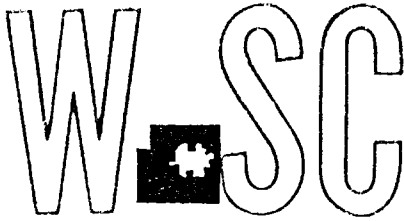


WICHITA -- SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL -- TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421
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August 4, 1997

Edward L. and Shirley E. Pennington
8345 N. Broadway
Valley Center, KS 67147

RE: CU-447 - Conditional use to allow a restaurant/club on property zoned "RR" Rural Residential and "LI" Limited Industrial generally located 300 feet east of Broadway on the north side of 69th Street North


Dear Mr. and Mrs. Pennington:

At its regular meeting on July 31, 1997, the Metropolitan Area Planning Commission considered the above-captioned request. The action of the MAPC was to DENY the request.

This matter will be heard by the Board of County Commissioners for consideration at their regular meeting on Wednesday, September 10, 1997. This meeting will be held in Room 320, Sedgwick County Courthouse, 525 N. Main, Wichita, Kansas, beginning at 9:00 a.m.

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

Sincerely,



David L. Yearout, AICP
Principal Planner

cc: Lee Parker, 420 N. Armour, Wichita, KS 67206
Eddie Pennington, 106 Franklin, Sedgwick, KS 67147
Louise Mierau, 605 E. 69th St. N., Wichita, KS 67219
Mary K. McKenney, 502 E. 69th St. N., Wichita, KS 67219
Glen Wiltse, Sedgwick County Code Enforcement
Alison McKenney-Brown, County Law Department

STAFF REPORT

Park City PC July 7, 1997
MAPC July 17, 1997
MAPC July 31, 1997

CASE NUMBER: CU-447

APPLICANT: Edward L. & Shirley E. Pennington

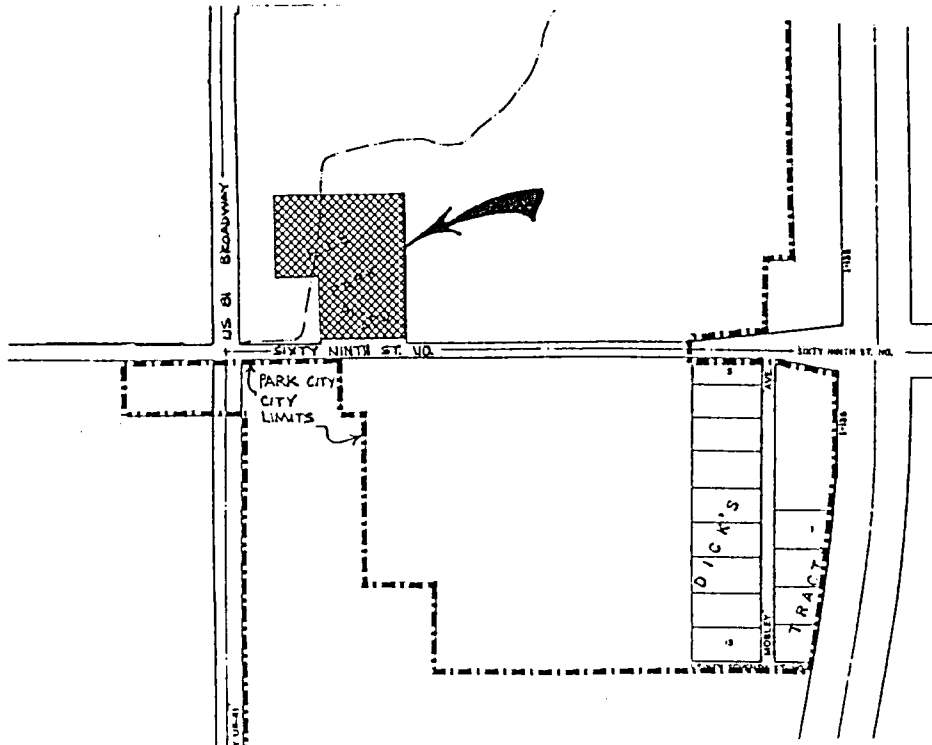
REQUEST: Conditional use to allow a restaurant/club

