



Wichita-Sedgwick County Metropolitan Area Planning Department

May 9, 2012

Don Bean
6332 Eilerts
Wichita, KS 67218

Melvin Davis
9135 Lakepoint
Wichita, KS 67226

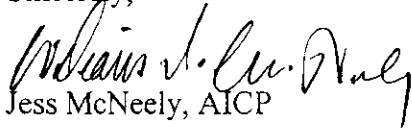
RE:CON2012-12 - City Conditional Use for a Nightclub in the City (within 300 feet of residential zoning) in LC Limited Commercial ("LC") zoning, generally located south of Lincoln and northeast of George Washington Boulevard (900 George Washington Boulevard).

Dear Applicants:

At its regular meeting on April 19, 2012, 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.

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,



Jess McNeely, AICP
Senior Planner

JM:mc
Attachment

Copies to: Beverly Domitrovic, 1219 George Washington Dr., Wichita, KS 67211
LaShonda Games, NA I, Mail Stop 1-135
Lavonta Williams, WCC I, Mail Stop 1-13
Julianne Kallman, Engineering, Mail Stop 1-71
J.R. Cox and Paul Hays, OCI, Mail Stop 1-72

City Hall • 10th Floor • 455 North Main • Wichita, Kansas 67202-1688

T 316.268.4421 **F** 316.268.4390

www.wichita.gov

CONDITIONAL USE RESOLUTION NO. CON2012-12

WHEREAS, Melvin and Brent Davis (owner), Don Bean (applicant); 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 1.25 acres zoned LC Limited Commercial ("LC"), described as:

Lot 1, Block 1, Harvest Communications Addition to Wichita, Sedgwick County, Kansas; generally located south of Lincoln Street and northeast of George Washington Boulevard (900 George Washington Blvd.).

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 19, 2012, 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 1.25 acres zoned LC Limited Commercial ("LC"), described as:

Lot 1, Block 1, Harvest Communications Addition to Wichita, Sedgwick County, Kansas; generally located south of Lincoln Street and northeast of George Washington Boulevard (900 George Washington Blvd.).

Approved subject to the following conditions:

1. The Conditional Use for a Nightclub shall be for a rental reception facility, guests to be admitted by invitation only and not open on a regularly scheduled basis or to the general public. And, the facility may be used for a live music venue for special dates only; live music venue dates shall not exceed three times per month.
2. The Conditional Use for a Nightclub in the City shall be limited to a 275-person occupancy.
3. The Conditional Use shall be limited to the building identified on the approved site plan as the "Boulevard," and shall only use the parking identified on the approved site plan.
4. The applicant shall obtain a parking agreement with the two abutting property owners where parking is shown on the approved site plan. A copy of the parking agreement shall be filed with the Conditional Use and shall be provided to OCI.
5. 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, building, fire and health codes and licensing requirements. Failure to conform to any city code and/or failure to maintain proper licensing will be a violation of the Conditional Use.
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 Facility shall be limited to:
Sunday through Thursday - 12:00 p.m. – midnight
Friday and Saturday 12:00 p.m. - 2:00 a.m.

STAFF REPORT

MAPC April 7, 2012

DAB I May 19, 2012

CASE NUMBER: CON2012-12

APPLICANT/AGENT: Melvin and Brent Davis (owner), Don Bean (applicant)

