CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

October 10, 2016

Robert A Snyder & Susan L Peters-Snyder
3620 E Sunnybrook Lane
Wichita, KS 67210

REFERENCE: CON2016-00041 – Conditional Use requests for a Nightclub in the City on LC Limited Commercial zoned property generally located west of South Hillside Avenue and immediately south of East 31st Street South (3201 E. 31st St. South - WCC III)

Dear Mr and Mrs Snyder:

At the Wichita - Sedgwick County Metropolitan Area Planning Commission's (MAPC) regular meeting on October 6, 2016, the MAPC **APPROVED** the above captioned request, with the following conditions:

(1)The nightclub facility inclusive of the outdoor patio/events area shall be limited to an occupancy of 246 persons, as permitted by off-street parking requirements set forth in Sec. IV-A.4 of the UZC. Alternately, the applicant shall meet the UZC parking requirements by obtaining a parking reduction and/or securing an off-site parking agreement.
(2)Outdoor speakers and outdoor entertainment is permitted between the hours of noon and 11:00 p.m.
(3) A 6 ft. to 8 ft. high solid screening fence shall be installed along the east boundary of Lot 1 where it abuts MF-18 Multi-family zoned property, in accordance with Sec. IV-B.3 of the UZC.
(4)The site shall be developed in conformance with a revised site plan approved by planning staff. This plan shall depict, at a minimum, the occupancies contained on the subject property; required on-site parking spaces; freestanding lighting; trash dumpsters and screening enclosures; on-site signage; the fenced outdoor patio/events area; and, all landscaping and fencing/solid screening. The site plan must be submitted for review within 60-days of approval of the Conditional Use.
(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 to include but not limited 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.

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 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 p.m. 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 also 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 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 October 20, 2016, 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 Council overrides such a protest and approves the application by a vote of six (6) of its members.

If there are no valid protests or appeals of the recommendation of the MAPC the recommendation of the MAPC is final. If appeals or protest petitions are filed, your application will be forwarded to the November 8, 2016, City Council meeting as a non-consent item unless you choose to withdraw your request. This meeting will be at 9 AM, 1st Floor City Hall, 455 N Main Street.

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 316-268-4421.

Sincerely,

Bill Longnecker
Senior Planner

BL: mc

cc: Ferris Consulting, c/o, Greg Ferris, PO Box 573, Wichita KS 67201
James Clendenin, WCC III, Mail Stop 1-13
Teia Wair, CSR III, Mail Stop 1-135

CONDITIONAL USE RESOLUTION NO. CON2016-00041

WHEREAS, Robert A Snyder & Susan L Peters-Snyder (owners); 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 2.34 -acres zoned LC Limited Commercial ("LC") and GC General Commercial ("GC"), described as:

Lot 1, Magnus Second Addition, Wichita, Sedgwick County, Kansas; generally located east of Kansas State Highway K-15 on the south side of West 31st Street South.

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 October 6, 2016, 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 MAPC that this application be approved to allow a Conditional Use for a "Nightclub in the City," on approximately 2.34 -acres zoned LC Limited Commercial ("LC") and GC General Commercial ("GC"), described as:

Lot 1, Magnus Second Addition, Wichita, Sedgwick County, Kansas; generally located east of Kansas State Highway K-15 on the south side of West 31st Street South.

Approved subject to the following conditions:

(1) The nightclub facility inclusive of the outdoor patio/events area shall be limited to an occupancy of 246 persons, as permitted by off-street parking requirements set forth in Sec. IV-A.4 of the UZC. Alternately, the applicant shall meet the UZC parking requirements by obtaining a parking reduction and/or securing an off-site parking agreement.
(2) Outdoor speakers and outdoor entertainment is permitted between the hours of noon and 11:00 p.m.
(3) A 6 ft. to 8 ft. high solid screening fence shall be installed along the east boundary of Lot 1 where it abuts MF-18 Multi-family zoned property, in accordance with Sec. IV-B.3 of the UZC.
(4) The site shall be developed in conformance with a revised site plan approved by planning staff. This plan shall depict, at a minimum, the occupancies contained on the subject property; required on-site parking spaces; freestanding lighting; trash dumpsters and screening enclosures; on-site signage; the fenced outdoor patio/events area; and, all landscaping and fencing/solid screening. The site plan must be submitted for review within 60-days of approval of the Conditional Use.
(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 to include but not limited 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.

