



**Wichita-Sedgwick County Metropolitan Area Planning Department**

August 20, 2012

Scott Riffel Etux  
12219 Huntersview  
Wichita, KS 67235

**REFERENCE: CON2012-00033** – City Conditional Use for a Nightclub with restrictions on LC Limited Commercial (“LC”) zoned property; generally located east of Zoo Boulevard on the northeast corner of Central and Mt. Carmel Avenues. Legal Description: Lot 1, Dotzour’s Addition to Wichita, Sedgwick County, Kansas. AND The South 3 feet of the following described tract: Beginning 637.5 feet East and 330 feet North of the Southwest corner of the Southeast Quarter of Section 13, Township 27, Range 1 West of the 6th P.M. Sedgwick County, Kansas; thence West 82.5 feet; thence North 330 feet; thence East 82.5 feet; thence South 330 feet to the beginning.

Dear Applicant:

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, subject to the following conditions:

- A. The facility shall be limited to the uses as outlined on the proposed ‘Activities,’ with the exception that Fridays can have similar uses. The facility is not open to the public on a daily basis at times other than when an event is scheduled. Any future proposed uses not listed shall be reviewed by the Zoning Administrator and Planning Director and may be considered for approval by an Administrative Adjustment or an Amendment to the Conditional Use.
- B. The site shall be in conformance with an approved site plan
- C. The facility shall be open as outlined on the proposed ‘Activities’
- D. The applicants shall comply with all applicable development standards of the UZC, including but not limited to parking, screening, and landscaping. Screening shall include a maximum 4-foot tall solid screening fence provided along the west side of the parking lot, between the platted alley and drive on the north side to the next drive south

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

**T** 316.268.4421 **F** 316.268.4390

[www.wichita.gov](http://www.wichita.gov)

**REFERENCE: CON2012-00033** – City Conditional Use for a Nightclub with restrictions on LC Limited Commercial (“LC”) zoned property; generally located east of Zoo Boulevard on the northeast corner of Central and Mt. Carmel Avenues.

Page | 2

August 20, 2012

on the west side of the site. A 6-8-foot tall solid screening shall be provided on the north side where the site is adjacent to residential zoning.

- E. The applicant shall obtain, maintain, and comply with all applicable permits and licenses necessary for the operation of an Event Center in the City.
- F. 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 Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

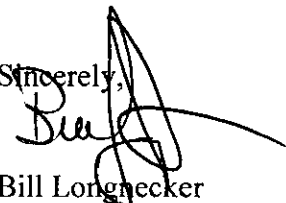
NOTICE: The public hearing on planning items is conducted by the MAPC under provisions of State Law. Adopted policy is that the City Council will not take additional testimony on zoning related applications and other issues for which the MAPC has held a public hearing. However, interested parties may 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 **August 30, 2012, at 5 p.m.** 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 6 of its members.

If there are no valid appeals or protest petitions filed opposing this action by **August 30, 2012**, the action of the MAPC will be considered final. If appeals or protest petitions are filed, your application will be forwarded to the **September 11, 2012** City Council meeting for review and final action.

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,



Bill Longnecker  
Senior Planner

## CONDITIONAL USE RESOLUTION NO. CON2012-00033

**WHEREAS**, Gibson Wholesale Co. Inc., c/o Scott Riffle (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 for a Night Club in the City on approximately 1.48-acres zoned LC Limited Commercial ("LC"), described as:

Lot 1, Dotzour's Addition & the South 3 feet of the following described tract: Beginning 637.5 feet East and 330 feet North of the Southwest corner of the Southeast Quarter of Section 13, Township 27, Range 1 West of the 6<sup>th</sup> P.M. Sedgwick County, Kansas; thence West 82.5 feet; thence North 330 feet; thence East 82.5 feet; thence South 330 feet to the beginning, Wichita, Sedgwick County, Kansas; generally located on northeast of Mt. Carmel Street and Central Avenue.

**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 Conditional Use for a Night Club in the City on approximately 1.48-acres zoned LC Limited Commercial ("LC"), described as:

Lot 1, Dotzour's Addition & the South 3 feet of the following described tract: Beginning 637.5 feet East and 330 feet North of the Southwest corner of the Southeast Quarter of Section 13, Township 27, Range 1 West of the 6<sup>th</sup> P.M. Sedgwick County, Kansas; thence West 82.5 feet; thence North 330 feet; thence East 82.5 feet; thence South 330 feet to the beginning, Wichita, Sedgwick County, Kansas; generally located on northeast of Mt. Carmel Street and Central Avenue.