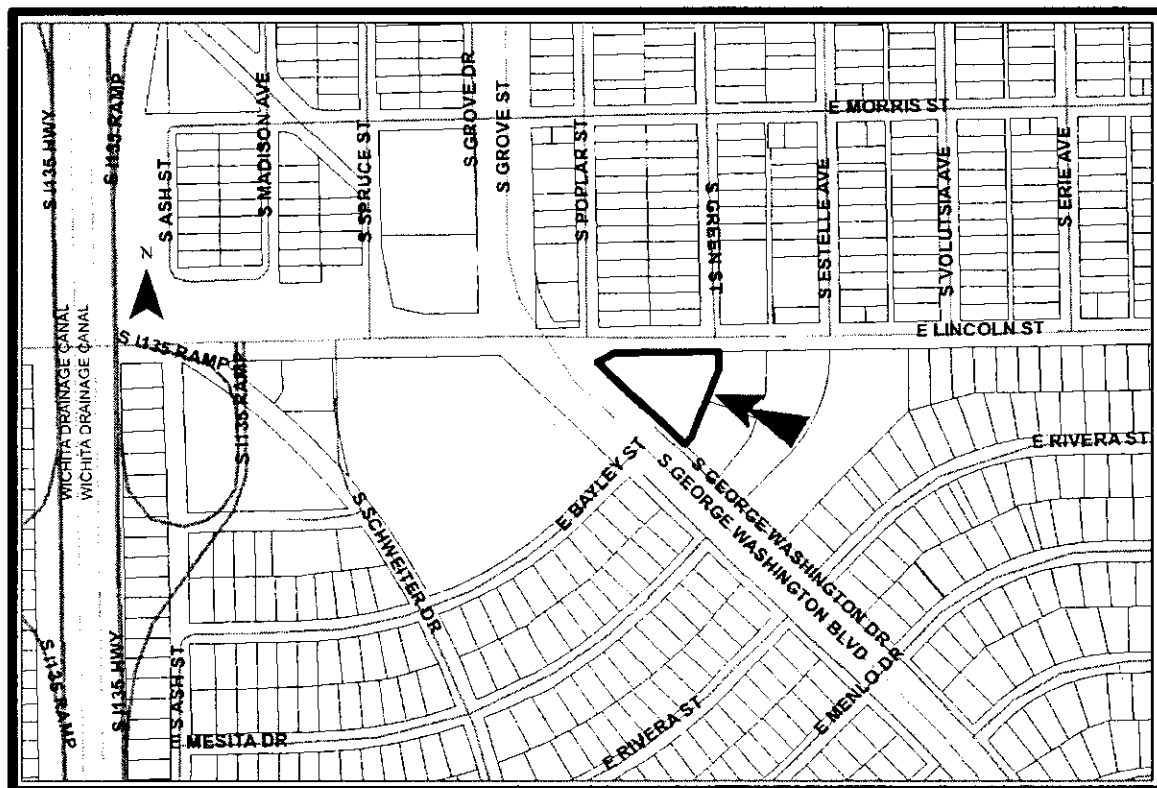
REQUEST: Conditional Use for Nightclub in the City

CURRENT ZONING: LC Limited Commercial ("LC")

SITE SIZE: 1.25 acres

LOCATION: South of Lincoln Street and northeast of George Washington Boulevard (900 George Washington Blvd.)

PROPOSED USE: Rental venue for wedding receptions and special occasions, and live music venue for special occasions



BACKGROUND: The applicant seeks a Conditional Use to permit a Nightclub in the City on property zoned LC Limited Commercial (“LC”), generally located south of Lincoln Street and northeast of George Washington Boulevard (900 George Washington Blvd.). The proposed site is a 1953 theater building within a larger shopping center. The site has been used for some time as a rental reception facility and for live music performances. The applicant wishes to continue use as a rental reception and live music facility that would only be open when rented or for special occasions; the applicant indicates that he does not desire to be a nightclub open to the public on a regular basis. The applicant states that he wishes to obtain an Entertainment Establishment license, to allow live music and dancing, and he wishes to allow catered food and alcohol. Under the Unified Zoning Code (UZC) the combination of an Entertainment License and serving alcohol 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 and a church; the UZC requires that a nightclub located within 300 feet of residential zoning, a church, school or park be subject to Conditional Use review to determine if the particular site is suitable for the operation of a nightclub. Other space in this shopping center houses offices, medical services, and retail uses. The applicant indicates to staff that the building occupancy is 275 people. The applicant’s site plan (see attached) indicates 139 available parking spaces, 70 of which are on adjoining properties under separate ownership but within the same shopping center. This number of parking spaces meets the UZC parking requirement of 1 space per two patrons for a Nightclub.

Property north of the site, across Lincoln, includes an LC zoned fast food restaurant, B Multi-family (“B”) zoned apartment developments, a TF-3 Two-family Residential (“TF-3”) zoned church, and TF-3 zoned single-family residences. South of the site, across George Washington Boulevard, is a TF-3 zoned single-family residential neighborhood. East of the site is the remainder of the LC zoned Boulevard Shopping Center. West of the site, across George Washington Boulevard, is the LC zoned Cox Communications facility.

