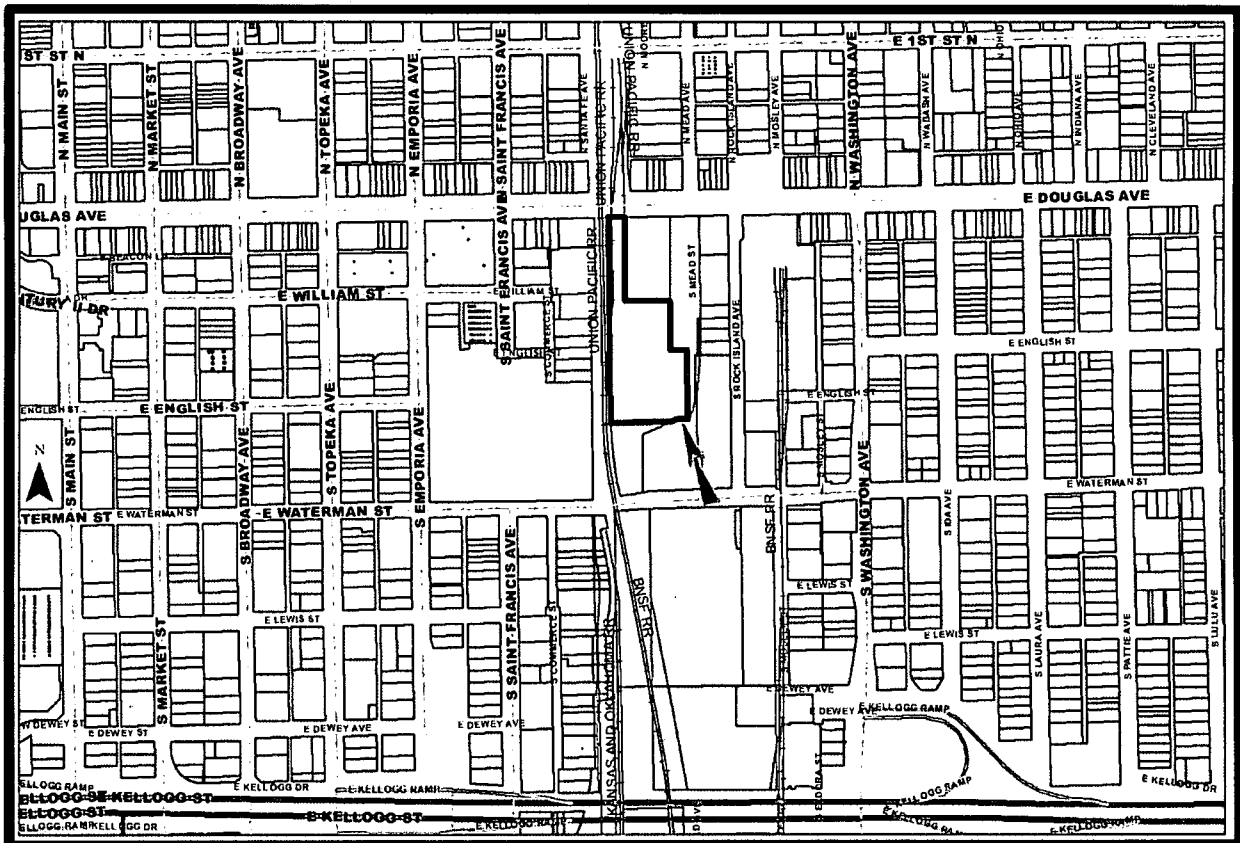


AGENDA ITEM NO. _____

STAFF REPORT

MAPC - August 22, 2019
DAB I – September 9, 2019

<u>CASE NUMBER:</u>	CON2019-00026
<u>APPLICANT/AGENT:</u>	Union Station LLC (Owner), Kaw Valley Engineering (Agent)
<u>REQUEST:</u>	Conditional Use for a Nightclub in the City within 300 feet of a public park
<u>CURRENT ZONING:</u>	CBD Central Business District
<u>SITE SIZE:</u>	4.2 acres
<u>LOCATION:</u>	South of East Douglas Avenue, approximately 1,000 feet west of South Washington Avenue (703 East Douglas)
<u>PROPOSED USE:</u>	Nightclub in the City



BACKGROUND: The applicant requests a Conditional Use to allow a Nightclub in the City on property zoned CBD Central Business District at 703 East Douglas, which is South of East Douglas Avenue, approximately 1,000 feet west of South Washington Avenue. Per the Unified Zoning Code (UZZ, Article II, Section II-B.9.b) an establishment that provides any combination of alcohol, live entertainment or dancing is defined as a “nightclub in the city.” A “nightclub in the city” is permitted by right in the CBD district unless the nightclub is located within 300 feet of church, place of worship, public park, public or parochial school or residential zoning district. If a “nightclub in the city” is proposed to be located within 300 feet of the previously noted uses, the nightclub is no longer allowed by right and requires Conditional Use approval. Naftzger Park is located at the southeast corner of East Douglas Avenue and St. Francis Street, just short of 300 feet away.