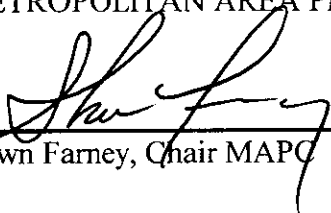
Approved subject to the following conditions:

- A. The site shall be in conformance with the approved site plan.
- B. No outdoor entertainment, recreation, food or drink services are permitted on the site.
- C. The facility shall be limited to the uses as outlined on the attached 'Activities,' with the exception that Fridays can have similar uses. The facility is not open to the public on a daily basis at times other than when an event is scheduled. Any future proposed uses not listed shall be reviewed by the Zoning Administrator and Planning Director and may be considered for approval by an Administrative Adjustment or an Amendment to the Conditional Use.
- D. The facility shall be open as outlined on the attached 'Activities'
- E. The applicants shall comply with all applicable development standards of the UZC, including but not limited to parking, screening, and landscaping. Screening shall include a maximum 4-foot tall solid screening fence provided along the west side of the parking lot, between the platted alley and drive on the north side to the next drive south on the west side of the site. A 6-8-foot tall solid screening shall be provided on the north side where the site is adjacent to residential zoning.

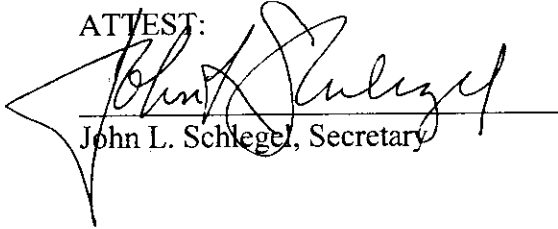
- F. The applicant shall obtain, maintain, and comply with all applicable permits and licenses necessary for the operation of an Event Center in the City.
- G. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

Adopted this 6 day of September 2012.

METROPOLITAN AREA PLANNING COMMISSION

  
Shawn Farney, Chair MAPC

ATTEST:

  
John L. Schlegel, Secretary



AGENDA ITEM NO. \_\_\_\_\_

## STAFF REPORT

MAPC August 16, 2012

DAB VI August 15, 2012

**CASE NUMBER:** CON2012-00033

**OWNER / APPLICANT:** Gibson Wholesale Co., Inc., c/o Scott Riffel (owner) Loyal Order of the Moose (applicant)

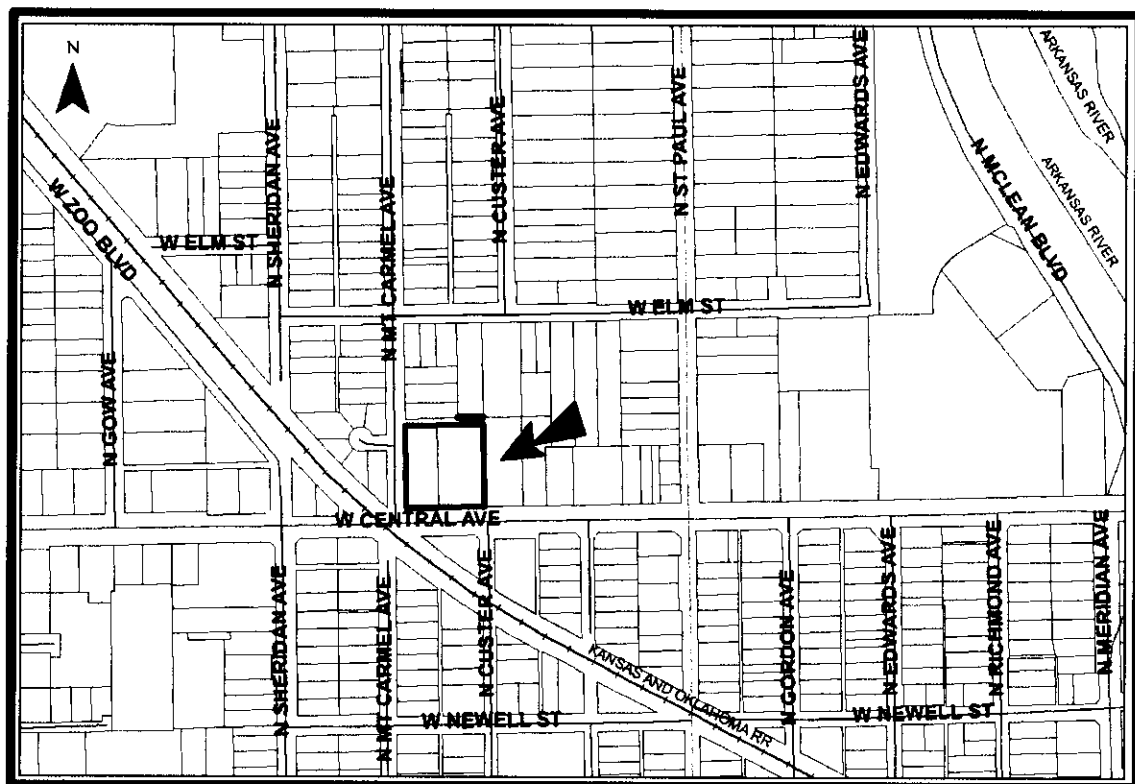
**REQUEST:** Conditional Use to permit a Nightclub with restrictions

