CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

July 13, 2016

Justin Doll and Art Agner
1927 N. Holland St.
Wichita KS 67212

Baughman Co., P.A. attn: Russ Ewy
315 Ellis
Wichita, KS 67211

RE: CON2016-12 – City Conditional Use to permit a nightclub in the city within 300 feet of residential zoning, generally located at the Southeast corner of Harry Street and South Meridian Avenue (1602 South Meridian).

Dear Applicants:

At its regular meeting on **June 2, 2016**, the Wichita - Sedgwick County Metropolitan Area Planning Commission (MAPC) considered the above captioned request. The action of the MAPC was to **APPROVE** the request, subject to the conditions on the attached resolution.

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

Sincerely,

Jess McNeely, AICP
Senior Planner

JMC/mc
Attachments

Copies to: Jeff Blubaugh, WCC CM IV
Rebecca Fields, CSR VI
Tom Stolz, MABCD
J. R. Cox, MABCD

CONDITIONAL USE RESOLUTION NO. CON2016-00012

WHEREAS, D & M Partnership, (Owners/Applicants), 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 0.45 acres zoned LC Limited Commercial described as:

> Lots 1 through 11, odd inclusive, Block A, South University Place Addition to Wichita, Kansas; EXCEPT for road rights-of-way of record, at the Southeast corner of Harry Street and South Meridian Avenue (1602 South Meridian).

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 June 2, 2016, 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 0.45 acres zoned LC Limited Commercial described as:

Lots 1 through 11, odd inclusive, Block A, South University Place Addition to Wichita, Kansas; EXCEPT for road rights-of-way of record, at the Southeast corner of Harry Street and South Meridian Avenue (1602 South Meridian).

Approved subject to the following conditions:

(1) The applicant shall submit a revised site plan to be approved by planning staff, required screening along the east property line shall be waived.
(2) The site shall be developed and maintained in conformance with the approved site plan.
(3) The site shall maintain a minimum of 35 parking spaces.
(4) No outside loudspeakers or outdoor entertainment is permitted.
(5) The site shall maintain all necessary licenses for a nightclub in the city.
(6) The site shall conform to all applicable codes and regulations to include but not limited to zoning, building, fire and health.
(7) 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 that the Conditional Use is null and void.

Adopted this 2nd Day of June 2016

METROPOLITAN AREA PLANNING COMMISSION

Carol Chapman Neugent, Chair MAPC

ATTEST:

Dale Miller, Secretary

WICHITA–SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 7

STAFF REPORT
DAB IV 6-6-16
MAPC 6-2-16

CASE NUMBER: CON2016-12

APPLICANT/AGENT: Justin Doll and Art Agner (applicant), Baughman Co., PA c/o Russ Ewy (agent)

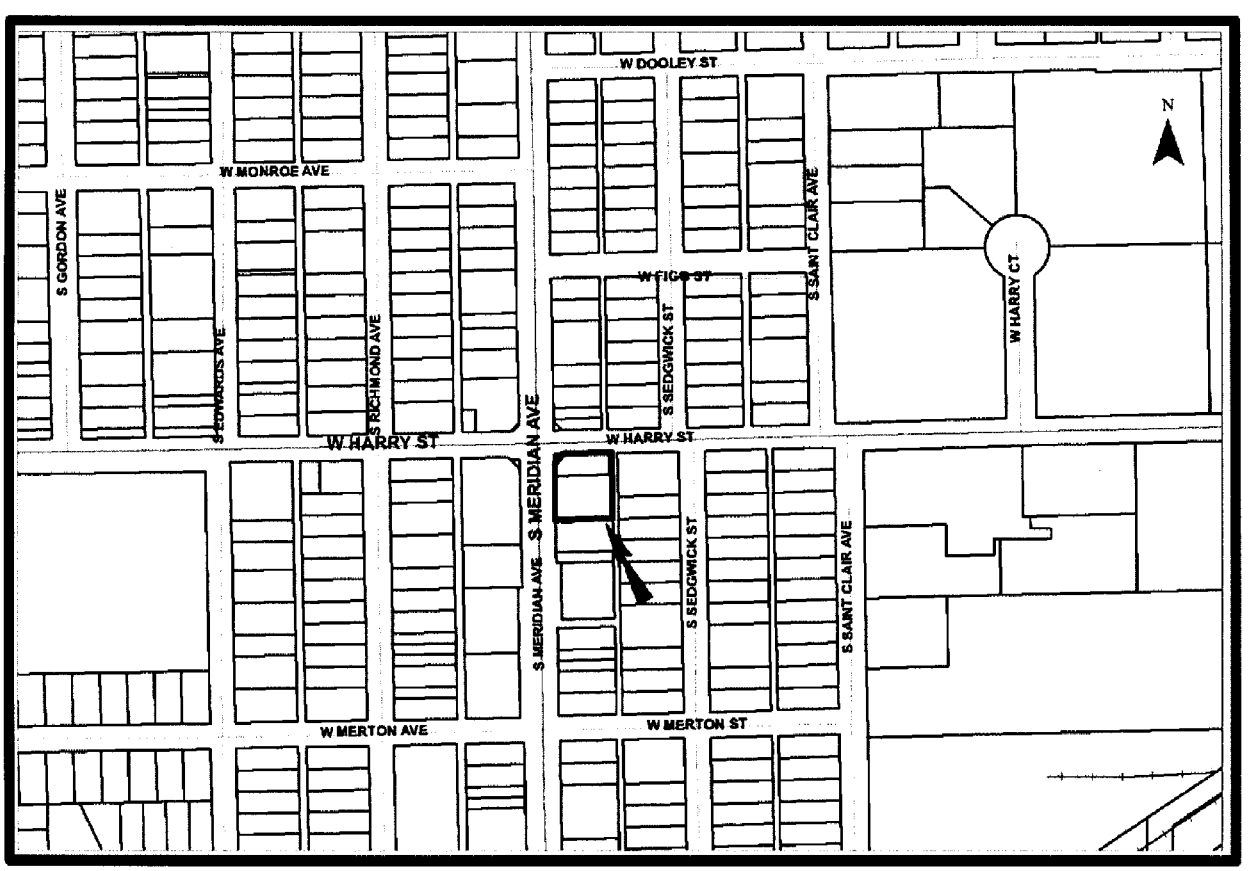
REQUEST: Conditional Use for a Nightclub in the City within 300 feet of residential zoning

