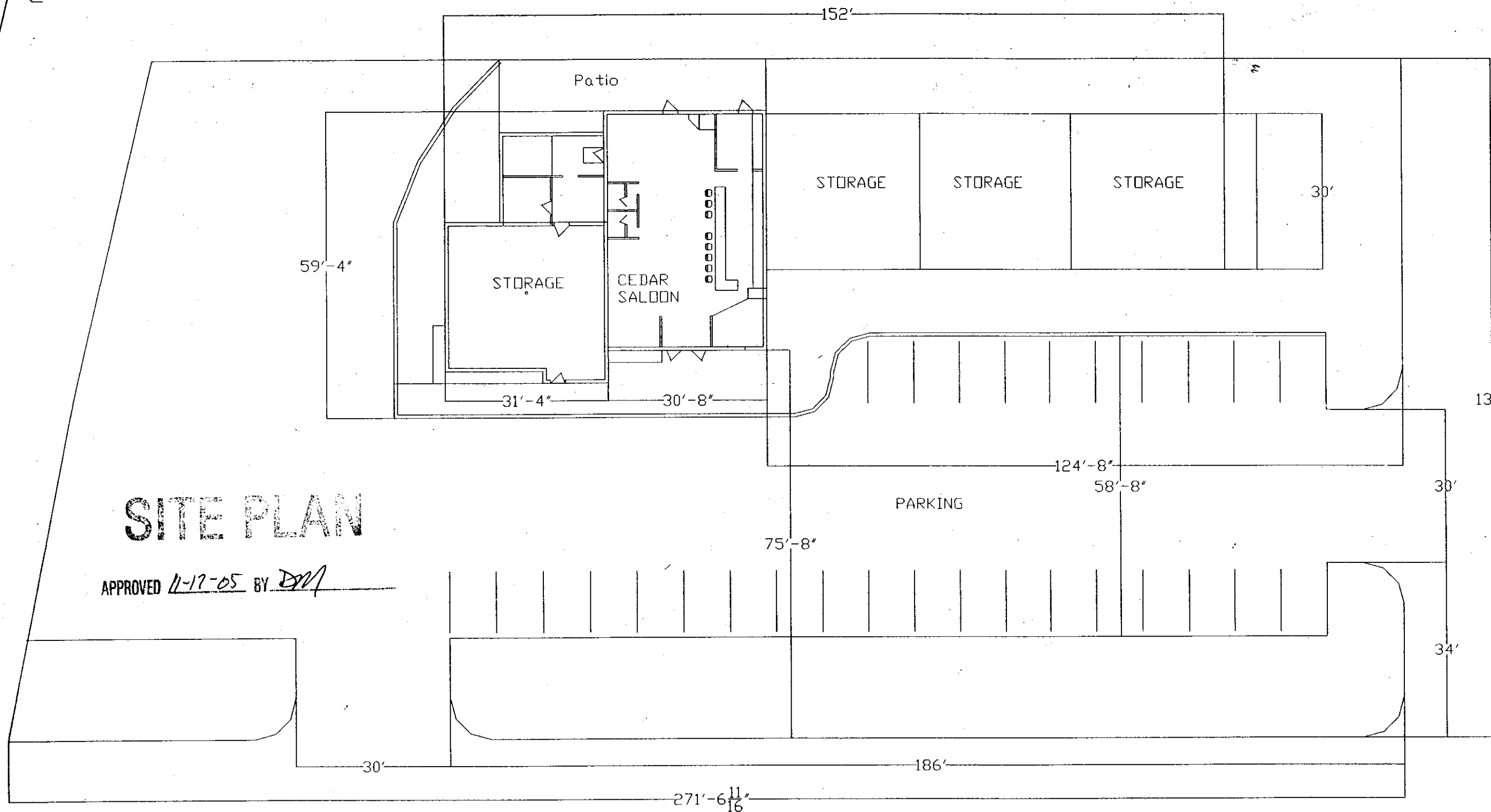


RAILROAD

N

SITE PLAN

APPROVED 11-17-05 BY *DM*



FILE COPY

Legal Description:
BEG 35 FT W SE COR RES B N 122 FT W TO E LI SLSF
ROW SWLY TO N LI 13TH ST E 215.99 FT M-L TO BEG
YALE HEIGHTS ADD.

