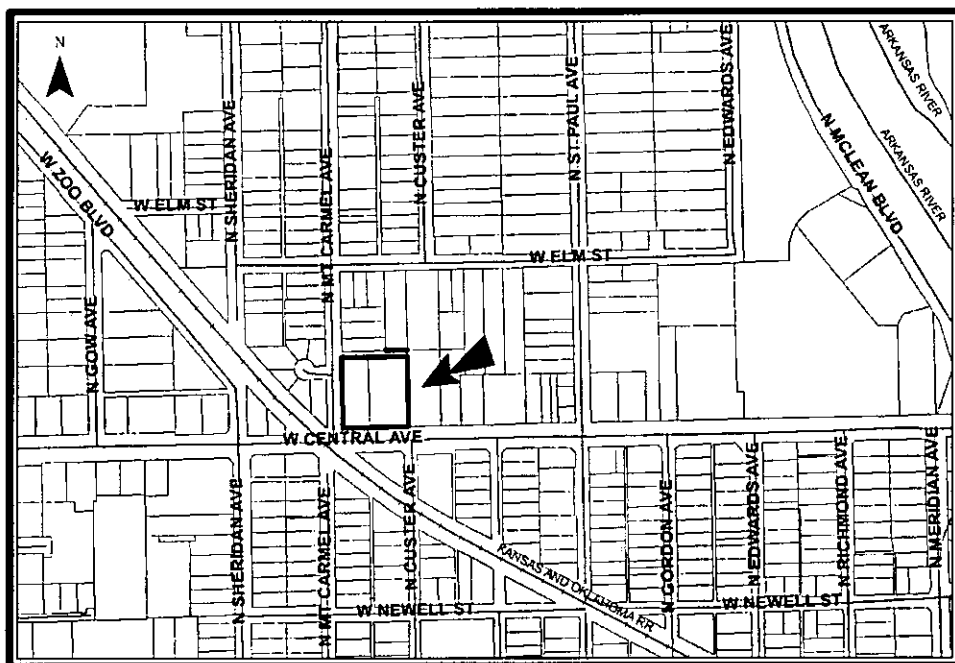
REQUEST: Amendment to Conditional Use CON2012-00033, a Nightclub in the City

CURRENT ZONING: LC Limited Commercial

SITE SIZE: 1.48-acres

LOCATION: Generally located east of Zoo Boulevard, on the northeast corner of Mt. Carmel and Central Avenues

PROPOSED USE: Remove restrictions on days when alcohol is served, remove restrictions on hours of operation, and remove affiliation with a fraternal order



BACKGROUND: The applicant is requesting consideration for an amendment to Conditional Use CON2012-00033, a “nightclub in the city.” The proposed amendment changes conditions C and D: removes restrictions on days when alcohol is served; removes restrictions on hours of operation, and; removes affiliation with a fraternal order (see attached MAPC Resolution and the referenced Activities). Conditions A, B, E, F, and G are proposed to remain in effect. The proposed amendment does not change the facility’s zoning classification as a night club in the city. The 1.48-acre LC Limited Commercial zoned platted lot and its 11,597-square foot vacant facility is located on the northeast corner of Mt. Carmel and Central Avenues.

The applicant proposes that the 11,597-square foot vacant facility will not be open to the public, but will be rented out any day of the week for events such as weddings, receptions, graduation parties, dances and similar activities. The consumption and serving of alcohol and/or cereal malt beverages (drinking) is an option for these events, as is dining. Live music or music provided by a DJ is an option for these events. The applicant’s proposed hours of operation are 9 am-midnight Thursday-Sunday and 9 am-2 am Friday and Saturday. A nightclub in the city is required to stop serving and selling alcohol and/or cereal malt beverages at 2 AM. A night club in the city is required to close at 2 am. Unlike CON2012-00033, there will be no affiliation with a fraternal order or a private club.

The vacant facility is part of an LC zoned retail strip that includes a pharmacy. Properties abutting and adjacent to the north side of the site is developed as SF-5 Single-Family Residential zoned single family residences and a TF-3 Two-Family Residential zoned duplex. There is a paved alley located along the north side of the site, which intersects with Mt. Carmel. There are also SF-5 zoned single family residences located west of the site, across Mt. Carmel Avenue. Properties located south, east and west of the site, with Central Avenue frontage, are zoned LC and are developed as retail, offices, restaurants, a liquor store, some vacant commercial spots, a convenience store, a donut shop and a 2,080-square foot drinking establishment – tavern (the Cowboy Inn, located southeast of the St Paul and Central Avenues intersection).