**CURRENT ZONING:** LC Limited Commercial ("LC")

**SITE SIZE:** 1.48-acres

**LOCATION:** Generally located east of Zoo Boulevard, on the northeast corner of Mt. Carmel and Central Avenues

**PROPOSED USE:** Fraternal Order events, dancing, bingo and the consumption of alcoholic and cereal malt beverages with restrictions



**BACKGROUND:** The applicant is requesting consideration for a Conditional Use for a “Night Club in the City” with restrictions on its availability. The LC Limited Commercial (“LC”) zoned platted lot is located on the northeast corner of Mt. Carmel and Central Avenues. The applicant, the Loyal Order of the Moose, is a fraternal organization that proposes to provide a dinner, dances and a bar for its members and their guest on Thursday and Saturday nights, generally from 7 p.m. to 11. p.m.; see ‘Activities’ exhibit for specifics on these two days. Music for the dances will be provided by either a DJ or band. Per Sec.II-B.9.b. of the Unified Zoning Code (UZC) defines a facility that provides the sale, consumption and serving of alcohol and/or cereal malt beverages, dancing for its patrons and music as a night club in the city. Nightclubs are a permitted use in the LC zoning district, but require a Conditional Use when located within 300 feet of “Church or a Place of Worship,” public “Park,” “School,” or residential zoning; Sec.III-D.6.w. of the UZC. The site is abutting SF-5 Single-Family Residential (“SF-5”) zoning on its north side and is adjacent to SF-5 and TF-3 Two-Family Residential (“TF-3”) zoning on its west (across Mt Carmel) and north sides.

The applicant also proposes to have West Coast Swing and Ballroom dancing on Monday and Tuesday nights from 7 p.m. to 9 p.m. The dancing is open to the public and no alcohol will be consumed in the facility. Because the facility is licensed to sell alcoholic liquor and cereal malt beverages the dancing would also be considered a night club in the city. Wednesday and Sunday nights are open to the public for bingo, from 6 p.m. to 9:30 p.m. and no alcohol will be consumed in the facility. Playing bingo at this facility is considered “Recreation and Entertainment Indoors (UZC, Sec.II-B.11.a.) and is permitted by right in the LC zoning district. There are no scheduled activities on Fridays.

The 11,597-square foot vacant facility’s most recently occupied use was a grocery store. The facility is part of an LC zoned retail strip that includes a pharmacy. There is paved parking for the site and the applicant will have to meet the city parking standards. The UZC requires one parking space for two occupants for a night club. There is no solid screening between the LC zoned subject site and the abutting SF-5 and TF-3 zoned residences.

The proposed use shares property with a pharmacy. Properties abutting and adjacent to the north side of the site is developed as SF-5 zoned single family residences and a TF-3 zoned duplex. There is a paved alley located along the north side of the site, which intersect with Mt. Carmel. There are also SF-5 zoned single-family residences located west of the site, across Mt. Carmel Avenue. Properties located south, east and west of the site, with Central Avenue frontage, are zoned LC and are developed as retails, offices, restaurants, a liquor store, some vacant commercial spots, a convenience store, a donut shop and a drinking establishment – tavern.

**CASE HISTORY:** The site is part of Lot 1, Detzour’s Addition, which was recorded with the Sedgwick County Register of Deeds August 27, 1957. Staff has received calls seeking information or expressing concern about the request.

**ADJACENT ZONING AND LAND USE:**

NORTH:        SF-5, TF-3                      Single-family residences, duplex

|        |          |                                                                                   |
|--------|----------|-----------------------------------------------------------------------------------|
| SOUTH: | LC,      | Donut shop, restaurant, office-ware-house, office, retail, drinking establishment |
| EAST:  | LC       | Restaurant, retail, liquor store, convenience store                               |
| WEST:  | SF-5, LC | Single-family residences, office ware-house                                       |

**PUBLIC SERVICES:** The site has access onto Central and Mt. Carmel Avenues. Central is a four-lane major arterial street, with center turn lanes at this location. Mt. Carmel is a local residential street. There is a paved alley located along the north side of the site, which intersects with Mt. Carmel. All utilities are available to the site.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide” depicts this location as being appropriate for “local commercial,” which contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes: medical or insurance offices, auto repair or service stations, grocery stores, florist shops, restaurants and personal service facilities.