TOTAL PARKING SPACES: 30
TOTAL PREMISES SEATING: 60

13TH STREET

Conditional Use
Cedar Saloon & Eatery
Established 1952

Applicant: The Cedar Saloon & Eatery
Prepared By: Terry Baker

Scale: 1"=20'

CON05-39

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Adjoining properties are zoned SF-5 Single-family Residential, TF-3 Two-family Residential and LC Limited Commercial. The TF-3 zoned property located south of the site is used for a public golf course, while the land to the north is zoned LC and used retail sales and vehicle repair. The developed residential uses are removed from the site by the existing 100-foot railroad right-of-way.
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 and potentially be economically viable. The narrow shape of the property is a site constraint to redevelopment.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site is currently operating as a restaurant selling less than 50 percent alcohol. Approval of the request will remove the limitation on the amount of alcohol allowed to be sold relative to food sales. The site is pretty well buffered by existing retail zoning, public golf course and railroad right-of-way. Given the sites current operations, approval of the request should not detrimentally impact nearby properties to any greater extent than they are already impacted.
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. A tavern or drinking establishment would be in general conformance with the local commercial designation.
5. Impact of the proposed development on community facilities: None identified.

STAFF REPORT

MAPC 10-6-05

CASE NUMBER: CON2005-00039

APPLICANT/AGENT: Fran-Mar Investments, Inc. (Mark Y. Blum, Jr., owner),
Terry D. Baker (lessee)

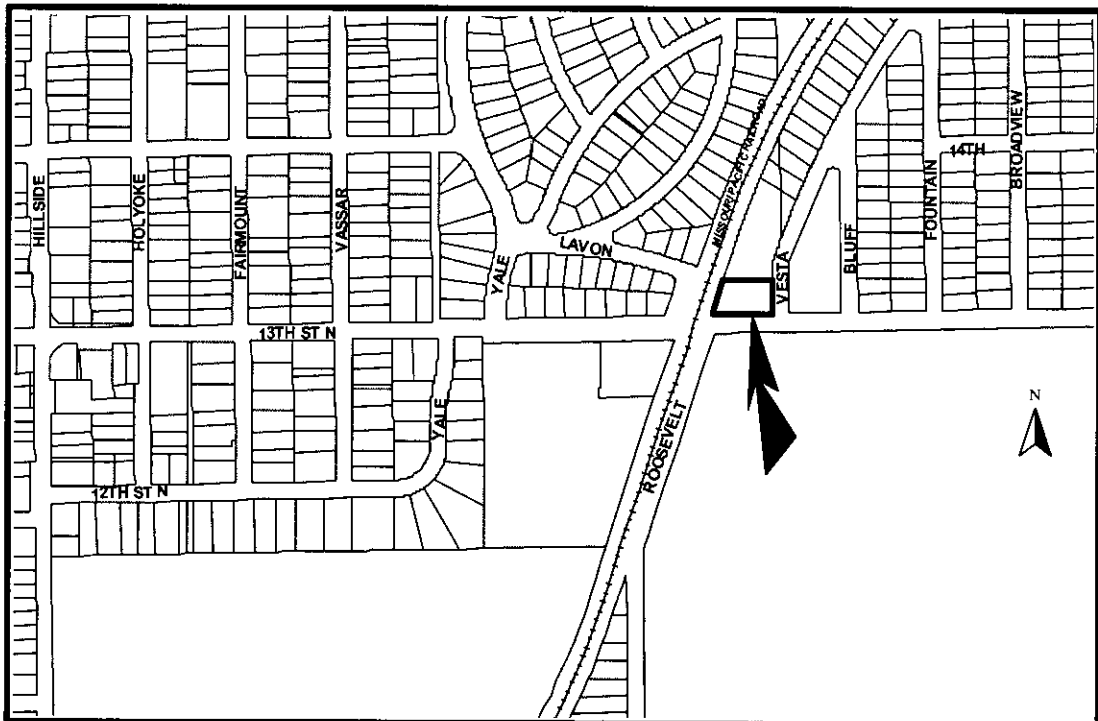
REQUEST: Conditional Use to permit a tavern or drinking establishment

CURRENT ZONING: LC Limited Commercial

SITE SIZE: Approximately one acre

LOCATION: North of 13th Street, west of Vesta Drive (3906 East 13th Street)