The applicant has provided a parking agreement with the abutting east property and has provided the following breakdown on available parking and the corresponding occupancy:

- Minimum parking available seven days per week= 134 spaces. This includes the 28 off-site spaces and the parking around the ‘Moose’, but does not include the parking in front of Barney’s. This parking permits 268 occupants when alcohol is served (1 space per two occupants/night club in the City parking standards*) and 402 occupants when alcohol is not served (1 space per three occupants/dance hall parking standards*). NOTE: The 134 available parking spaces and its corresponding 402 occupants are the lowest number of available parking spaces and occupants.
- Parking available after 7 pm, Monday-Friday = 188 spaces. This includes the parking around the ‘Moose’, Barney’s and the 40 off-site parking spaces. This parking permits 376 occupants when alcohol is served* and 564 occupants when alcohol is not served*. NOTE: The 188 available parking spaces and its corresponding 564 occupants are the highest number of available parking spaces and occupants.

- Parking available before 6 pm Saturday = 146 spaces. This does not include the parking in front of Barney's. This parking permits 292 occupants when alcohol is served* and 438 occupants when alcohol is not served.*
- Parking available after 6 pm on Saturday = 188 spaces. This includes the parking around the 'Moose', Barney's and the 40 off-site parking spaces. This parking permits 376 occupants when alcohol is served* and 564 occupants when alcohol is not served*
- Parking available on Sunday = 188 spaces. This includes the parking around the 'Moose', Barney's and the 40 off-site parking spaces. This parking permits 376 occupants when alcohol is served* and 564 occupants when alcohol is not served*.

CASE HISTORY: The site is part of Lot 1, Detzour's Addition, which was recorded with the Sedgwick County Register of Deeds August 27, 1957. CON2012-0033, a Conditional Use for a Nightclub in the City was approved by the MAPC, at their August 16, 2012 meeting. There were no protests, therefore the MAPC action was final. BZA2012-00072 was an Administrative Adjustment that reduced parking by 25 per-cent; NOTE: The additional 40-28 off-site parking spaces agreement were not available at the time of the parking adjustment. CON2012-00051 was an Administrative Adjustment that allowed drinking, dining and dancing for Moose members and guest on New Year's Eve. Staff had received calls seeking information or expressing concern about the request.

DAB VI considered CON2014-00004 at their March 3, 2014. DAB VI unanimously recommended denial, with concern about the site's parking. There was no one present at the DAB VI meeting that protested the request. At the MAPC's March 6, 2014, meeting the applicant requested a month deferral, which the MAPC granted. The applicant is going to the April 7, 2014, DAB VI meeting with additional information.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5, TF-3	Single-family residences, duplex
SOUTH:	LC	Donut shop, restaurant, office-ware-house, office, retail, drinking establishment
EAST:	LC	Restaurant, retail, liquor store, convenience store
WEST:	SF-5, LC	Single-family residences, office ware-house

PUBLIC SERVICES: The site has access onto Central and Mt. Carmel Avenues. Central Avenue is a four-lane major arterial street, with center turn lanes at this location. Mt. Carmel is a paved and curbed local residential street. There is a paved alley located along the north side of the site, which intersects with Mt. Carmel. All utilities are available to the site. The classification of roads, access and utilities have not changed since CON2012-00033 was approved

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" depicts this location as being appropriate for "local commercial," 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. The UZC requires a Conditional Use for a nightclub in the city when located within 300 feet of

“Church or a Place of Worship,” public “Park,” “School,” or residential zoning. There have been no changes in the zoning or development around the site that would change the need for the site to have a Conditional Use for a nightclub in the city. The proposed amendment does not change the facility’s zoning classification as a night club in the city.