Adopted this 1st day of November 2016.

METROPOLITAN AREA PLANNING COMMISSION

David W. Foster, Chair MAPC

ATTEST:

Dale Miller, Secretary

AGENDA ITEM NO. 10

WICHITA–SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

STAFF REPORT

MAPC October 6, 2016
DAB III October 5, 2016

CASE NUMBER: CON2016-00041

APPLICANT/AGENT: Robert and Susan Snyder (applicant/owner) / Ferris Consulting - Greg Ferris (agent)

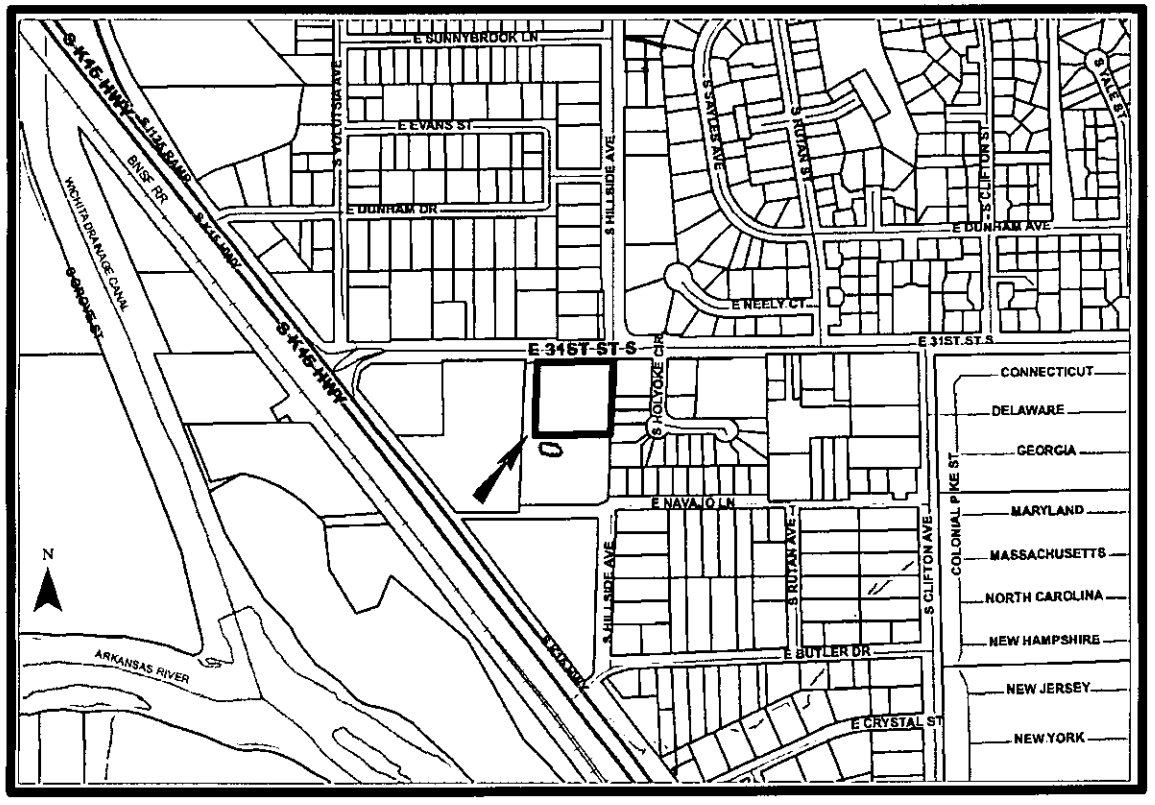
REQUEST: Conditional Use to allow an existing nightclub facility within 300 feet of residentially zoned property

CURRENT ZONING: Limited Commercial (LC) and General Commercial (GC)

SITE SIZE: Approximately 2.34 acres

LOCATION: Generally located west of Hillside and immediately south of E. 31st Street at 3201 E. 31st St. South (WCC District III)

