CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

March 10, 2017

Fran Mar Investments, Inc.
420 S. Seneca St.
Wichita, KS, 67213

REFERENCE: CON2016-00016 – Conditional Use request for a nightclub in the City on GC General Commercial zoned property generally located east of S. Seneca Street on the south side of W. Maple Street (WCC #IV)

Dear Sir:

At its regular meeting on June 16, 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, with the conditions listed on the attached resolution.

If you have any questions concerning this application, please contact our office at 316-268-4421.

Sincerely,

Scott Knebel, AICP
Planning Manager

SK/mc
Attachments

cc: RRCW, Inc., DBA Burn Out Bar & Grill, c/o Robert Wynie II, 1021 W. Maple, Wichita KS, 67213
Jeff Blubaugh, WCC IV, e-mail
Rebecca Fields, CSR IV, e-mail

CONDITIONAL USE RESOLUTION NO. CON2016-00016

WHEREAS, Fran Mar Investments (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 "Nightclub in the City," on approximately 0.15-acres zoned GC General Commercial ("GC"), described as:

The North 100 feet of the East 75 feet of the West 160 feet of Lot 2 except the North 10 feet dedicated for street, Block 1, Lawrence Addition, Wichita, Sedgwick County, Kansas; generally located east of South Seneca Street on the south side of West Maple Road.

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 16, 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 MAPC that this application be approved to allow a Conditional Use for a "Nightclub in the City," on approximately 0.15-acres zoned GC General Commercial ("GC"), described as:

The North 100 feet of the East 75 feet of the West 160 feet of Lot 2 except the North 10 feet dedicated for street, Block 1, Lawrence Addition, Wichita, Sedgwick County, Kansas; generally located east of South Seneca Street on the south side of West Maple Road.

Approved subject to the following conditions:

(1) The site will developed with an approved revised site plan, showing, but not limited to, the required parking spaces.. No outdoor speakers or outdoor entertainment is permitted. The outdoor venue shall be subject to Art.III, Sec.III-D.6.w of the Unified Zoning Code. The site plan must be submitted for review within 60-days of approval by the appropriate governing body.
(2) The applicant needs to provide written agreements for off-site or shared parking for at least 65 parking spaces
(3) The applicant shall obtain all required state, local and other applicable permits and inspections.
(4) 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 16th day of June 2016.

METROPOLITAN AREA PLANNING COMMISSION

Carol Chapman Neugent, Chair MAPC

ATTEST:

Dale Miller, Secretary

AGENDA ITEM NO. 8

WICHITA–SEDGWICK COUNTY

STAFF REPORT

MAPC June 21, 2016

CASE NUMBER: CON2016-00016

OWNER / APPLICANT: Fran Mar Investments (owner) RRCW, Inc., DBA Burn Out Bar & Grill, c/o Robert Wynia II (applicant)

