CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

August 25, 2011

Michael Khoury
11610 E. Central
Wichita, KS 67207

Graham Ryan
1301 S. Main Street
Wichita, KS 67213

RE: CON2011-00025 - City Conditional Use to permit a Nightclub in the City on property zoned LC Limited Commercial, generally located north of Douglas Street and east of West Street (3920 W. Douglas Street).

Dear Applicants:

At its regular meeting on **August 4, 2011**, the Wichita - Sedgwick County Metropolitan Area Planning Commission considered the above captioned request. The action of the MAPC was to **APPROVE** the request, subject to the conditions on the attached resolution.

If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

Jess McNeely, AICP
Senior Planner
Current Plans Division

Copies to: Janet Miller, WCC VI, Mail Stop 1-13
Sunflower NA, Judy Morris, 526 Leonine, Wichita, KS 67213
Orchard Breeze NA, Brad Hinkle, 5214 W First Street, Wichita, KS 67213
Terri Dozal, NA VI, Mail Stop 1-135
Julianne Kallman, Engineering, Mail Stop 1-71
J. R. Cox, OCI, Mail Stop

CONDITIONAL USE RESOLUTION NO. CON2011-00025

WHEREAS, Michael Khoury (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 to permit a Nightclub in the City on property zoned LC Limited Commercial described as:

> Part of Lots 2, 3 and 4, and vacated Pearl Street on the North, beginning 12 feet East of the Southwest corner of Lot 2; thence North 290 feet; thence West 176.26 feet; thence South 98.04 feet; thence West 12.55 feet; thence South 11.45 feet; thence East 25.82 feet; thence South 180.5 feet; thence East 158.46 feet to beginning, Black and Towns Addition to Wichita, Sedgwick County, Kansas, generally located north of Douglas Street and east of West Street (3920 W. Douglas Street), Wichita, Sedgwick County, Kansas.

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 August 4, 2011, 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 1.12 acres zoned LC Limited Commercial ("LC") described as:

> Part of Lots 2, 3 and 4, and vacated Pearl Street on the North, beginning 12 feet East of the Southwest corner of Lot 2; thence North 290 feet; thence West 176.26 feet; thence South 98.04 feet; thence West 12.55 feet; thence South 11.45 feet; thence East 25.82 feet; thence South 180.5 feet; thence East 158.46 feet to beginning, Black and Towns Addition to Wichita, Sedgwick County, Kansas, generally located north of Douglas Street and east of West Street (3920 W. Douglas Street), Wichita, Sedgwick County, Kansas.

Approved subject to the following conditions:

1. The Conditional Use for a Nightclub in the City shall be limited to a 340-person occupancy.
2. A revised site plan shall be submitted, for Planning Staff approval, within 60 days of approval of the Conditional Use by the governing body. The site plan shall indicate the location and method of screening of trash receptacles, location of lighting, the location and total number of parking spaces, and other site requirements per the Unified Zoning Code.
3. If necessary to meet UZC parking requirements, the applicant shall obtain a parking agreement with abutting property owners. A copy of the parking agreement shall be filed with the Conditional Use and shall be provided to OCI.
4. The site shall be developed in general conformance with the approved site plan and in compliance with all city ordinances, including but not limited to: zoning, sign code, building, fire, health codes or licensing requirements.
5. Construction of improvements shall be completed within one year of approval of the Conditional Use by the governing body.

6. The parking lot shall be kept free of all trash and debris. No loitering, congregating or excessive noise shall be permitted in the parking lot. No outside loudspeakers or entertainment, including outside dancing, shall be permitted.
7. Operation of the Nightclub in the City shall be limited to:
   Sunday through Thursday - 6:00 p.m. – midnight
   Friday and Saturday 6:00 p.m. - 2:00 a.m.
8. 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 the Conditional Use null and void.

Adopted this 4th Day of August 2011

METROPOLITAN AREA PLANNING COMMISSION

Debra Miller Stevens

Debra Miller Stevens, Chair MAPC

ATTEST:

John L. Schlegel, Secretary

WICHITA–SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 6

STAFF REPORT

MAPC August 4, 2011
DAB VI August 1, 2011

CASE NUMBER: CON2011-00025

APPLICANT/AGENT: Michael Khoury (owner), Graham Ryan (applicant)