The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed night club is located within an existing commercial development, with direct access onto Central Avenue a four-lane major arterial street, with center turn lanes at this location. There is a 20-foot paved alley between the site and the north abutting properties which offers minimal buffering. CON2012-00033 required six foot tall solid screening between the site and the north abutting properties as well as four foot tall solid screening along the west side of the site’s parking lot

Any night club or drinking establishment has the potential to become a nuisance to its neighborhood. The applicant’s proposed amendment will not open the 11,597-square foot facility to the general public, but would allow it to be rented out for public or private activities that are not repeated on a weekly basis, and that are not open to the public on a daily basis at times other than when an event is schedule. The proposed amendment is somewhat less restrictive than CON2012-00033 in the days of operation and definitely less restrictive in its hours of operation. It will no longer be affiliated with a fraternal order, but will not become a private club. A key consideration is who will be using the 11,597-square foot facility. If the facility was open to the general public as a night club in the city it would be out of character with the development pattern along this Central Avenue and become more likely to become a nuisance or worse to the neighborhood. The area’s only establishment that provides the sale, consumption and serving of alcohol and/or cereal malt beverages, is the 2,080-sqaure foot Cowboy Inn, which is dwarfed by the applicant’s 11,597-square foot facility.

Enforcement of the proposed conditions may fall outside the hours and days of the City’s Code Enforcement division, which leaves the Police Department as the group that may get the call for enforcement. The Police Department does not operate under the same codes as Code Enforcement. The applicant is concerned on how to find a business that can successfully occupy this 11,597-square foot vacant facility (prior to CON2012-00033 it was a failed grocery store), which in turn could help maintain the area’s commercial property. The location of this LC zoned property along Central Avenue, a major arterial allows good visibility and access beyond the immediate neighborhood.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request for an amendment to CON2012-00033, a nightclub in the city be APPROVED, subject to the following conditions:

- A. The site shall be in conformance with the approved site plan, which includes the parking – occupancy breakdown. Occupancy as determined by the Fire Marshall cannot increase the maximum number of occupants, but it may lower the maximum number of occupants.

- B. No outdoor entertainment, recreation, loud speakers, music, dancing, cooking, food or drink services are permitted on the site.
- C. The facility shall be rented out for public or private activities such as weddings, receptions, graduation parties, dances and similar activities that are not repeated on a weekly basis and that are not open to the public on a daily basis at times other than when an event is schedule. The exception is a weekly dance class.
- D. The consumption and serving of alcohol and/or cereal malt beverages (drinking) is an option for these events, as is dining. No consumption and serving of alcohol and/or cereal malt beverages during the weekly dance class. Live music or music provided by a DJ is an option for these events. The site shall not obtain a Drinking Establishment (DE) or Drinking Establishment Restaurant (DER) license. Alcohol may only be served on the site through a licensed caterer
- E. The facility will not be affiliated with any fraternal association or private club.
- F. The applicants shall comply with all applicable development standards of the UZC, including but not limited to parking, screening, and landscaping.
- G. The applicant shall obtain, maintain, and comply with all applicable permits and licenses necessary for the operation of a night club in the city.
- H. 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 proposed use shares LC zoned property with a pharmacy. Properties abutting and adjacent to the north side of the site are developed as SF-5 zoned single family residences and a TF-3 zoned duplex. There is a paved alley located along the north side of the site, which intersect with Mt. Carmel. There are also SF-5 zoned single-family residences located west of the site, across Mt. Carmel Avenue. Properties located south, east and west of the site, with Central Avenue frontage, are zoned LC and are developed as retails, offices, restaurants, a liquor store, some vacant commercial spots, a convenience store, a donut shop and a drinking establishment – tavern, the 2,080-sqaure foot Cowboy Inn.
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 site could be used as zoned and developed or redeveloped as currently zoned. CON2012-00033 was for a night club in the city that restricted the use of the facility to three groups, the Moose, bingo and dance lessons. It also restricted the days and hours of operation, to where all activities were slotting between 6 p.m. and 11 p.m. A concern is how to find a business that can successfully occupy this 11,597-square foot vacant facility, which in turn could help maintain the area's commercial property.
2. Extent to which removal of the restrictions will detrimentally affect nearby property: There is the potential for any nightclub or a drinking establishment, becoming a nuance or worse to

a neighborhood. The applicant's proposal to rent out the facility only for public or private activities such as weddings, receptions, graduation parties, dances and similar activities, that are not repeated on a weekly basis, and that are not open to the public on a daily basis at times other than when an event is schedule may reduce the possibility of the facility becoming a nuance or worse to a neighborhood. If the 11,597-square foot facility was open to the general public as a night club in the city it would be out of character with the development pattern along this Central Avenue and become more likely to become a nuance or worse to the neighborhood.