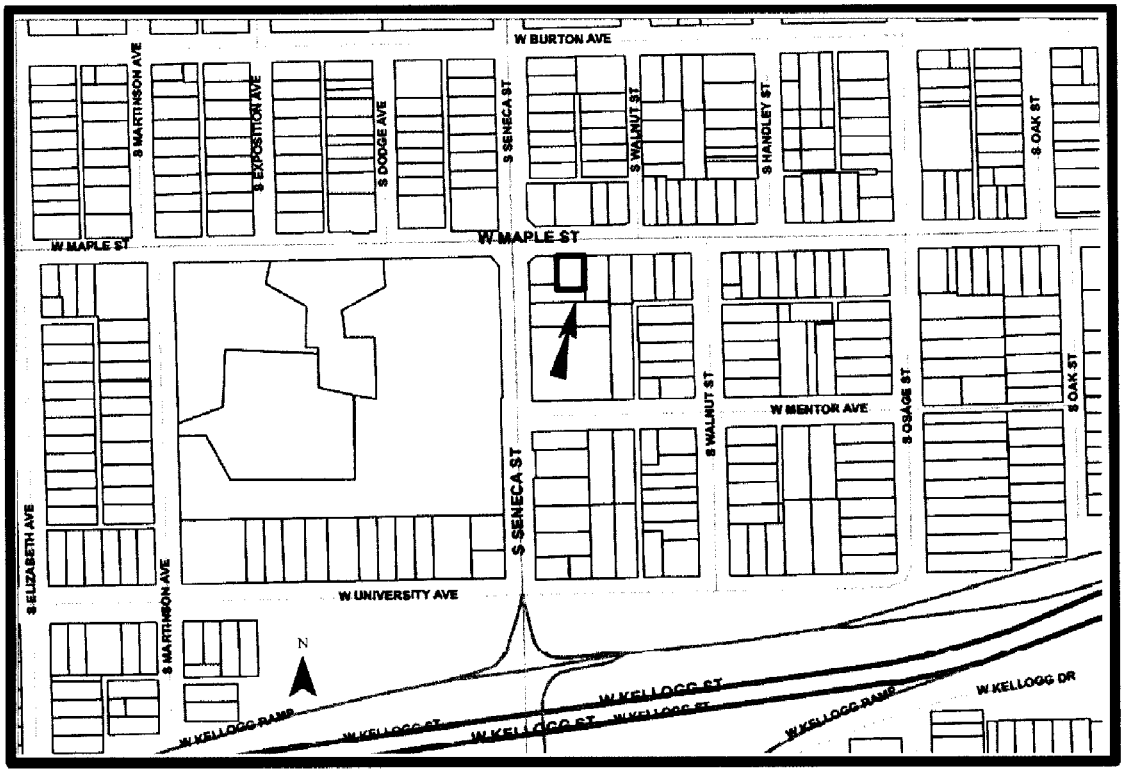
REQUEST: Conditional Use to allow a night club

CURRENT ZONING: General Commercial (GC)

SITE SIZE: Approximately 0.15-acres

LOCATION: Generally located east of South Seneca Street on the south side of West Maple Street (WCC #IV)

PROPOSED USE: Allow unlimited alcohol sales and entertainment



BACKGROUND: The GC General Commercial zoned site is located in a one-story brick building (built 1930, 1940) on the south side of West Maple Street and approximately 75 feet east of South Seneca Street. The applicants propose to turn the full service restaurant (DER) into a nightclub. When a GC zoned tavern, drinking establishment or nightclub is located within 300 feet of a church or place of worship, public park, public or parochial school or residential zoning district, approval of a Conditional Use is required; Unified Zoning Coode (UZC), Sec.III-D6.w. SF-5 Single-Family Residential (SF-5) zoned properties are located approximately 150 feet southeast, east and 215 feet north, across Maple Street, of the site, thus the Conditional Use application. The site is located within the D-O Delano Neighborhood Overlay District (D-O). The D-O does not prohibit nightclubs.

The applicant's site plan shows the proposed nightclub with an outdoor patio with a wrought iron fence, on-site parking and off-site parking located within 35-65 feet of the site. The UZC requires off-street Parking Space to be located no more than 600 feet from the building or use it is intended to serve, measured along the shortest legal, practical walking route. The applicant has provided a letter from the owner of an adjacent south property owner that allows the applicant to use 46 parking spaces. The site plan shows 26 additional parking spaces on an adjacent east parking lot for a total of 72 parking spaces. The owner of this east adjacent parking lot is the same owner of the noted south adjacent parking area; however there is no written agreement to allow this parking. There are four parking spaces on the site and another three parking spaces on the west abutting property, all owned by the applications owner. The site plan notes that the posted occupancy of the proposed nightclub is 137, which requires 69 parking spaces. To attempt to meet the parking standards for a nightclub (one space per two occupants) the applicant needs to provide a letter from the owner of the east adjacent parking lot permitting the use of its 26 parking spaces. The applicant also needs to show the seating for the outdoor patio, which will have to be figured into the required parking.

The 7.3-acre B Multi-Family (B) zoned Kansas Masonic retirement community (built 1906-2013) is the largest development in the area located around the South Seneca – West Maple Street arterial intersection. GC zoned businesses in this area include a small convenience store (1961), a motorcycle repair garage, a heating and air business (built 1920), two electrical business, one with a warehouse (1940, 1970) and a warehouse, which used to also house the Cooper Cue pool hall. GC zoned single-family residences, duplexes and small apartments (typically large house divided into multiple living units) make up the remaining development along the east side of Maple Street. Mostly SF-5 Single-Family Residential (SF-5) zoned older neighborhoods (built 1900-1950) are located behind the GC zoned businesses and residences. The nearest nightclub or drinking establishment may be located two and a half blocks east of the site off of Maple Street and Oak Street.