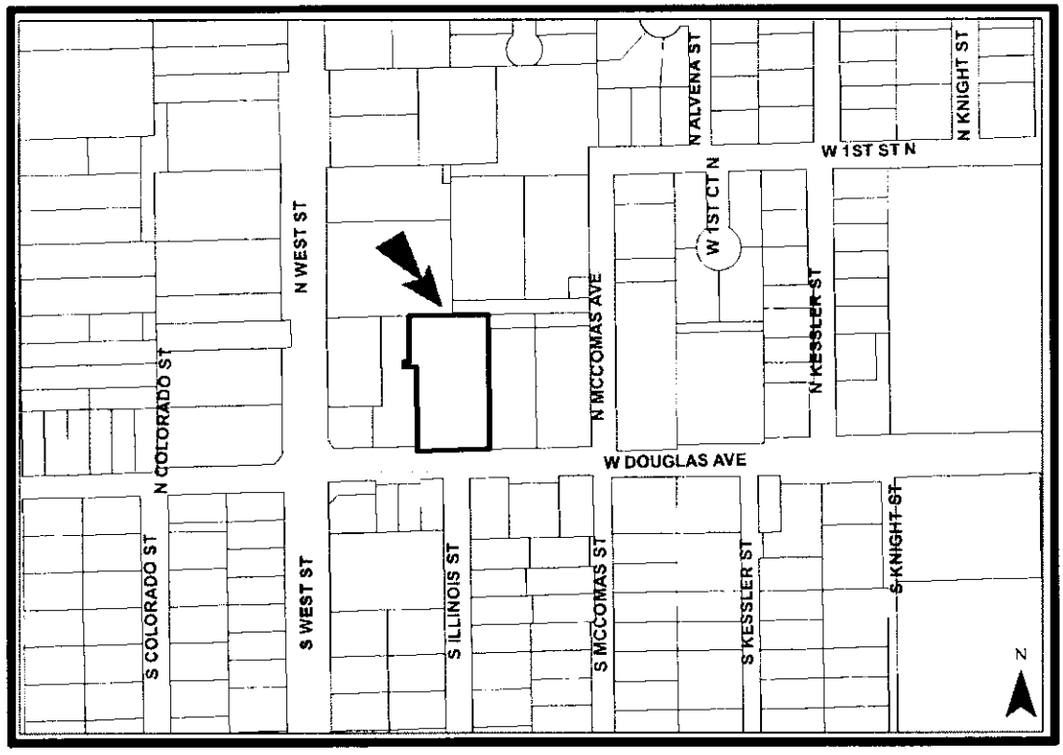
REQUEST: Conditional Use for Nightclub in the City

CURRENT ZONING: LC Limited Commercial ("LC")

SITE SIZE: 1.12 acres

LOCATION: North of Douglas and east of West Street (3920 W. Douglas)

PROPOSED USE: Nightclub



BACKGROUND: The applicant seeks a Conditional Use to permit a Nightclub in the City on property zoned LC Limited Commercial ("LC"), generally located on the north side of Douglas and east of West Street (3920 W. Douglas). The proposed site is a one-story strip commercial building that has been used as a catering and reception facility. The proposed building previously had a 411 person occupancy limit according to the Wichita Fire Department. The applicant states that he wishes to obtain an Entertainment Establishment license and to allow patrons to bring in alcohol. Under the Unified Zoning Code (UZC) this combination is defined as a Nightclub. Nightclub in the City is a permitted land use in the LC zoning district. However, the application area is within 300 feet of residential zoning; the UZC requires that a nightclub located within 300 feet of residential zoning be subject to Conditional Use review to determine if the particular site is suitable for the operation of a nightclub. Other space in this strip center recently housed a restaurant and retail facility, both of which appear closed.

Most properties located nearby on both sides of Douglas and West are zoned LC. Immediately north of the site is an LC zoned commercial strip center; northeast of the site is an LC and B Multi-family Residential ("B") zoned apartment complex. The B zoned apartment complex is within 100 feet of the application area. The application area does not have any buffering or screening along the abutting multi-family property. South of the site, across Douglas, are LC zoned commercial and vehicle sales land uses, to include a building under renovation. Southeast of the site is a GC General Commercial ("GC") zoned vehicle repair facility, and an LC zoned bar/tavern at the southwest corner of Douglas and McComas. Further south, on Illinois Street, are MF-29 Multi-family Residential ("MF-29") zoned four-plexes and SF-5 Single-family Residential ("SF-5") zoned residences. South of the site on West is an LC zoned drive through restaurant. Residences on Illinois Street are within 300 feet of the application area. East of the site is an LC zoned strip commercial property housing a cosmetology school, and west of the site is an LC zoned car lot.

CASE HISTORY: The property is a portion of Lots 2, 3, and 4 of the Black and Towns Addition, recorded in 1951.

