WICHITA — SEDGWICK COUNTY

METROPOLITAN AREA PLANNING DEPARTMENT
CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1668
(316) 268-4421
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January 7, 1999

Hughey L. Brown
1755 Flobeita
Wichita KS 67208

RE: CU-499 To allow a drinking establishment and tavern on the property generally located southwest corner of 25th and Hillside (3115 E. 25th Street North).

Dear Mr. Brown:

At its regular meeting on December 17, 1998, the Metropolitan Area Planning Commission considered the above-captioned request. The action of the MAPC was to DENY the request.

This action was not appealed by the applicant before December 31, 1998, therefore, the action of the Planning Commission is FINAL. If you have any questions concerning this case, please contact our office.

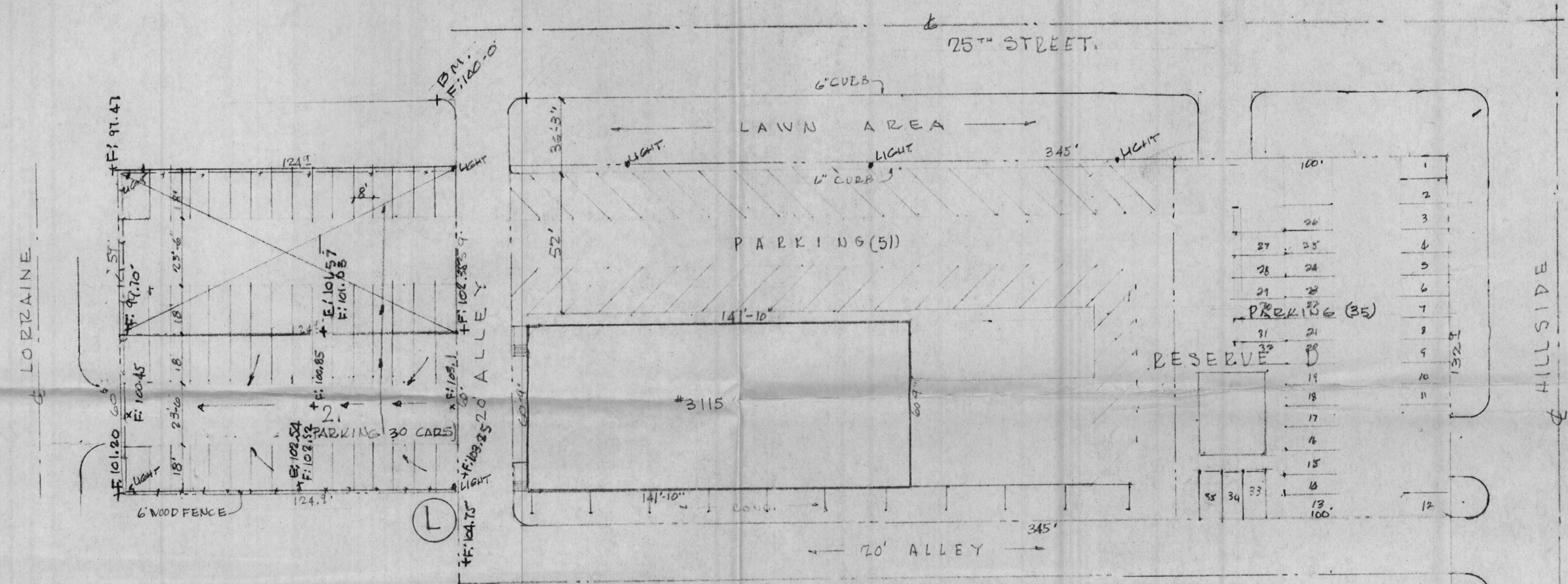
Sincerely,

Keith Gooch

Keith Gooch
Senior Planner

KG/rs

cc: Kurt Schroeder, Office of Central Inspection
Randy Sparkman, Office of Central Inspection
Paul Hays, Office of Central Inspection
J.R. Cox, Office of Central Inspection
Glen Wiltse, Sedgwick County Code Enforcement



SITE PLAN

NORTH
1" = 30'

LEGAL:

RESERVE "D" EXCEPT THE EAST 100 FEET THEREOF, AUDREY MATLOCK HEIGHTS FIRST ADDITION. WICHITA, SEDGWICK COUNTY, KANSAS

399
160 parking Spaces

SITE PLAN FOR LEE BROWN
3115 EAST 25TH ST WICHITA - KANSAS

SCALE: 1" = 30'	APPROVED BY:	DRAWN BY HLG
DATE: 9-7-95		REVISED

WICHITA–SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 10

STAFF REPORT

CPO (1) December 14, 1998
MAPC December 17, 1998

CASE NUMBER: CU-499

APPLICANT/AGENT: Hughey L. Brown and Charles H. Harden (Owners)