PROPOSED USE: Tavern and Drinking Establishment



BACKGROUND: The application area is developed with a small strip retail commercial center (approximately 5,400 square feet) that is located north of 13th Street and west of Vesta, and is zoned LC Limited Commercial. One of the businesses located within the center is known as the Cedar Saloon. It currently operates under City code as a “drinking establishment-restaurant” (DE-R). A DE-R is essentially a restaurant that is allowed to serve alcohol so long as food sales exceed 50 percent of gross sales receipts even though the establishment may be located within 200 feet of residentially zoned land or a church, school or playground. If the 50 percent ratio of food sales to alcohol sales is not met, then by definition, the use becomes a “tavern and drinking establishment.”

“Tavern and drinking establishments” (DE) are establishments engaged in the preparation and retail sale of alcoholic liquor or cereal malt beverage for consumption on the premises that derives in a six-month period less than fifty percent of its gross revenues from the sale of food and beverages for consumption on the premises. The applicant has indicated they are seeking the Conditional Use (CU) to allow the DE in the expectation that patronage will increase.

“Tavern and drinking establishments” are permitted by right in the LC Limited Commercial zoning district unless the use is located within 200 feet of a church, school, playground or land zoned residentially. If the property is located within 200 feet of such uses or residentially zoned land, the use must have a CU to operate legally. The applicant is required to obtain a CU since the land located 70 feet south of the application area, across 13th Street, is zoned TF-3 Two-family Residential and developed with a city golf course. Land located approximately 175 feet to the west of the Cedar is also zoned residentially (TF-3 and SF-5 Single-family Residential), however there is a railroad track located between the strip commercial center and the residential uses. Property to the north is zoned LC, and is used for vehicle repair. Land located east of the application area is also zoned LC, and developed with a commercial center.

The applicant’s commercial strip center has square footage besides the portion of the building containing the Cedar offered for rent. The site plan depicts this space as being used for storage. It is not clear if the storage is in support of the Cedar Saloon or is some other type of commercial storage space. Parking for the center appears to be located primarily south of the existing building, and there are approximately 30 spaces. The parking standard for a DE is one space for every two occupants. For capacity purposes, the Cedar is rated for 60 occupants, requiring 30 parking spaces. Access to the site is provided by one drive off of Vesta Drive and one drive off of 13th Street. Railroad right-of-way is located immediately to the west of the application area, between the commercial center and the residences located further to the west. The railroad right-of-way is not zoned and is 100 feet wide.

CASE HISTORY: Yale Heights Addition was recorded in 1942.

ADJACENT ZONING AND LAND USE:

NORTH: LC Limited Commercial; vehicle repair
SOUTH: TF-3 Two-family Residential; golf course
EAST: LC Limited Commercial; retail commercial
WEST: SF-5 Single-family Residential / TF-3 Two-family Residential; residential

PUBLIC SERVICES: The area is served by municipally supplied services. 13th Street is a four lane arterial carrying between 15,798 and 17,600 average daily trips. 13th Street has 40 feet of half-street right-of-way at this location.

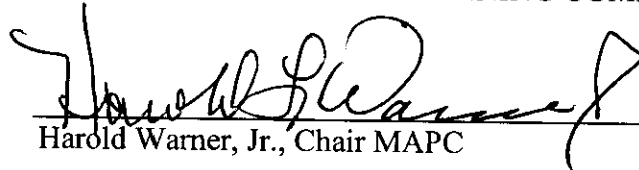
CONFORMANCE TO PLANS/POLICIES: The *2030 Wichita Functional Land Use Guide* depicts this location as being appropriate for "local commercial," which contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of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

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

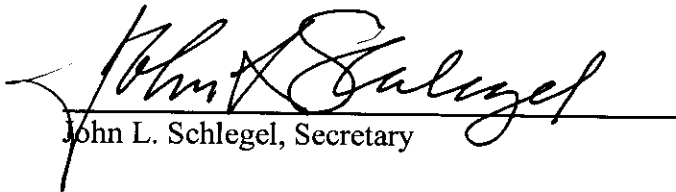
- A. The site shall be used in substantial conformance with the approved site plan. Areas depicted as storage on the site plan may be used for other uses provided those uses comply with all codes, such as zoning, parking or signage.
- B. Signage shall be in conformance with the sign code.
- C. The applicant shall obtain, maintain, and comply with all applicable permits and licenses necessary for the operation of a tavern and drinking establishment.
- D. A minimum six-foot high screening fence constructed of wood, brick, stone, stucco, or concrete shall be provided along the entire length of the west property line.
- E. 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 6TH DAY of OCTOBER, 2005. This resolution shall become effective on the fifteenth day after the date last noted above unless the matter is forwarded to the Governing Body for final action under the provisions of Section V-D.6. When any one or more of the exceptions listed in Section V-D.6 exist, this resolution with its conditions of approval shall be considered a recommendation of the MAPC to the Governing Body which shall then have final authority to approve, approve with conditions or modifications, or deny the Conditional Use application.