PROPOSED USE: Allow the existing nightclub facility to become a conforming use



BACKGROUND: This conditional use application is for development located west of Hillside and immediately south of E. 31st St. South at 3201 E. 31st St. South on Lot 1, Magnus 2nd Addition. Annexed into the City of Wichita in 1961, this property has been developed and operated as a nightclub since the late 1960's (previously dba the Stables, the Casino, the Fantasy, and more recently as the Venue). Over the last 45 years, the property has changed hands many times. However, its use has remained unchanged along with its non-conforming use status. This property has been recently purchased. Although the nightclub facility could continue to be operated indefinitely, the new owner wishes to bring the use of Lot 1 into conformance with the current zoning code. The adjoining MF-18 and MF-29 multi-family zoned properties require that the applicant obtain a Conditional Use approval to bring this property into zoning conformance. When a LC-Limited Commercial zoned nightclub or a GC-General Commercial zoned outdoor patio/events area serving alcohol is located within 300 feet of a church or place of worship, public park, public or parochial school or residential zoning district, approval of a Conditional Use is required under Unified Zoning Code (UZC), Sec.III-D.6.w.

This site was originally unplatted property zoned Limited Commercial, when it was annexed into the City of Wichita on October 21, 1961. It was later platted as Lot 1, Magnus 2nd Addition and recorded with the Sedgwick County Register of Deeds on June 19, 1980. In 1984, a portion of this lot (fenced outdoor patio/events area) was rezoned from Limited Commercial to General Commercial use (Case Z-2620). Lot 1 is predominately zoned LC-Limited Commercial, and includes the building and the north and east parking lot areas. The outdoor patio/events area adjacent to the west side of the building on Lot 1 is fenced and zoned GC-General Commercial. Additional nightclub parking is also provided immediately west of Lot 1 on the 50 foot-wide "flagpole" portion (portion zoned LC-Limited Commercial) of Lot 2, Magnus 2nd Addition. Lot 2 (also owned by the applicant) surrounds Lot 1 on its west and south perimeters.

Existing site development is characterized as follows:

- Indoor nightclub facility of approximately 4,360 square feet;
- Posted maximum building occupancy is 299 persons;
- Existing fenced outdoor patio/events area (12,000 sq. ft.) on west side of building;
- 92 newly striped on-site parking spaces north and east of the building, with the capacity (yet-to-be striped) for about 31 additional parking spaces west of the building. A total of 123 on-site parking spaces would allow a maximum building occupancy of 246 persons based on compliance with current UZC requirements (one on-site parking space per two occupants);
- Easterly 40 feet of Lot 1 contains dedicated utility and drainage easements which effectively create an open space buffer from existing residential and commercial developments located to the east. Deciduous tree row buffer adjacent to the east boundary of Lot 1, but no solid screen fencing on Lot 1;
- Established eight-foot high perimeter fencing along the west property line of Lot 2 with a dense shelterbelt of mature trees;
- Established eight-foot high perimeter fencing and tree line separate the parking lot areas from the adjacent portions of Lot 2 to the south.

CASE HISTORY: There is no record of a Use Exception or Conditional Use approval for a tavern, drinking establishment or nightclub on this site. In 1984, a portion of this lot (fenced outdoor patio/events area) was rezoned from Limited Commercial to General Commercial use. The use of Lot 1 for a tavern, drinking establishment and nightclub was established prior to the adoption of the Wichita-Sedgwick County Unified Zoning Code in 1996.

ADJACENT ZONING AND LAND USE:

NORTH: LC Long-established retail commercial strip mall and free-standing

		commercial development located northwest, north and northeast (vacant building); Gas station/retail service center development situated directly north.
SOUTH:	MF-29	Vacant/undeveloped parcel located immediately south (owned by the applicant).
EAST:	LC, MF-18	Retail commercial building (vacant) immediately to the east fronting E. 31st St. South; Residential duplexes (Starkey facilities) immediately to the east; Southern Hills senior-living residential facility situated east of the residential duplexes.
WEST:	LC	Nightclub parking lot located immediately west on "flag-pole" portion of Lot 2. Mobile home park residential units located west of Lot 2.

PUBLIC SERVICES: All public utilities are available to the site. The site has two ingress/egress points on 31st St. South, which is a four-lane arterial street. Hillside Avenue is a four lane arterial street located northeast of the site, and terminates at 31st St. South.