CASE HISTORY: The site is located on the north 100 feet of the east 75 feet of the west 160 feet of Lot 2 except the north 10 feet dedicated for street, Block 1, Lawrence Addition to West Wichita, which was recorded with the Register of Deeds December 8, 1884.

Oral history of the site indicates the subject has been a drinking establishment or a nightclub off and on since the 1960s. The site is currently a full service restaurant and prior to that it was a pizza restaurant.

ADJACENT ZONING AND LAND USE:

NORTH: GC, MF-18	Heating and air business, retail building, single-family residences
SOUTH: LC, SF-5, TF-3	Storage warehouse, duplex, single-family residences
EAST: GC, SF-5	Apartment, parking, electric storage warehouse,
WEST: GC, B	Motorcycle repair garage, Kansas Masonic retirement complex,

PUBLIC SERVICES: The site has access off the paved four-lane arterial Maple Street. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The site is located within the D-O Delano Neighborhood Overlay District ("D-O"). The D-O is intended to preserve, enhance, and promote the character of the Delano neighborhood as prescribed in the Delano Neighborhood Revitalization Plan. The D-O District is an Overlay District; property Development within the District shall comply with the Delano Neighborhood Design Guidelines and the standards of this District and the Underlying zoning District. The D-O does not prohibit nightclubs, but the GC per the UZC) zoning district requires a Conditional Use for a nightclub or a drinking establishment/tavern when located within 300 feet of a church or place of worship, public park, public or parochial school or residential zoning district. SF-5 Single-Family Residential (SF-5) zoned properties are located approximately 150 feet southeast and 215 north, across Maple Street, of the site, thus the Conditional Use application.

The area's residential zoned properties are buffered from the proposed nightclub by less intrusive businesses located between the proposed nightclub and those closest residences, located150 feet southeast and 215 feet north of the subject site. However, proposed off-site parking brings the proposed nightclub's patrons within 20 feet of residential zoned properties located southeast of the site. This proximity could be a potential source of nuisance for the residential zoned properties.

The "Community Investment Plan's" (Plan, adopted November 19, 2015) "2035 Wichita Future Growth Map" depicts the site as "industrial." The industrial category encompasses areas that reflect the full diversity of industrial development intensities and types typically found in a large urban municipality. Uses include manufacturing, warehousing, distribution, construction, research, and technology. These uses are located in close proximity to highways and airports and may have rail service. The presences of several businesses with warehouses may have triggered the industrial designation. A nightclub is an appropriate use of the industrial designation.

The site is also located within the "established central area." This area is comprised of the downtown core and the mature neighborhoods surrounding it in a roughly three mile radius. The established central area is the focus area for the Wichita Urban Infill Strategy. The established central area encourages a mixed-use development area with a focus on office, retail, hospitality,

government services, high-density residential, and entertainment, cultural, and civic facilities and activities. A nightclub is an entertainment facility.

RECOMMENDATION: If approved the request would re-establish a drinking establishment – nightclub on the site. Typically in the older neighborhoods parking is a critical consideration for recommending approval as is the proximity of a church or place of worship, public park, public or parochial school or residential zoning district. A portion of the proposed parking is located within 20 feet of residential zoning. This close proximity is a concern as is the fact that the applicant has not provided an agreement with the owner of the parking lot that would allow the applicant to use the parking lot. It is unknown how the site's past history as a drinking establishment or nightclub will affect the neighbors' opinion of the current application. However, at the time this report was written Planning had not received calls or protests against the request. DAB IV choose not to consider the request unless protests had been received. Based upon the information available prior to the public hearings, planning staff recommends that the request for a Conditional Use for a nightclub be **APPROVED**, with the following conditions:

(1) The site will developed with an approved revised site plan, showing, but not limited to, the required parking spaces. No outdoor speakers or outdoor entertainment is permitted. The outdoor venue shall be subject to Art.III, Sec.III-D.6.w of the UZC. The site plan must be submitted for review within 60-days of approval by the appropriate governing body.

(2) The applicant needs to provide written agreements for off-site or shared parking for at least 65 parking spaces

(3) The applicant shall obtain all required state, local and other applicable permits and inspections.