Even so, enforcement of these restrictions may fall outside the hours and days of the City's Code Enforcement division, which leaves the Police Department as the group that may get the call for enforcement. The Police Department does not operate under the same codes as Code Enforcement.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" depicts this location as being appropriate for "local commercial," 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. The UZC requires a Conditional Use for a nightclub in the city when located within 300 feet of "Church or a Place of Worship," public "Park," "School," or residential zoning. Since CON2012-00033 was approved there have been no changes in the zoning or development around the site that would change the need for the site to have a Conditional Use for a nightclub in the city. The proposed amendment does not change the facility's zoning classification as a nightclub in the city.

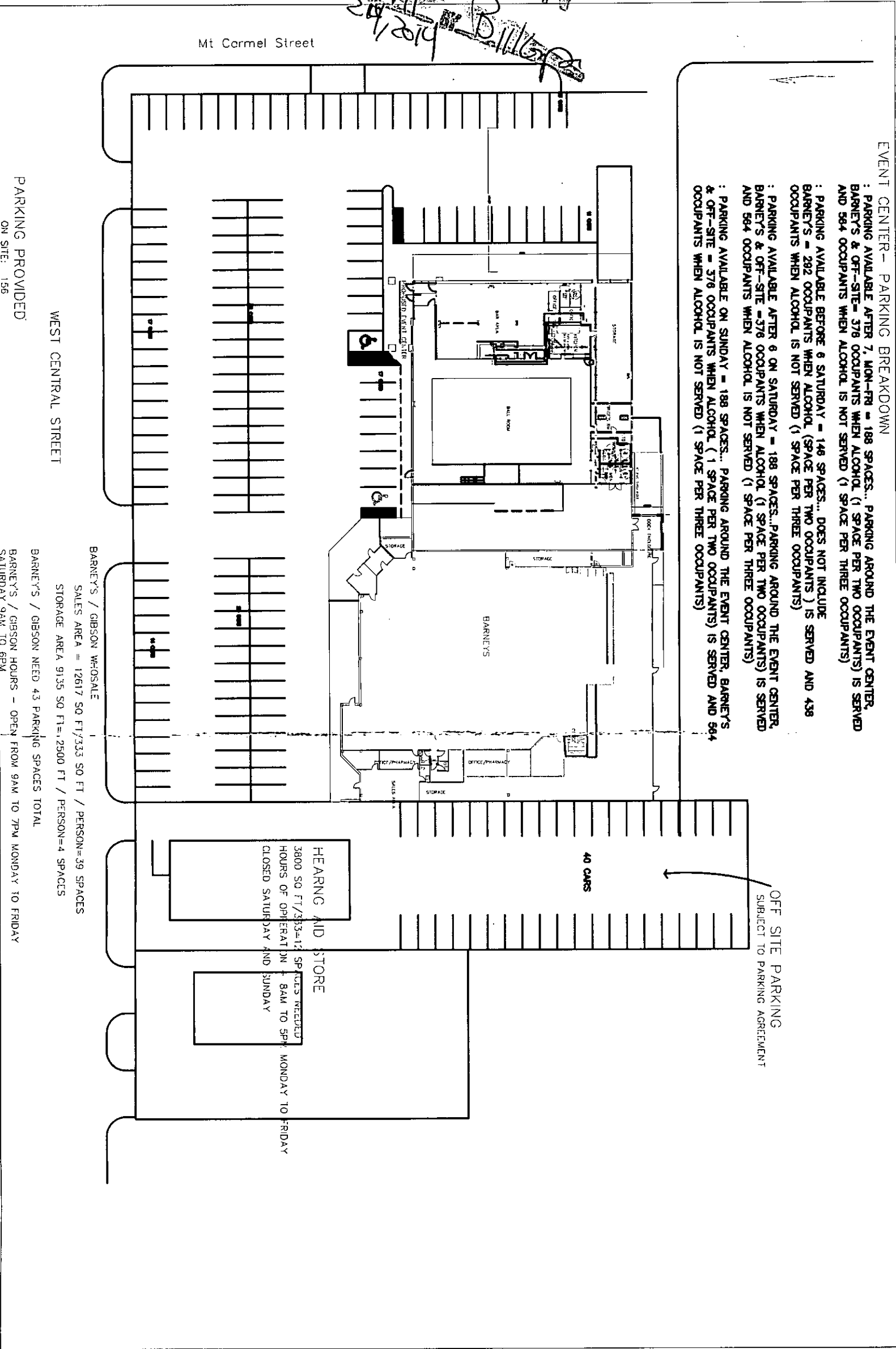
The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed night club is located within an existing commercial development, with direct access onto Central Avenue a four-lane major arterial street, with center turn lanes at this location. There is a 20-foot paved alley between the site and the north abutting properties which offers minimal buffering. CON2012-00033 required six foot tall solid screening between the site and the north abutting properties as well as four foot tall solid screening along the west side of the site's parking lot