CONFORMANCE TO PLANS/POLICIES: The "Community Investment Plan's 2035 Wichita Future Growth Map" depicts the site and surrounding area south of E. 31st St. South as being "residential." The residential designation encompasses areas that reflect the full diversity of residential development intensities and types typically found in a large urban municipality. The range of housing densities and types includes single-family detached homes, semi-detached homes, zero lot-line units, patio homes, duplexes, townhomes, apartments and multi-family units, mobile home parks and special residential accommodations for the elderly. A nightclub would not typically be considered an appropriate use within a residential designation. Notwithstanding this "residential" designation, the predominant zoning pattern for the immediate area surrounding the site to the east, west and north is LC-Limited Commercial. The only exceptions are MF-29 Multi-family zoning on the applicant's vacant property immediately south, and MF-18 Multi-family zoning on the residential duplex development immediately to the east.

Locational criteria for commercial development include three key elements: development pattern, land use compatibility, and design. The nightclub development is visually buffered from adjacent land uses to the east, south and west. Given that a nightclub has operated at this site over many decades, staff has found no evidence or record that this use has created negative impacts to residential development in proximity to this site. The nightclub development is also compatible with the existing commercial development on the north side of E. 31st St. South.

RECOMMENDATION: Approval of this Conditional Use application would create current UZC compliance for an existing nightclub that was established long before the adoption of the Wichita-Sedgwick County UZC in 1996. If denied, the applicant could continue to operate as a lawful non-conforming use, but with the burden of maintaining the site's non-conforming rights.

Based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a nightclub facility be **APPROVED**, with the following conditions:

(1) The nightclub facility inclusive of the outdoor patio/events area shall be limited to an occupancy of 246 persons, as permitted by off-street parking requirements set forth in Sec. IV-A.4 of the UZC. Alternately, the applicant shall meet the UZC parking requirements by obtaining a parking reduction and/or securing an off-site parking agreement.

(2) Outdoor speakers and outdoor entertainment is permitted between the hours of noon and 11:00 p.m.

(3) A 6 ft. to 8 ft. high solid screening fence shall be installed along the east boundary of Lot 1 where

it abuts MF-18 Multi-family zoned property, in accordance with Sec. IV-B.3 of the UZC.

(4) The site shall be developed in conformance with a revised site plan approved by planning staff. This plan shall depict, at a minimum, the occupancies contained on the subject property; required on-site parking spaces; freestanding lighting; trash dumpsters and screening enclosures; on-site signage; the fenced outdoor patio/events area; and, all landscaping and fencing/solid screening. The site plan must be submitted for review within 60-days of approval of the Conditional Use.

(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 to 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:** The predominant zoning pattern for the immediate area surrounding the site to the east, west and north is LC-Limited Commercial. The only exceptions are MF-29 Multi-family zoning on the applicant's property immediately south, and MF-18 Multi-family zoning on the residential duplex development immediately to the east. The nightclub facility is visually buffered from adjacent land uses to the east, south and west. The nightclub facility is also compatible with the existing commercial development on the north side of E. 31st St. South.

(2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned the LC-Limited Commercial, which is meant to accommodate retail, commercial, office and other complementary uses. If approved, the request would transform the existing nightclub as a conforming use on the site.

(3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Typical concerns about tavern/drinking establishment/nightclub include bad behavior resulting from unlimited liquor sales, the noise from music and dancing, and the hours of nightclub operations creating a detrimental impact on surrounding residential neighborhoods. Given that a nightclub has operated at this site over many decades, staff has found no evidence or record that this use has created negative impacts to residential development in proximity to this site.

(4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The "Community Investment Plan's 2035 Wichita Future Growth Map" depicts the site and surrounding area south of E. 31st St. South as being "residential." A nightclub facility would not typically be considered an appropriate use within a "residential" designation. However, the predominant and longstanding zoning pattern for the immediate area surrounding the site to the east, west and north is LC-Limited Commercial. Locational criteria for commercial development include three key elements: development pattern, land use compatibility, and design. This is site has developed and operated as a nightclub since the late 1960's, and was established prior to the adoption of the Wichita-Sedgwick County Unified Zoning Code in 1996. The nightclub facility has long-established visual buffers from adjacent land uses to the east, south and west. The nightclub is compatible with the existing commercial development to the north.