CURRENT ZONING: Front 285 feet zoned "LI" Light Industrial, balance of property zoned "RR" Rural Residential

SITE SIZE: 7 acres

LOCATION: North side of 69th Street North and 300 feet east of Broadway

PROPOSED USE: Restaurant/Club



BACKGROUND: In 1975, the subject property was split from the property to the north and west, and sold to the Fraternal Order of Eagles who successfully obtained a Conditional Use permit (CU-179) for "...the establishment of a non-profit institutional lodge in the "R" Rural Residential Dwelling District", which allowed the construction of the Eagles Lodge, subject to platting and other site improvement conditions. The Conditional Use request received the support of the MAPC and the Valley Center Planning Commission at that time, subject to the approved conditions. The property was located in the Valley Center Area of Influence in 1975. There was considerable neighborhood opposition to the Conditional Use request because of the proposed private club.

The plat for the property (F.O.E. Park) was approved and recorded in 1976 following an extended review by County Public Works and the Wichita-Valley Center Flood Control Division because of the drainage problems on the property. A drainage easement and attendant agreement with the owner of the remaining portion of the 80 acres was recorded with the plat in 1976, assuring that future development would include construction of appropriate drainage controls for the overall property, including the land in the F.O.E. Park Addition.

Following the completion of the required improvements attached to the approval of the plat and Conditional Use permit, the Eagles Lodge was constructed. It subsequently closed as an operating Lodge in 1984 or 1985.

In January, 1986, the Lodge was purchased by Mr. Edward Pennington, (the applicant for this Conditional Use permit) who submitted a rezoning request for "E" Light Industrial for the entire property. The rezoning was approved for the front 258 feet in April of 1986. The reason given for seeking the rezoning in 1986 was the intent of the owner to convert the Eagles Lodge into a facility housing mentally retarded adults who would assemble products. The operation would be a competitive, private enterprise and not a "sheltered workshop". Mr. Pennington did operate the facility as an training facility for mentally retarded adults for a short period of time, but closed the operation some time later. (NOTE: Mr. Pennington is the person who operates the STEPS program, which is now located on North Broadway).

In his letter supporting this Conditional Use request, Mr. Pennington indicates that the facility has also been used on a periodic basis since 1986 for private parties such as dances, weddings, fund raisers, etc. The Health Department records show the facility has been "licensed" as a food-handling facility as "Pennington's Sunflower Depot" in 1993, and most recently as "Project Bridge School" with the South Central Kansas Education Service Center on the ground floor. The "food" license for Northern Nights on the upper floor only was obtained in February, 1997. There are no records of any other food-handling licenses for this facility since the closing of Eagles Lodge.

The "Project Bridge School" was established in the facility in September, 1996, under a 1-year lease. According to the operator of the facility, it is a contracting facility for emotionally-disturbed school children (grades K-12) with several school districts in about an 8-county area (including USD 259) of south central Kansas. It offers a specialized curriculum for these children and is funded through contracts with the participating school districts. We have been advised a new location is being sought for this activity for the coming school year, however the lease is being maintained month-to-month for storage of equipment. While this activity is more preferable than the club/drinking establishment, it still requires a Conditional Use in the "LI" Light Industrial zone.

The site plan submitted with the application gives little information about the operation, and staff is not comfortable that the improvements are accurately depicted on the drawing supplied.