CASE HISTORY: The property was platted as Lot 1, Block 1 of the Harvest Communications Addition in 1988.

ADJACENT ZONING AND LAND USE:

NORTH:	LC, B, TF-3	Restaurant, multi- and single-family residential, church
SOUTH:	TF-3	Single-family residential neighborhood
EAST:	LC	Commercial strip center, medical offices
WEST:	LC	Office building, communications facility

PUBLIC SERVICES: The site has direct access points onto George Washington Drive and Lincoln Street. Lincoln and George Washington Boulevard are four-lane minor arterials at this location, and both are designated by the 2030 Transportation Plan to remain four-lane arterials. Lincoln has an 80-foot right-of-way (ROW) width at this location, and a daily traffic count of 9,681 vehicles per day. George Washington Boulevard has a 180-foot ROW at this location, to include local access George Washing Drive on either side of the Boulevard, and a traffic count of 8,078. 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 existing zoning and requested Conditional Use 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.

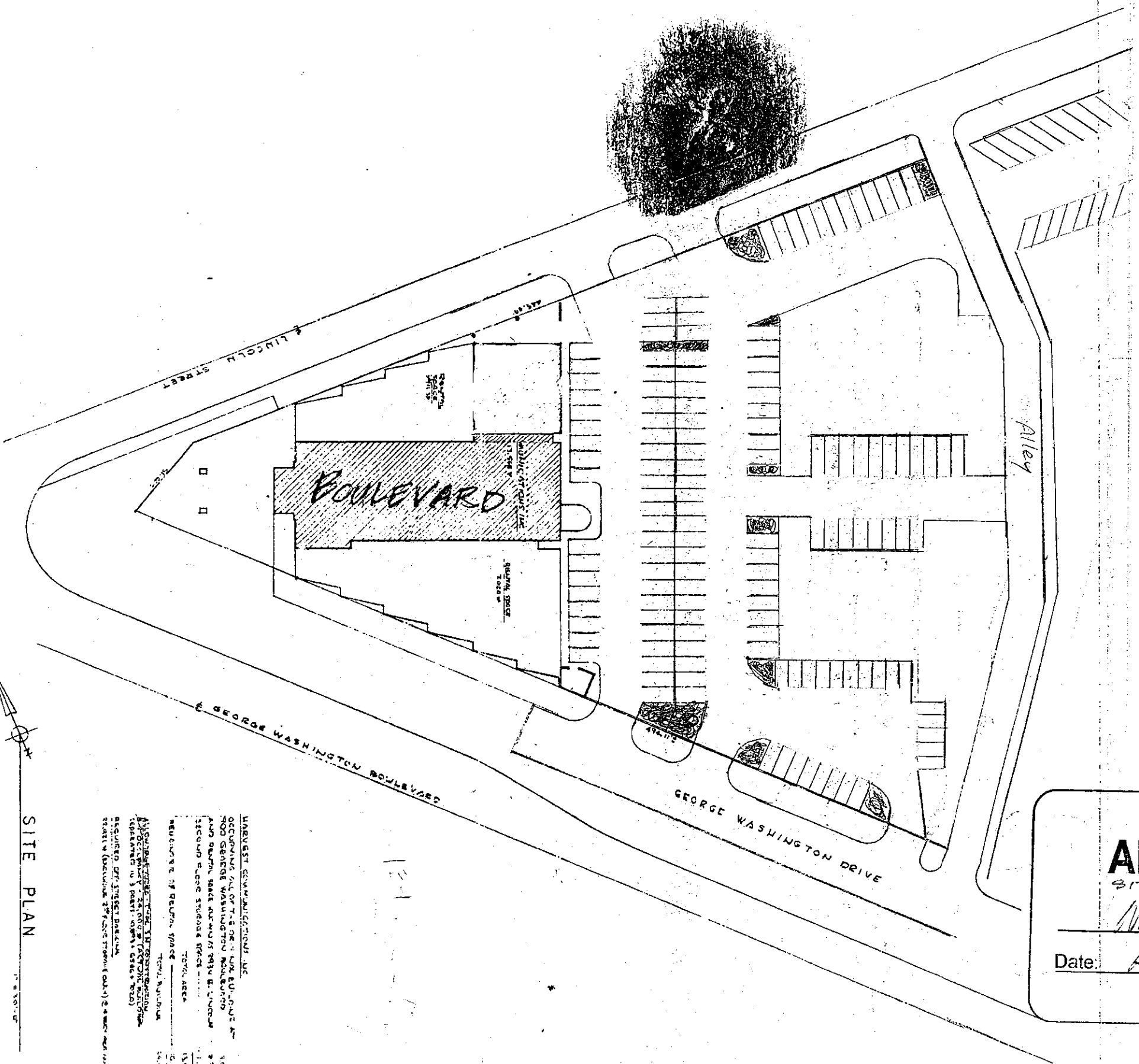
RECOMMENDATION: Historically this site was a rental reception facility and live music venue, this specific building and business does not appear to have any negative impacts on the surrounding neighborhood. This site can only meet the UZC parking requirements with the use of shared parking from adjoining businesses with different business hours. Staff does not see this request negatively impacting surrounding properties with parking demand provided the applicant can obtain shared parking agreements with the parking lots shown on the site plan. A former nightclub located within the same shopping center but within a different building, approximately 250 feet east of the subject building, had significant legal and licensing issues several years ago. This former nightclub had significant negative impacts on the surrounding neighborhood. As such, several neighbors have contacted staff regarding this current case with questions and opposition. Most neighbors have no problem with this applicant wanting to continue his rental reception and live music venue business, although a few remain opposed. Staff feels that carefully crafted conditions could allow this business to continue operation without negative impacts on the surrounding neighborhood. Based upon information available prior to the public hearings, planning staff recommends that the Conditional Use request be APPROVED, subject to the following conditions:

1. The Conditional Use for a Nightclub shall be for a rental reception facility, guests to be admitted by invitation only and not open on a regularly scheduled basis or to the general public. And, the facility may be used for a live music venue for special dates only; live music venue dates shall not exceed three times per month.
2. The Conditional Use for a Nightclub in the City shall be limited to a 275-person occupancy.
3. The Conditional Use shall be limited to the building identified on the approved site plan as the “Boulevard,” and shall only use the parking identified on the approved site plan.
4. The applicant shall obtain a parking agreement with the two abutting property owners where parking is shown on the approved site plan. A copy of the parking agreement shall be filed with the Conditional Use and shall be provided to OCI.
5. 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, building, fire and health codes and licensing requirements. Failure to conform to any city code and/or failure to maintain proper licensing will be a violation of the Conditional Use.
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 Facility shall be limited to:
 Sunday through Thursday - 12:00 p.m. – midnight
 Friday and Saturday 12:00 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: Property north of the site, across Lincoln, includes an LC zoned fast food restaurant, B Multi-family zoned apartment developments, a TF-3 zoned church, and TF-3 zoned single-family residences. South of the site, across George Washington Boulevard, is a TF-3 zoned single-family residential neighborhood. East of the site is the remainder of the LC zoned Boulevard Shopping Center. West of the site, across George Washington Boulevard, is the LC zoned Cox Communications facility.
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 without a Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: A rental reception and live music facility will bring more late night activity to this location. However, this site has been used for these purposes without apparent impact on the surrounding neighborhoods. The proposed conditions should ensure the facility is used for scheduled special occasions only, they should keep parking limited to the applicant's site, and should mitigate noise and trash issues associated with the facility.
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 existing zoning and requested Conditional Use 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.
5. Impact of the proposed development on community facilities: The facility should have no significant impact on streets and utility services, as its primary hours will be different than those of surrounding businesses. The proposed use will increase the need for oversight from the police and OCI to ensure compliance with licensing requirements and other conditions of approval.



APPROVED
 SITE PLAN EON 2012-12
William J. Convery
 Date: April 19, 2012

SITE PLAN

MICROFILM

REVISIONS				PRINT RECORD				DRAWING RECORD			
No.	Date	By	Appr.	No.	Date	By	Appr.	No.	Date	By	Appr.
1	1-14-88			1	1-14-88			1	1-14-88		
HARVEST COMMUNICATIONS, INC.				900 GEORGE WASHINGTON BOULEVARD				WICHITA, KANSAS			
FOR:				REMODELING OF PRESENT BUILDING				HARVEST COMMUNICATIONS, INC.			