(4) 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:** The 7.3-acre B Multi-Family (B) zoned Kansas Masonic retirement community (built 1906-2013) is the largest development in the area located around the South Seneca – West Maple Street arterial intersection. GC zoned businesses in this area include a small convenience store (1961), a motorcycle repair garage, a heating and air business (built 1920), two electrical business, one with a warehouse (1940, 1970) and a warehouse, which used to also house the Cooper Cue pool hall. GC zoned single-family residences, duplexes and small apartments (typically large houses divided into multiple living units) make up the remaining development along the east side of Maple Street. Mostly SF-5 Single-Family Residential (SF-5) zoned older neighborhoods (built 1900-1950) are located behind the GC zoned businesses and residences.

(2) **The suitability of the subject property for the uses to which it has been restricted:**

The site is zoned the GC, which is meant to accommodate retail, commercial, office and other complimentary uses. If approved the request would re-establish a drinking establishment – nightclub on the site. The request does not introduce a new use to the area, as there is a tavern/drinking establishment/nightclub located approximately two and a half blocks east of the site. The site could continue to be used as permitted by right, which is now a full service restaurant.

(3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Typical concerns about tavern/drinking establishment/nightclub include bad behavior resulting from unlimited liquor sales, the noise from music and dancing, and the hours of the nightclub having a detrimental impact on the neighborhood.

(4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The site is located within the D-O Delano Neighborhood Overlay District ("D-O"). The D-O is intended to preserve, enhance, and promote the character of the Delano neighborhood as prescribed in the Delano Neighborhood Revitalization Plan. The D-O District is an Overlay District; property Development within the District shall comply with the Delano Neighborhood Design Guidelines and the standards of this District and the Underlying zoning District. The D-O does not prohibit nightclubs, but the GC per the UZC) zoning district requires a Conditional Use for a nightclub or a drinking establishment/tavern when located within 300 feet of a church or place of worship, public park, public or parochial school or residential zoning district. SF-5 Single-Family Residential (SF-5) zoned properties are located approximately 150 feet southeast and 215 north, across Maple Street, of the site, thus the Conditional Use application.

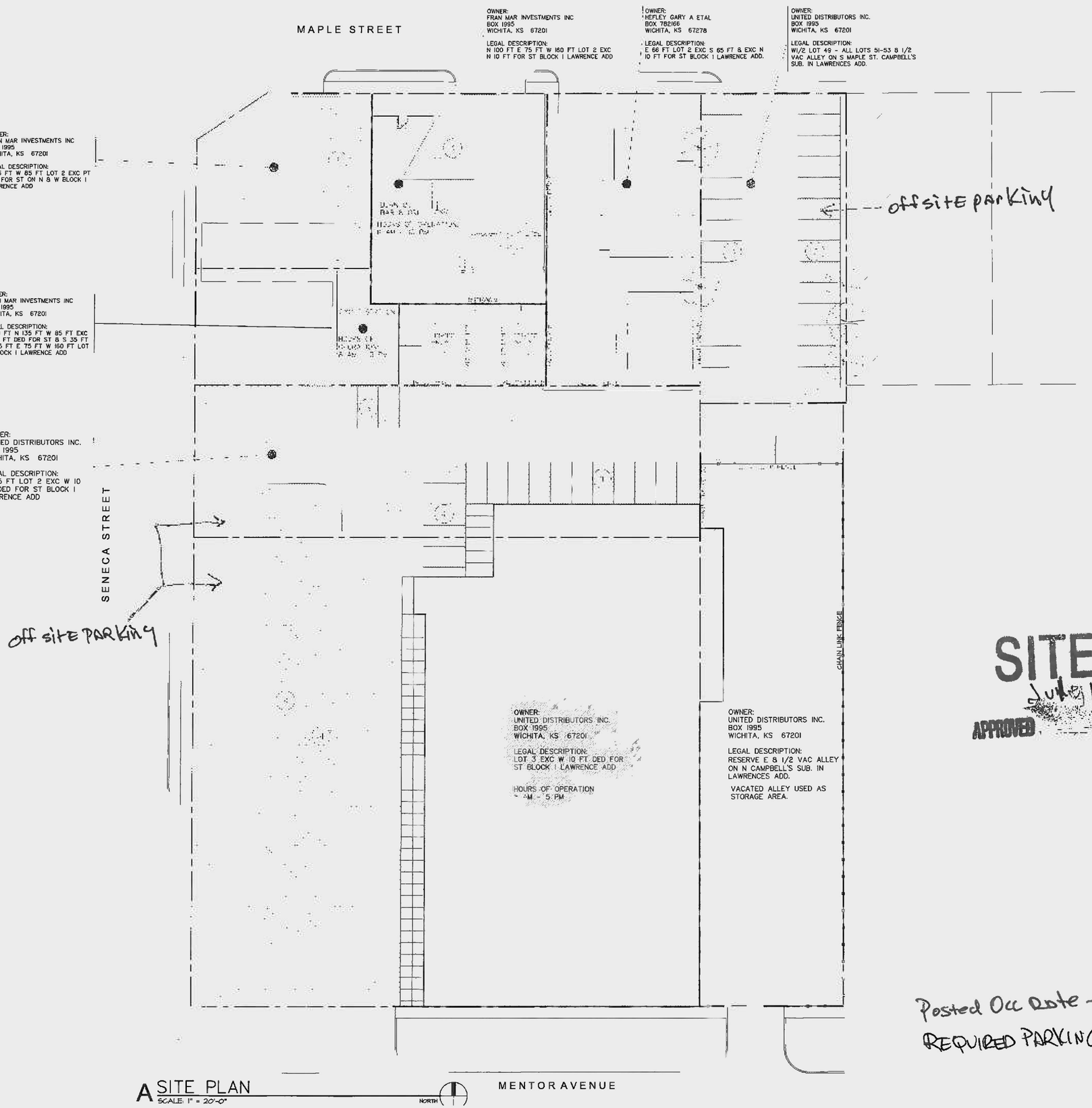
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Strategy. The established central area encourages a mixed-use development area with a focus on office, retail, hospitality, government services, high-density residential, and entertainment, cultural, and civic facilities and activities. A nightclub is an entertainment facility.