CASE HISTORY: CU-179 was approved on September 3, 1975, by the Board of County Commissioners, subject to platting within one year. The plat of F.O.E. Park Addition was approved on July 21, 1976, by the Board of County Commissioners. SCZ-0558, rezoning to property to "E" Light Industrial, was approved on April 2, 1986, by the Board of County Commissioners.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR"	Agricultural uses
SOUTH:	"SF-20"	Single-family residences; agricultural uses
EAST:	"SF-20"	Agricultural uses
WEST:	"RR"	Agricultural uses

PUBLIC SERVICES: Municipal water and sewer services are not available to the property. It has existing with on-site water and sewage services from its inception as the Fraternal Order of Eagles Lodge in 1976.

The property has access to 69th Street North, a 2-lane paved section-line road. There are no traffic volume counts on this section of 69th Street North, and there are no scheduled road improvements to 69th Street at this time.

CONFORMANCE TO PLANS/POLICIES: The Sedgwick County Development Guide of the Comprehensive Plan identifies this area as appropriate for agricultural uses. This category seeks to protect agricultural lands and discourage urban level development. It is also intended to accommodate agricultural uses on large tracts and other uses common in rural areas.

This request is not in conformance with the land use objective of the plan because it is proposing to locate a use that does not meet the objectives of the Plan, is out of character with the area, and does not have an appropriate level of support services for the property as situated.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED. However, should the MAPC and/or the governing body decide this application should be approved, staff recommends the following conditions be placed on such approval:

- A. A revised site plan be prepared and submitted. This shall be drawn to scale and shall accurately show the location of the existing improvements on site, as well as the amenities proposed with the proposed use.
- B. The Conditional Use be for a 2-year period only, subject to renewal after public hearing, only upon showing that the operation has been conducted without disruption to the neighborhood by way of noise complaints, traffic problems, and the like. Further, the Conditional Use shall be only for the front 258 feet of the property. This is the same area covered in the rezoning obtaining in 1986, and covers the improvements and parking area.
- C. The required paved, off-street parking to be provided for the Eagles Lodge be brought into good repair and maintained under the terms of the original Conditional Use issued (CU-179).
- D. The on-site business identification sign advertising the restaurant/club be limited to the 25-square-foot size and 20-foot height limitation placed on the Eagles Lodge in the original Conditional Use (CU-179).
- E. The applicant shall construct and maintain a masonry screening wall (minimum of 6-feet and maximum of 8-feet in height) along the east property line in the location required for the original screening in CU-179. In addition, a landscaping plan shall be submitted for approval by the Director of Planning for the east, west and north sides of the property.
- F. The applicant reconstruct 69th Street North from the driveway entrance to Broadway to standards established by Sedgwick County Public Works for a paved, suburban collector road with left turn lanes into the facility for eastbound traffic on 69th Street North and appropriate turn lanes at the intersection of 69th Street and Broadway.
- G. All on-site water and sewerage facilities shall be re-inspected and approved to the standards of the Wichita-Sedgwick County Health Department.

- H. Any violation of conditions attached shall declare the Conditional Use permit null and void.

This staff's recommendation of denial is based on the following findings:

1. The zoning, uses and character of the neighborhood: The general vicinity is characterized by a mixture of agricultural uses and suburban single family homes on property zoned "SF-20" and "RR". While there is an existing tavern near the property (The Quarter Horse Club), it fronts on Broadway and is much less intrusive into the residential neighborhood. The drinking establishment/club use proposed is not appropriate for the area, particularly as an open, public facility as opposed to the manner in which the Eagles Lodge operated. The restaurant portion of the proposed use is acceptable.
2. Extent to which removal of the restrictions will detrimentally affect nearby property: The approval of this use would greatly affect nearby properties by introducing a use completely out of character with the immediate neighborhood.
3. Conformance of the requested change to the adopted or recognized Comprehensive Plan: This request is not in conformance with the Comprehensive Plan, which identifies this property as agricultural.
4. Impact of the proposed development on community facilities: Municipal water and sewer services are not available to the property. On-site facilities have been used since the establishment of the Eagles Lodge. The greatest impact would be traffic on 69th Street North and at the intersection of 69th Street and Broadway. Neither the roadway nor the intersection are well designed to accommodate additional traffic.