CURRENT ZONING: LC Limited Commercial

SITE SIZE: 0.45 acres

LOCATION: Southeast corner of Harry Street and South Meridian Avenue (1602 South Meridian)

PROPOSED USE: Nightclub with Entertainment License



BACKGROUND: The application area, 1602 South Meridian, is located at the southeast corner of Meridian Avenue and Harry Street in LC Limited Commercial (LC) zoning and within 300 feet of residential zoning. The site is developed with a one-story building and over 30 off-street parking spaces. The City is rebuilding this intersection which will include closing two access points closest to the corner. The applicant's site plan (see attached) demonstrates a minimum of 35 parking spaces when complete. The County Tax Assessor lists "bar/tavern/lounge" as the current land use. A drinking establishment has functioned on the site as a legal non-conforming use for many years. The applicant wishes to obtain an entertainment license and therefore requests this conditional use for a "nightclub in the city." Nightclub in the city is defined by the Unified Zoning Code (UZC) as an establishment that provides entertainment and/or dancing, where alcoholic beverages are served and where food may or may not be served. The UZC permits a nightclub in the city in the LC zoning district by right, but requires a conditional use if the property is located within 300 feet of a church, park, school or residential zoning district. The application area is across an alley from residential zoned properties on South Sedgwick Street. Residential zoned properties within 300 feet of the application area are developed with a mixture of multi-family, duplex and single-family residences.

Property north, west and south of the site are zoned LC and developed with retail, warehousing, vehicle repair, vehicle sales and multi-family residential uses. Property east of the site is zoned TF-3 and developed with single-family and duplex residences.

CASE HISTORY: The site was platted as odd Lots 1 through 11, Block A of the South University Place Addition to Wichita in 1887. The building on the site was constructed in 1952.

ADJACENT ZONING AND LAND USE:

North: LC	Multi-family residential
South: LC	Retail
East: TF-3	Single-family and duplex residences
West: LC	Retail, vehicle sales, warehousing and vehicle repair

PUBLIC SERVICES: Meridian is a paved major arterial street with four lanes and a central turn lane at the intersection. Harry is a minor arterial with two lanes and an eastbound central turn lane at the intersection. All other urban utilities and services are available.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential" but adjacent to areas identified as "commercial," "industrial" and "new employment." The UZC requires one parking space per two seats for nightclubs. The applicant indicates that the site has an occupancy of 80 people. The applicant's site plan demonstrates a minimum of 35 parking spaces, therefore the applicant requests a five-space reduction as a part of the conditional use.

RECOMMENDATION: Staff notes that a drinking establishment has existed on this site for some time. This application does not introduce a new use to this location, and the use does not

appear to be incompatible with the residential zoning east of the site. Staff notes that the site lacks UZC required screening from the residential properties across the alley to the east. Based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a Nightclub in the City be **APPROVED**, with the following conditions:

(1) The applicant shall submit a revised site plan, to be approved by planning staff, which identifies screening between the site and residential properties across the alley to the east.
(2) The site shall be developed and maintained in conformance with the approved site plan.
(3) The site shall maintain a minimum of 35 parking spaces.
(4) No outside loudspeakers or outdoor entertainment is permitted.
(5) The site shall maintain all necessary licenses for a nightclub in the city.
(6) The site shall conform to all applicable codes and regulations to include but not limited to zoning, building, fire and health.
(7) 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 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: Property north, west and south of the site are zoned LC and developed with retail, warehousing, vehicle repair, vehicle sales and multi-family residential uses. Property east of the site is zoned TF-3 and developed with single-family and duplex residences.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC and developed with a building previously used as a bar. The site could be used as zoned for other commercial uses.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site is zoned LC and could be developed with any range of permitted uses in that district. The proximity of residential zoning east of the site triggers the conditional use review for a nightclub. Noise and activity from the nightclub could impact the residential neighborhood to the east; proposed conditions of screening and prohibiting outdoor speakers/entertainment should mitigate this impact. The request does not introduce a new use in the neighborhood. The limited size of the site and building will prevent expansion beyond a neighborhood scale, and proposed conditions should mitigate impacts on surrounding properties.