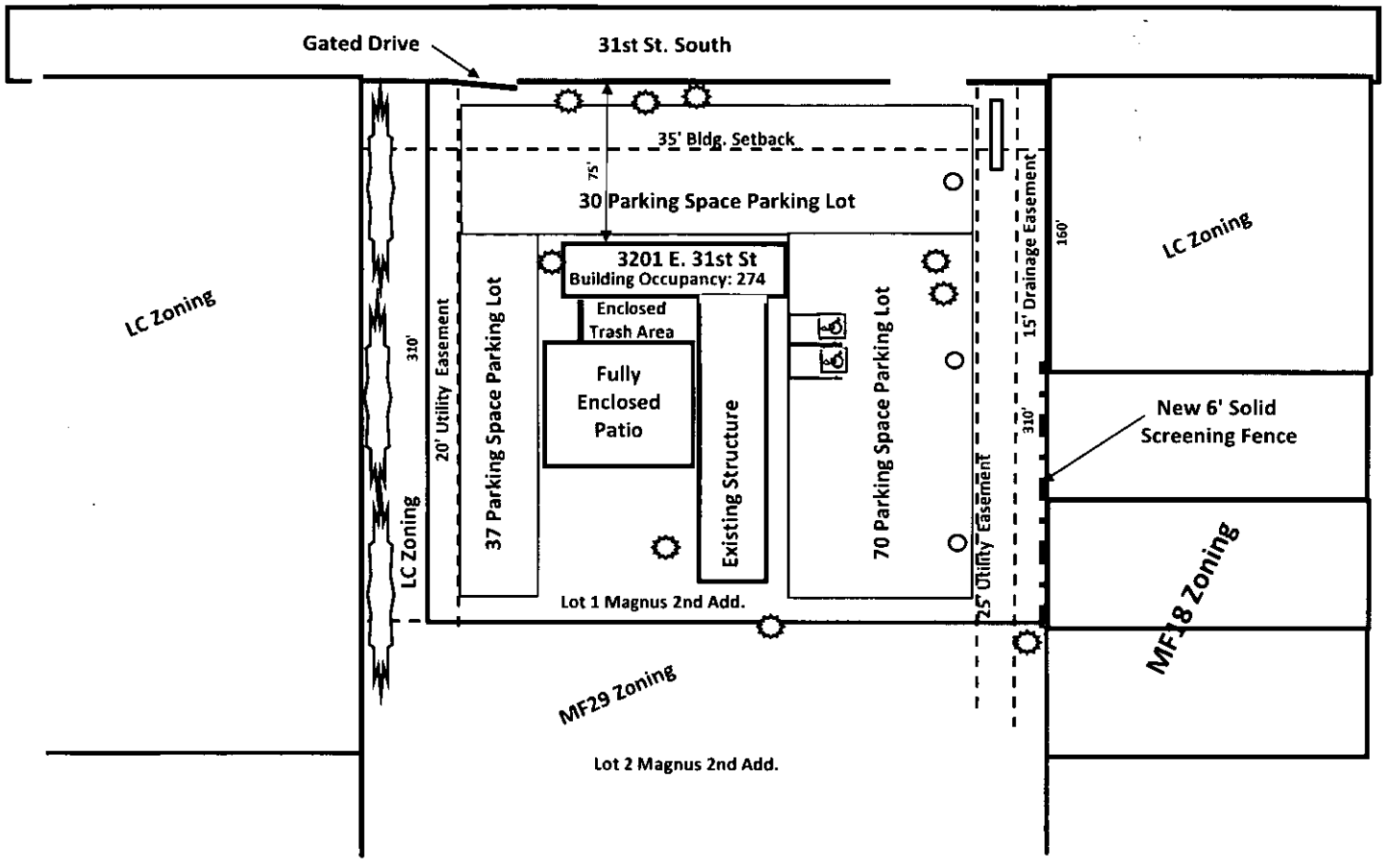
(5) **Impact of the proposed development on community facilities:** It is not likely that approval of this request would result in an increased demand for police services.

CON2016-41

SITE PLAN

APPROVED 11-01-2016 BY Bill Longneck

Conditional Use
for Nightclub
3201 E. 31st St. South
Ferris Consulting 10-25-16



LEGEND

- Freestanding Parking Lot Lights
- On Site Pole Sign
- Existing Deciduous Tree
- Landscape Trees to Remain

Building Occupancy: 274
Including Patio & Outdoor Space

Total Onsite Parking Spaces: 137

N

Drawing Not to Scale