Any night club or drinking establishment has the potential to become a nuance to its neighborhood. The applicant's proposed amendment will not open the 11,597-square foot facility to the general public, but allow it to be rented out for public or private activities that are not repeated on a weekly basis, and that are not open to the public on a daily basis at times other than when an event is schedule. The proposed amendment is somewhat less restrictive than CON2012-00033 in the days of operation and definitely less restrictive in its hours of operation. It will no longer be affiliated with a fraternal

order, but will not become a private club. A key consideration is who will be using the facility. If the 11,597-square foot facility was open to the general public as a night club in the city it would be out of character with the development pattern along this Central Avenue and become more likely to become a nuisance or worse to the neighborhood. The area's only establishment that provides the sale, consumption and serving of alcohol and/or cereal malt beverages, is the 2,080-square foot Cowboy Inn, which is dwarfed by the applicant's 11,597-square foot facility.

5. Impact of the proposed development on community facilities: Possibly the need for more police service.

SITE PLAN
APPROVED APRIL 24, 2014 BY [Signature]



EVENT CENTER - PARKING BREAKDOWN

- : PARKING AVAILABLE AFTER 7, MON-FRI = 188 SPACES.. PARKING AROUND THE EVENT CENTER, BARNEY'S & OFF-SITE = 378 OCCUPANTS WHEN ALCOHOL (1 SPACE PER TWO OCCUPANTS) IS SERVED AND 564 OCCUPANTS WHEN ALCOHOL IS NOT SERVED (1 SPACE PER THREE OCCUPANTS)
- : PARKING AVAILABLE BEFORE 6 SATURDAY = 146 SPACES.. DOES NOT INCLUDE BARNEY'S = 282 OCCUPANTS WHEN ALCOHOL (3SPACE PER TWO OCCUPANTS) IS SERVED AND 438 OCCUPANTS WHEN ALCOHOL IS NOT SERVED (1 SPACE PER THREE OCCUPANTS)
- : PARKING AVAILABLE AFTER 6 ON SATURDAY = 188 SPACES..PARKING AROUND THE EVENT CENTER, BARNEY'S & OFF-SITE = 378 OCCUPANTS WHEN ALCOHOL (1 SPACE PER TWO OCCUPANTS) IS SERVED AND 564 OCCUPANTS WHEN ALCOHOL IS NOT SERVED (1 SPACE PER THREE OCCUPANTS)
- : PARKING AVAILABLE ON SUNDAY = 188 SPACES.. PARKING AROUND THE EVENT CENTER, BARNEY'S & OFF-SITE = 378 OCCUPANTS WHEN ALCOHOL (1 SPACE PER TWO OCCUPANTS) IS SERVED AND 564 OCCUPANTS WHEN ALCOHOL IS NOT SERVED (1 SPACE PER THREE OCCUPANTS)

WEST CENTRAL STREET

BARNEY'S / GIBSON WHOLESALE

SALES AREA = 12617 SQ FT/7333 SQ FT / PERSON=39 SPACES

STORAGE AREA 9135 SQ FT=12500 FT / PERSON=4 SPACES

BARNEY'S / GIBSON NEED 43 PARKING SPACES TOTAL

BARNEY'S / GIBSON HOURS - OPEN FROM 9AM TO 7PM MONDAY TO FRIDAY SATURDAY 9AM TO 6PM