ADJACENT ZONING AND LAND USE:

NORTH:	LC, B	Commercial strip center, multi-family residential
SOUTH:	LC, GC	Vehicle sales and repair, bar/tavern, drive through restaurant
EAST:	B, SF-5	Commercial strip center
WEST:	LC	Vehicle sales

PUBLIC SERVICES: The site has two direct access points onto Douglas, a four-lane minor arterial street with a 60-foot half-width right-of-way (ROW). The 2030 Transportation Plan designates this portion of Douglas to remain a four-lane arterial. The 2006 annual average daily traffic count for this portion of Douglas was 6,568. All normal public services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide, as amended in May 2005, of the *1999 Update to the Wichita-Sedgwick County Comprehensive*

Plan designates this site as "Local Commercial." The zoning is in conformance with this designation. The property is not part of a CUP, and does not have any special site development regulations for use restrictions, buffering, or screening. The application area has no on-site landscaping along Douglas, reflecting its development prior to the Landscape Ordinance and not being a part of a CUP. Street trees exist in the Douglas right of way adjacent to the site. The UZC requires a Nightclub to have one parking space per two patrons. The site currently has approximately 75 spaces; the applicant intends to obtain a shared parking agreement with the cosmetology school to the east for another approximate 95 spaces. If the Nightclub occupancy is limited to 340, the applicant can meet the UZC parking requirement.

RECOMMENDATION: Historically this site was a rental reception facility, and a bar/tavern currently operates southeast of this location, across Douglas. This request does not introduce an out of character use to the area. This site has a limited amount of parking available, and therefore a limited occupancy. Staff does not see this request posing negative effects on nearby residences, provided the applicant can accommodate his parking requirement on his site. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The Conditional Use for a Nightclub in the City shall be limited to a 340-person occupancy.
2. A revised site plan shall be submitted, for Planning Staff approval, within 60 days of approval of the Conditional Use by the governing body. The site plan shall indicate the location and method of screening of trash receptacles, location of lighting, the location and total number of parking spaces, and other site requirements per the Unified Zoning Code.
3. If necessary to meet UZC parking requirements, the applicant shall obtain a parking agreement with abutting property owners. A copy of the parking agreement shall be filed with the Conditional Use and shall be provided to OCI.
4. The site shall be developed in general conformance with the approved site plan and in compliance with all city ordinances, including but not limited to: zoning, sign code, building, fire, health codes or licensing requirements.
5. Construction of improvements shall be completed within one year of approval of the Conditional Use by the governing body.
6. The parking lot shall be kept free of all trash and debris. No loitering, congregating or excessive noise shall be permitted in the parking lot. No outside loudspeakers or entertainment, including outside dancing, shall be permitted.
7. Operation of the Nightclub in the City shall be limited to:
   Sunday through Thursday - 6:00 p.m. – midnight
   Friday and Saturday 6:00 p.m. - 2:00 a.m.
8. 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 the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: This site has historically been used as a rental reception facility, and a bar/tavern currently operates southeast of this location, across Douglas. The abutting apartments to the north have a wrought iron fence. Most properties located nearby on both sides of Douglas and West Streets are zoned LC. A fast-food drive through restaurant is located to the south. Two four-plexes exist south of the site on Illinois. Single family residences exist further south on Illinois, and north east of the site, across McComas.

2. The suitability of the subject property for the uses to which it has been restricted: The building could be remodeled to be used for a wide variety of LC uses allowed by the current zoning.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: A nightclub will bring more late night activity to this location. However, this site was previously used for reception rentals, and a bar/tavern exists across Douglas. The proposed conditions should keep parking limited to the applicant's site, and should mitigate noise and trash issues associated with the nightclub.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide, as amended in May 2005, of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* designates this site as "Local Commercial." The zoning is in conformance with this designation. The property is not part of a CUP, and does not have any special site development regulations for use restrictions, buffering, or screening. The application area has no on-site landscaping along Douglas, reflecting its development prior to the Landscape Ordinance and not being a part of a CUP. Street trees exist in the Douglas right of way adjacent to the site. The UZC requires a Nightclub to have one parking space per two patrons. The site currently has approximately 75 spaces; the applicant intends to obtain a shared parking agreement with the cosmetology school to the east for another approximate 95 spaces. If the Nightclub occupancy is limited to 340, the applicant can meet the UZC parking requirement.

5. Impact of the proposed development on community facilities: The nightclub should have no significant impact on streets and utility services. Like all liquor-related uses, it will increase the need for oversight from the police to ensure compliance with licensing requirements and other conditions of approval.

APPLICANT NAME: GRAHAM RYAN

TITLE: 3920 W. DOUGLAS CONDITIONAL USE TO OBTAIN ENTERTAINMENT ESTABLISHMENT LICENSE

SHEET SIZE: 8½" x 11"

SCALE: 1" = 100'