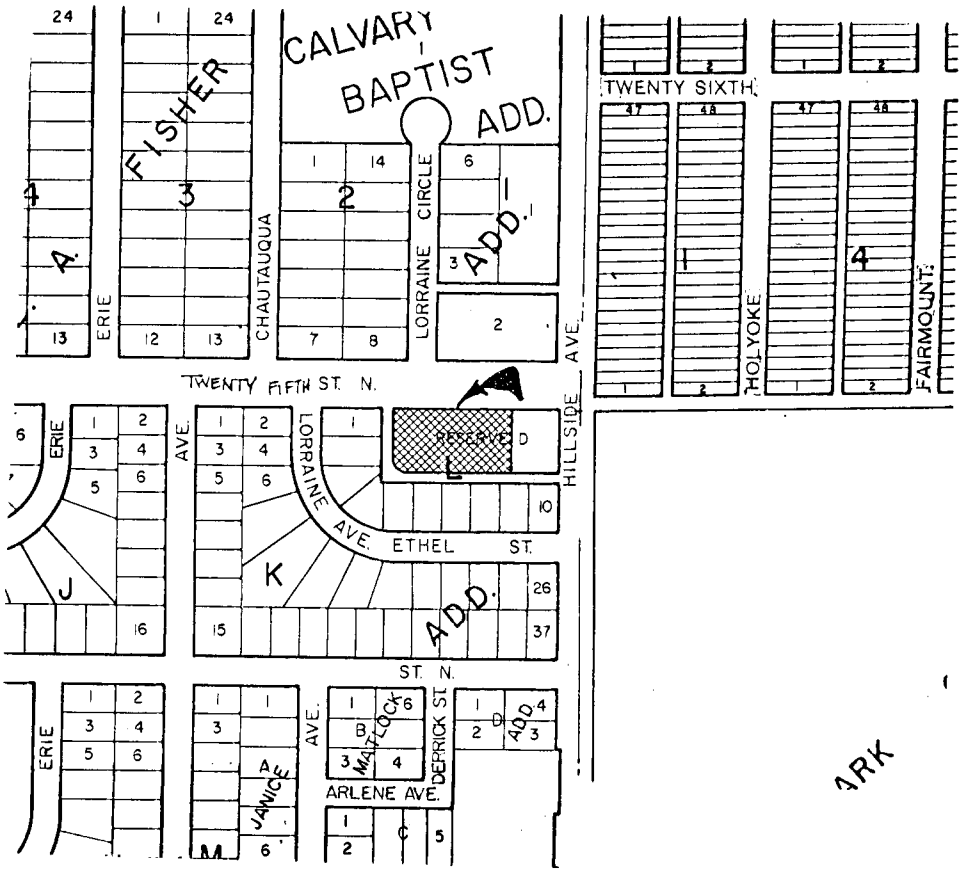
REQUEST: Conditional Use to allow a tavern and drinking establishment

CURRENT ZONING: "LC" limited Commercial

SITE SIZE: .75 acre

LOCATION: South of 25th Street North and west of Hillside

PROPOSED USE: Tavern and drinking establishment



BACKGROUND: The applicant is requesting a Conditional Use to allow a tavern and drinking establishment on property zoned "LC" Limited Commercial and located south of 25th Street North and west of Hillside.

The applicant currently operates a tavern and drinking establishment at this site with a private restaurant. This facility was opened approximately five years ago. The Police Department allows these facilities to open as a restaurant, but the applicant is required to show within a certain time period, usually one year, that more than 50 percent of the establishment's sales are from food. The last review by the Police Department showed that this establishment did not have more than 50 percent of its sales from food, therefore the Office of Central Inspection has required the applicant to obtain a Conditional Use. The applicant has written a letter explaining the business at this location, which is attached.

Since 1988 in the City, the Zoning Code has required taverns, drinking establishments, private clubs and night clubs to obtain a Conditional Use (prior to the adoption of the Unified Zoning Code in 1996, the requirement was for a "use exception: issued by the Board of Zoning Appeals) when located within 200 feet of a church or place of worship, public park, school, or residential zoning district (this distance is measured from the nearest lot line of the church or place of worship, public park, school or residential zoning district to the nearest lot line of the premises on which the tavern, drinking establishment, club or night club is located or of any parking lot designated to be used by the patrons of such businesses, whichever is closest). The UZC defines a tavern and drinking establishment "as an establishment engaged in the preparation and retail sale of alcoholic liquor or cereal malt beverage for consumption on the premises which derives in a six-month period less than fifty percent (50 %) of its gross revenues from the sale of food and beverages for consumption on the premises. For the purposes of this Code, the term "tavern and drinking establishment" shall include a "Class B Club." Since the establishment of the 200 foot rule, very few applications have been submitted, and none approved.