The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed night club is located within an existing commercial development, with direct access onto Central Avenue a four-lane major arterial street, with center turn lanes at this location. There is a 20-foot paved alley between the site and the north abutting properties which offers minimal buffering. There is no screening between the site and the north abutting properties. Two loading docks use the alley for access.

The UZC requires a Conditional Use for a night club when located within 300 feet of “Church or a Place of Worship,” public “Park,” “School,” or residential zoning. The site abuts and is adjacent to SF-5 and TF-3 zoned single-family residences, thus the requested Conditional Use. There is a small neighborhood tavern/drinking establishment (bar) located within approximately 750 feet of the site, thus a similar use is already in the neighborhood. A key difference between the existing bar and the proposed night club is the size of the proposed night club. The proposed 11,597-square foot vacant facility dwarfs the existing bar and as such may increase the chance for it to become a nuance to the neighborhood, as it could attract a large number of people. The applicant’s proposed restrictions as outlined in their ‘Activities’ exhibit helps reduce the nuance factor. Enforcement of these restrictions may fall outside the hours and days of the City’s Code Enforcement division, which leaves the Police Department as the group that may get the call for enforcement. The Police Department does not operate under the same codes as Code Enforcement. Another concern is how to find a business that can successfully occupy this 11,597-square foot vacant facility (most recently a failed grocery store), which in turn could help maintain the area’s commercial property. The location of this LC zoned property along Central Avenue, a major arterial allows good visibility and access beyond the immediate neighborhood.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request for a night club be APPROVED, subject to the following

conditions:

- A. The site shall be in conformance with the approved site plan.
- B. No outdoor entertainment, recreation, food or drink services are permitted on the site.
- C. The facility shall be limited to the uses as outlined on the proposed 'Activities,' with the exception that Fridays can have similar uses. The facility is not open to the public on a daily basis at times other than when an event is scheduled. Any future proposed uses not listed shall be reviewed by the Zoning Administrator and Planning Director and may be considered for approval by an Administrative Adjustment or an Amendment to the Conditional Use.
- D. The facility shall be open as outlined on the proposed 'Activities'
- E. The applicants shall comply with all applicable development standards of the UZC, including but not limited to parking, screening, and landscaping.
- F. The applicant shall obtain, maintain, and comply with all applicable permits and licenses necessary for the operation of an Event Center in the City.
- G. 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 Article VIII of 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 proposed use shares property with a pharmacy. Properties abutting and adjacent to the north side of the site are developed as SF-5 zoned single family residences and a TF-3 zoned duplex. There is a paved alley located along the north side of the site, which intersect with Mt. Carmel. There are also SF-5 zoned single-family residences located west of the site, across Mt. Carmel Avenue. Properties located south, east and west of the site, with Central Avenue frontage, are zoned LC and are developed as retails, offices, restaurants, a liquor store, some vacant commercial spots, a convenience store, a donut shop and a drinking establishment – tavern.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC which allows a wide variety of retail, office and residential uses. The site could be used as zoned and developed or redeveloped as currently zoned. A concern is how to find a business that can successfully occupy this 11,597-square foot vacant facility (most recently a failed grocery store), which in turn could help maintain the area's commercial property.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The applicant's proposed restrictions days and hours of operation, when alcohol and/or cereal malt beverages may be served/consumed and activities can reduce the chance of the facility becoming a nuisance to the neighborhood. Enforcement of these restrictions may fall outside the hours and days of the City's Code Enforcement division, which leaves the Police Department as the group that may get the call for enforcement. The Police Department does not operate under the same codes as Code Enforcement. The proposed 11,597-square foot vacant facility dwarfs the area's existing bar and as such may increase the chance for it to become a nuisance to the neighborhood, as it could attract a large number of people. The site

needs to meet the code required parking, screening and landscaping standard to further minimize detrimental impact on nearby property.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide depicts this location as being appropriate for “local commercial,” which contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes: medical or insurance offices, auto repair or service stations, grocery stores, florist shops, restaurants and personal service facilities. The UZC requires a Conditional Use for a night club when located within 300 feet of “Church or a Place of Worship,” public “Park,” “School,” or residential zoning. The site abuts and is adjacent to SF-5 and TF-3 zoned single-family residences, thus the requested Conditional Use.
5. Impact of the proposed development on community facilities: None identified.