WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

September 6, 2012

Wichita Inn Suites Inc. c/o Doug Maryott
4011 Tara Cr.
Wichita, KS 67226

David Allen
3722 Winterberry
Wichita, KS 67226

RE:CON2012-36 - City Conditional Use request to permit a Night Club within 300 feet of residential zoning, in LC Limited Commercial zoning; generally located south of Kellogg and east of Pinecrest (5205 E. Kellogg).

Dear Applicants:

At its regular meeting on August 16, 2012, the Wichita - Sedgwick County Metropolitan Area Planning Commission considered the above captioned request. The action of the MAPC was to APPROVE the request. No protests of this request were filed; therefore the decision of the MAPC is final, subject to 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

Attachments

Copies to: WCC III, James Clendenin, Stop 1-135
NA III, Janet Johnson, Mail Stop 1-13
JR Cox, OCI
Rick Stubbs, OCI

CONDITIONAL USE RESOLUTION NO. CON2012-36

WHEREAS, Wichita Inn Suites Inc. c/o Doug Maryott and David Allen (owner/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 "Night Club in the City", within 300 feet of residential zoning, on approximately .4 acres zoned LC Limited Commercial ("LC"), described as:

Lots 1 and 2 of the Cain & Smith Replat, Wichita, Sedgwick County, Kansas; generally located south of Kellogg and east of Pinecrest (5205 E. Kellogg).

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 16, 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 "Night Club in the City", within 300 feet of residential zoning, on approximately .4 acres zoned LC Limited Commercial ("LC"), described as:

Lots 1 and 2 of the Cain & Smith Replat, Wichita, Sedgwick County, Kansas; generally located south of Kellogg and east of Pinecrest (5205 E. Kellogg).

Approved subject to the following conditions:

1. The Conditional Use for a Nightclub in the City shall be limited to a 138-person occupancy.
2. The Conditional Use shall be limited to the building space identified on the approved site plan, and shall use only the parking identified on the approved site plan.
3. 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.
4. 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.
5. 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 6 day of September 2012.

METROPOLITAN AREA PLANNING COMMISSION

Shawn Farney, Chair MAPC

ATTEST:

John L. Schlegel, Secretary

7:30 Appr. E-1

WICHITA–SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. _____

STAFF REPORT

MAPC August 2, 2012
DAB III August 1, 2012

GEFA

CASE NUMBER: CON2012-36

APPLICANT/AGENT: Wichita Inn Suites Inc. c/o Doug Maryott (owner)

REQUEST: Conditional Use for Nightclub in the City

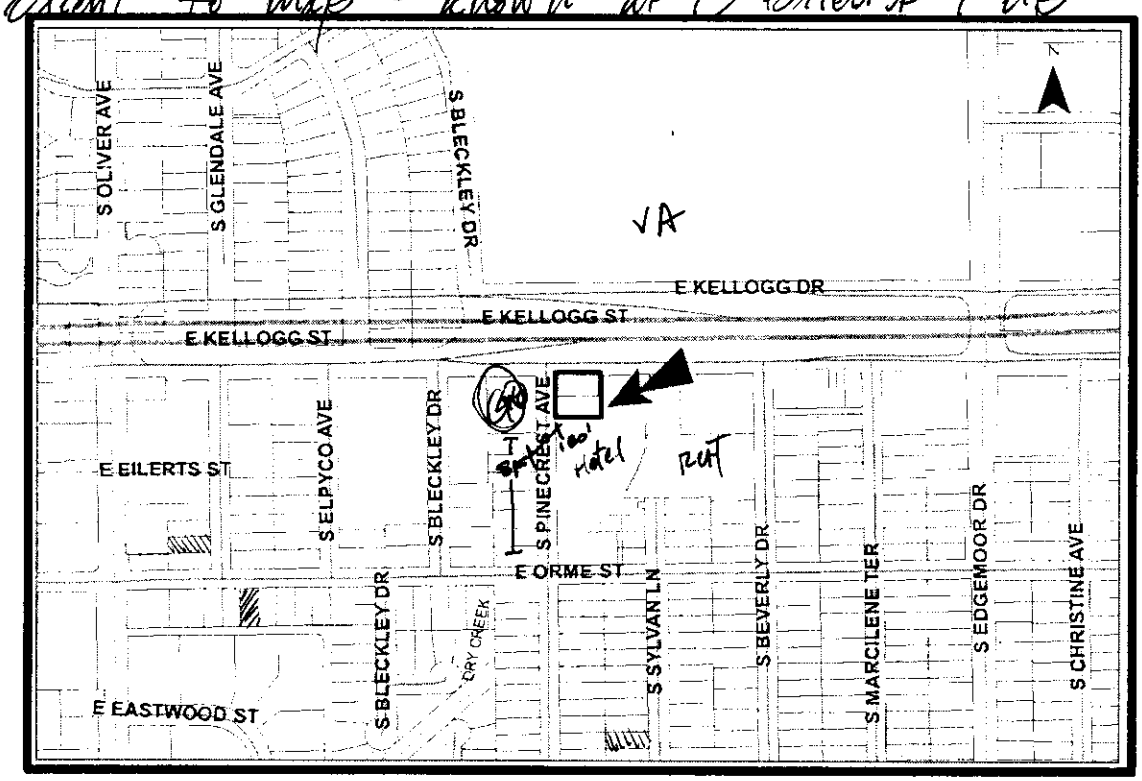
CURRENT ZONING: LC Limited Commercial ("LC") on the far North end of your district