The City of Wichita Fire Department has this building's occupancy limited to 299 persons. Therefore, based on the Unified Zoning Code parking requirements, this use would have to provide 150 parking spaces (one per every two occupants). The site plan only shows 62 parking spaces on the lot of the primary use, which would limit the number of occupants to 124 individuals.

The City of Wichita Police Department has received several complaints about this club during its existence. The Community Police Officers will either be writing a letter detailing these complaints or they will be at the December 17th MAPC meeting.

There are single-family homes to the west, south and north of this site on property zoned "SF-6". Also to the north is a vacant lot on property zoned "LC." Just east of this site is a liquor store.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH:	"LC" and "SF-6"	Vacant property and single-family homes
SOUTH:	"SF-6"	Single-family home
EAST:	"LC"	Liquor Store
WEST:	"SF-6"	Single-family homes

PUBLIC SERVICES: This site has access to 25th Street North, a two lane collector. Current traffic volumes along 25th Street are 3,480. The 2020 Transportation Plan does not estimate the future traffic volume for 25th Street North. Municipal services are available to serve this site.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide and the Northeast Plan identifies this area as appropriate for commercial uses.

The Northeast Area Community Plan identifies the area surrounding the application area as an area requiring "moderate revitalization" area. The Plan explains this area has gone beyond the stage where minimal intervention can bring large dividends. The housing stock is in distress, but not enough that the neighborhood's viability is at risk. Extensive work is needed to restore stability and value, but these area are not at the critical stage of "major revitalization" areas.

Although the plan identifies this area as appropriate for commercial uses, the Comprehensive Plan says that commercial uses should be sited and designed to minimize noise, lighting, and other activity so as to minimize adverse impacts on surrounding residential areas.

RECOMMENDATION: Based upon the immediate proximity of residential property in three directions, the inability to adequately buffer the noise and traffic, and complaints received by the police officers in the area and the surrounding residential properties, staff feels that this property is not appropriate for a tavern or drinking establishment. Also this request seems contrary to the Northeast Plan, which calls for actions that promote neighborhood stability. If this request is approved and the problems which have been discussed by the police officers continue, it seems highly likely that the area surrounding this area could suffer from even more disinvestment. Therefore, based upon information available prior to the public hearings, planning staff recommends that the request be DENIED.

However, if the Planning Commission feels this request is appropriate then staff would recommend the following conditions be placed upon the applicants:

1. The Conditional Use shall be for a 2-year period only, subject to renewal after

public hearing, only upon showing that the operation has been conducted without disruption to the neighborhood by way of noise complaints, traffic problems, and the like.

2. The applicant shall construct a six to eight foot tall screening fence around the perimeter of their property where adjacent to the residentially zoned property.

3. The establishment shall only be open until 10 p.m. on the weekdays and 12 a.m. on weekends.

4. The applicant shall submit a new site plan or parking agreements with surrounding commercial businesses which would provide this establishment with 150 parking spaces or submit a variance requesst. Otherwise, the occupancy of this tavern/drinking establishment shall be limited, based on the Code requirements.

5. Any violation of the above stated conditions shall declare the Conditional Use permit null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: There are single-family homes to the south, west and north of this site on property zoned "SF-6." Also to the north is a vacant field on property zoned "LC." East of the application area is a liquor store on land zoned "LC."

2. The suitability of the subject property for the uses to which it has been restricted: This property is currently zoned "LC" Limited Commercial. The applicant has not shown that this property can not be put to the many other uses that are permitted by right in the "LC" district.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: If the Conditional Use is granted, it seems likely that the surrounding residential property will be significantly impacted by this development. The Community Police Officers have received several complaints which they will detail in a letter or at the MAPC hearing. Staff believes that this use is not compatible with the surrounding residential uses.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Wichita Land Use Guide identifies this area as appropriate for commercial uses. However, the location of this use in proximity to residential property does not meet the guidelines for minimizing adverse impacts of noise, traffic, and other activity.
The Northeast Wichita Plan has identified this area as a moderate revitalization

area, which needs treatment aimed at stabilization. This is an area which is not in need of significant revitalization at this time; however, staff believes if the problems as detailed by the police officers in the area continue, the decline in the neighborhood surrounding this use could continue.

5. Impact of the proposed development on community facilities: The impact on community facilities if this use continues should be limited, except for the continued demand on police services from complaints of nearby residents.