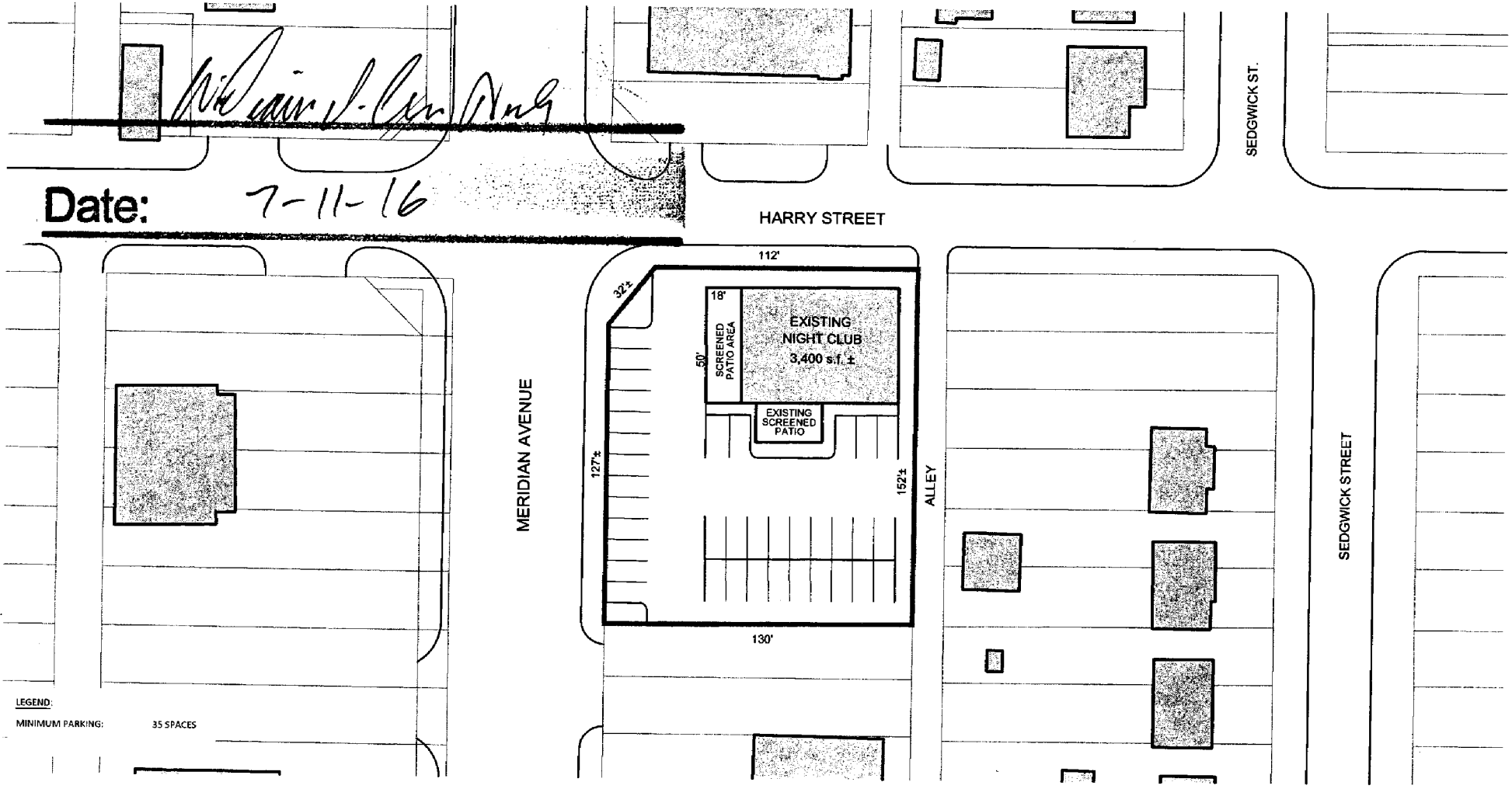
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial of the request would presumably be an economic hardship upon the property owner, as the applicant owns the property and desires to operate the proposed business within LC zoning.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential" but adjacent to areas identified as "commercial," "industrial" and "new employment." The UZC requires one parking space per two seats for nightclubs. The applicant indicates that the site has an occupancy of 80 people. The applicant's site plan demonstrates a minimum of 35 parking spaces, therefore the applicant requests a five-space reduction as a part of the conditional use.

6. Impact of the proposed development on community facilities: The proposed Conditional Use should not impact community facilities to any greater extent other uses permitted in the LC zoning district.

APPROVED

Date: 7-11-16



SCALE: 1" = 40'

CON2016-12 SITE PLAN

1602 SOUTH MERIDIAN AVENUE

BAUGHMAN