SITE SIZE: .4 acres

LOCATION: South of East Kellogg and east of Pinecrest (5205 E. Kellogg)

PROPOSED USE: Nightclub

Orient to map - known as O'brien's Pub



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 East Kellogg and east of Pinecrest (5205 E. Kellogg). The proposed site is a 3,300 square foot space within a larger commercial strip building. The site has been used for some time as a restaurant with a DE-R liquor license, requiring 50% or more of gross sales in food. The applicant now wishes to obtain an Entertainment Establishment license to allow karaoke. 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; the UZC requires that Nightclubs, Taverns and Drinking Establishments 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, Tavern or Drinking Establishment. The building space has a 138-person occupancy. The applicant's site plan (see attached) indicates 70 available parking spaces. The number of parking spaces meets the UZC parking requirement of 1 space per two patrons for a Nightclub.

North of the site is the Kellogg expressway, further north is the GO General Office ("GO") zoned VA Hospital. South of the site is an LC zoned hotel under the same ownership as the application area. Further south, down Pinecrest, are MF-29 Multi-family Residential ("MF-29") zoned single-family residences. The nearest residence on Pinecrest is approximately 190 feet from the application area, triggering this Conditional Use request. East of the site is an LC zoned retail building and restaurant. West of the site is an LC zoned office building.

CASE HISTORY: The property was platted as Lots 1 and 2 of the Cain and Smith's Replat in 1942.

ADJACENT ZONING AND LAND USE:

NORTH:	GO	Kellogg expressway, VA Hospital
SOUTH:	LC, MF-29	Hotel, single-family residences
EAST:	LC	Commercial strip center, restaurant
WEST:	LC	Office building

PUBLIC SERVICES: The site has direct access points onto the Kellogg Drive service road and onto Pinecrest. 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 "Regional Commercial." The existing zoning and requested Conditional Use are 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 has been a restaurant with a DE-R liquor license, permitting alcohol sales provided that food sales exceed 50% of gross sales. This building and business does not appear to have any negative impacts on the neighborhood to the south. The site

appears to meet the UZC parking requirements; the property owner will be required to demonstrate to OCI that all businesses with access to this parking lot meet code parking requirements. All property owners within 200 feet of the site have been notified of this request; no neighboring property owners have contacted staff. Staff feels that code requirements and the recommended conditions will mitigate 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 in the City shall be limited to a 138-person occupancy.
2. The Conditional Use shall be limited to the building space identified on the approved site plan, and shall use only the parking identified on the approved site plan.
3. 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.
4. 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.
5. 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.

We would like to get your DAB recommendation to fwd to the MAPC Question?

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North of the site is the Kellogg expressway, further north is the GO General Office ("GO") zoned VA Hospital. South of the site is an LC zoned hotel under the same ownership as the application area. Further south, down Pinecrest, are MF-29 Multi-family Residential ("MF-29") zoned single-family residences. The nearest residence on Pinecrest is approximately 190 feet from the application area, triggering this Conditional Use request. East of the site is an LC zoned retail building and restaurant. West of the site is an LC zoned office building.

2. The suitability of the subject property for the uses to which it has been restricted: The building could be used for a wide variety of LC uses allowed by the current zoning without a Conditional Use.