METROPOLITAN AREA PLANNING COMMISSION


Harold Warner, Jr., Chair MAPC

ATTEST:


John L. Schlegel, Secretary

CONDITIONAL USE RESOLUTION NO. CON2005-00039

WHEREAS, Fran-Mar Investments, Inc. (Mark Y. Blum, Jr., owner), Terry D. Baker (lessee); pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), request a Conditional Use to permit a tavern or drinking establishment on approximately one acre zoned "LC" Limited Commercial described as:

Beginning 35 feet West of the Southeast corner of Reserve B; thence North 122 feet; thence West to the East line of the St. Louis and San Francisco Railroad right-of-way; thence Southwesterly to the North line of 13th Street; thence East 215.99 feet more or less to the point of beginning. Generally located north of 13th Street, west of Vesta Drive (3906 East 13th Street).

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 October 6, 2005, consider said application; and

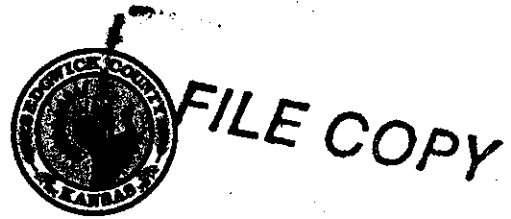
WHEREAS, the MAPC has authority to permit a Conditional Use, subject to any special conditions deemed appropriate in order to assure full compliance with the criteria of the Unified Zoning Code.

NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Area Planning Commission that this application be approved to permit a tavern or drinking establishment on property zoned "LC" Limited Commercial described as:

Beginning 35 feet West of the Southeast corner of Reserve B; thence North 122 feet; thence West to the East line of the St. Louis and San Francisco Railroad right-of-way; thence Southwesterly to the North line of 13th Street; thence East 215.99 feet more or less to the point of beginning. Generally located north of 13th Street, west of Vesta Drive (3906 East 13th Street).

APPROVED, subject to the following conditions:

- A. The site shall be used in substantial conformance with the approved site plan. Areas depicted as storage on the site plan may be used for other uses provided those uses comply with all codes, such as zoning, parking or signage.
- B. Signage shall be in conformance with the sign code.
- C. The applicant shall obtain, maintain, and comply with all applicable permits and licenses necessary for the operation of a tavern and drinking establishment.
- D. A minimum six-foot high screening fence constructed of wood, brick, stone, stucco, or concrete shall be provided along the entire length of the west property line.
- E. 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.



Wichita-Sedgwick County Metropolitan Area Planning Department

November 18, 2005

Mark Y. Blum Jr., President
Fran-Mar Investments, Inc.
P O Box 1995
Wichita, KS 67201

RE: CON2005-39 – Conditional Use to permit a tavern or drinking establishment on property zoned “LC” Limited Commercial. Generally located north of 13th Street, west of Vesta Drive (3906 East 13th Street). (District I)

Dear Ladies and Gentlemen:

At its regular meeting on October 6, 2005, the Metropolitan Area Planning Commission considered the above-captioned request. The action of the MAPC was to APPROVE the request subject to the conditions stated in the enclosed resolution.

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

Sincerely,

Dale Miller, Manager
Current Plans Division

DLM/rms

Cc: Terry D. Baker, 1649 Tara Pines, Derby, KS 67037
Carl Brewer, WCC I, Mail Stop 1-13
Kurt Schroeder, Office of Central Inspection, Mail Stop 1-72
Randy Sparkman, Office of Central Inspection, Mail Stop 1-72
Paul Hays, Office of Central Inspection, Mail Stop 1-72
J.R. Cox, Office of Central Inspection, Mail Stop 1-72