(5) **Impact of the proposed development on community facilities:** It is possible that approval of this request could result in an increased demand for police services.



A SITE PLAN
SCALE: 1" = 20'-0"

APPLICATION INFORMATION

APPLICANT:
RRCW INC.
Contact:
Robert Wynia II & Crystal (Owners)
Burn Out Bar & Grill
1021 West Maple
Wichita, Kansas

SITE PLAN PREPARED BY:
Hanney & Associates Architects
1726 South Hillside
Wichita, Kansas 67211
316-683-8465

DESCRIPTION OF CONDITIONAL USE:
APPLYING FOR AN ENTERTAINMENT LICENSE. THE EXISTING BAR LOCATION (BURN OUT BAR & GRILL) IS WITHIN 300'-0" OF RESIDENTIAL ZONING. THE SITE PLAN PROVIDED IS TO SHOW THE ADDITIONAL PARKING REQUIRED FOR AN ENTERTAINMENT LICENCE. THE ADDITIONAL PARKING WILL BE PROVIDED BY WRITTEN PERMISSION FROM THE ADJACENT PROPERTY OWNERS TO ALLOW BURN OUT BAR & GRILL TO PARK IN THE AREAS INDICATED ON THIS PLAN.

79 TOTAL PARKING SPACES ARE SHOWN FOR USE BY BURN OUT BAR & GRILL

LEGEND

- GC - GENERAL COMMERCIAL
- LC - LIMITED COMMERCIAL
- SHARED PARKING AREAS

THE AREAS ARE INCLUDED IN THE DELANO DISTRICT ZONE

CON2016-46

SITE PLAN

July 1, 2016 Bill Longnecker
APPROVED

Posted Occ Rate → 137
REQUIRED PARKING → 69 parking spaces

ARCHITECTS

HANNEY & ASSOCIATES, ARCHITECTS
1726 South Hillside, Wichita, Kansas, 67211
Phone (316) 683-8465
Fax (316) 684-1441

2016
BURN OUT BAR & GRILL
1021 West Maple
Wichita, Kansas

DRAWINGS ISSUED		
NO.	DATE	ITEM ISSUED
1	5/9/16	SITE PLAN

COMPUTER DRAWING

DATE: MAY 2016	
DRAWN BY:	CHECKED BY:
CH	MRH

SHEET
A1.0
OF SHEETS