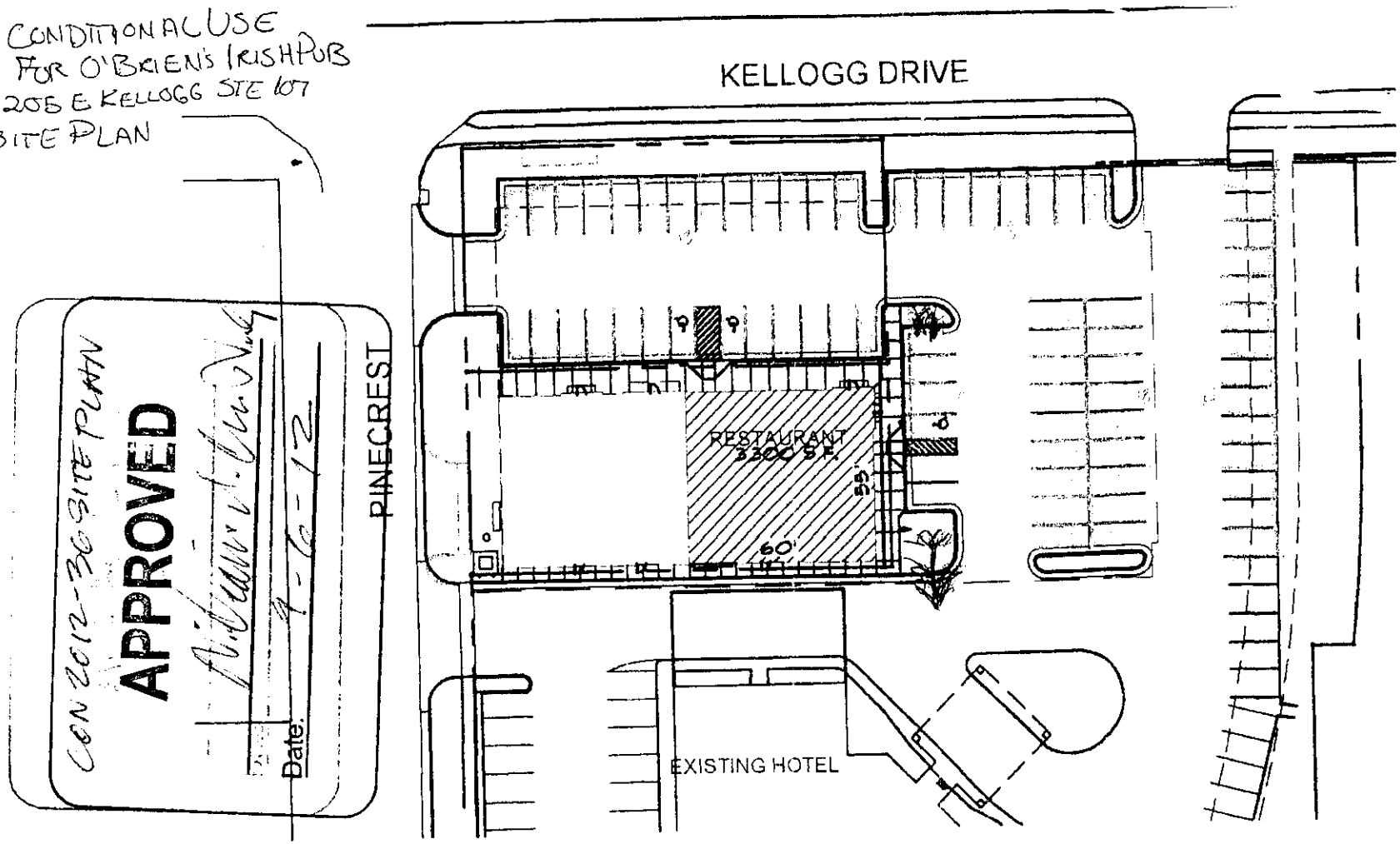
3. Extent to which removal of the restrictions will detrimentally affect nearby property: A nightclub could bring more late night activity to this location. However, this site has been used for a DE-R restaurant without apparent impact on the neighborhood to the south. The proposed conditions should 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 "Regional Commercial." The existing zoning and requested Conditional Use are 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. 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.

CONDITIONAL USE
FOR O'BRIEN'S IRISH PUB
5205 E KELLOGG STE 107
SITE PLAN



SCALE = 1" = 30'

A SITE REFERENCE PLAN

NORTH

PREPARED BY:
JEFF KREHBIEL
ASSOCIATES