The base use on this site is a winery that serves tastings and small food items. The sale and consumption of wine is the primary use of the site, with food being secondary. The applicant has indicated that live entertainment is possible.

All property abutting and adjacent to the subject site are zoned CBD or LI. Immediately surrounding the subject property are other commercial uses including restaurants and a brewery. In-between Naftzger Park and the subject site are commercial uses including restaurants and offices as well as an elevated railroad.

Similar cases, Conditional Use for Nightclub in the City within 300 feet of Naftzger Park, have been approved in the past few years. These cases include CON2015-00025 at 132 St. Francis, CON2018-00021 at 125 St. Francis, and CON2015-00017 at 711 East Douglas.

Staff has received no indication of concern or opposition from any members of the community at the time of this writing.

CASE HISTORY: The subject property is platted as part of Lot 1, Union Station Addition, Wichita, Sedgwick County, Kansas Recorded with the Register of Deeds on March 2, 1982. The property is just over four acres in size and fully improved with buildings and parking lots.

ADJACENT ZONING AND LAND USE:

NORTH:	LI	Commercial
SOUTH:	CBD	Commercial
EAST:	CBD	Commercial
WEST:	LI	Railroad

PUBLIC SERVICES: Normal municipal services are available. East Douglas Avenue is a paved local street.

CONFORMANCE TO PLANS/POLICIES: The Unified Zoning Code (UZZ) allows for Nightclubs in the City by right in Central Business District (CBD), provided they are more than 300 feet from a church, park, school, or residential zoning. The UZZ provides for the approval of Nightclubs in the City by Conditional Use in the event uses are located within such a proximity.

The Future Land Use Map of the adopted Wichita-Sedgwick County Comprehensive Plan, the Community Investment Plan, identifies this site as appropriate for “residential and employment mix.” These areas are described as being suitable to be developed or redeveloped under the concept of mixed use areas. This site conforms to this designation.

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

- A. The applicant shall submit a revised site plan within 60 days of approval that clearly denotes the Conditional Use location.
- B. The Conditional Use permits a “nightclub in the city,” which shall be maintained and operated in compliance with all applicable codes, including but not limited to zoning, building, fire and health, and in substantial compliance with the approved site plan.
- C. If the Zoning Administrator finds that there is a violation of any of the conditions of approval, 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 the Conditional Use null and void.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: All property abutting and adjacent to the subject site are zoned CBD or LI. Immediately surrounding the subject property are other commercial uses including restaurants and a brewery. In-between Naftzger Park and the subject site are commercial uses including restaurants and offices as well as an elevated railroad.
- 2. The suitability of the subject property for the uses to which it has been restricted: Central Business District zoning is one of the more inclusive zoning districts with respect to the large number of uses permitted by right. The district permits single-family and multi-family residential, office, retail sales and commercial uses requiring outdoor storage and display. Any number of permitted by right uses could be economically viable at this location. As currently zoned the site would not be able to be used as a Nightclub in the City, which could be an economically viable use, due to the sites proximity to a public park. The UZC allows for Nightclubs in the City near a public park, provided a Conditional Use is approved. In this case, the public park is located in an urban setting with many Drinking Establishments and Nightclubs in the City nearby.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: The CBD district permits a “nightclub in the city” by right except for the separation requirements noted above. There are other night clubs located in the downtown area. Approval of the request should not negatively impact nearby properties much like one would find with other business near existing downtown nightclubs in the city.
- 4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Unified Zoning Code (UZC) allows for Nightclubs in the City by right in Central Business District (CBD), provided they are more than 300 feet from a church, park, school, or residential zoning. The UZC provides for the approval of Nightclubs in the City by Conditional Use in the event uses are located within such a proximity.

The Future Land Use Map of the adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investment Plan*, identifies this site as appropriate for “residential and employment mix.” These areas are described as being suitable to be developed or redeveloped under the concept of mixed use areas. This site conforms to this designation.

5. Impact of the proposed development on community facilities: Infrastructure and community services are in place to accommodate the proposed use.

Attachments:

1. Aerial Photo
2. Zoning Map
3. Land use Map
4. Site Plan
5. Site Photos



Wichita-Sedgwick County Metropolitan Area Planning Department

Union Station LLC
8111 E. 32nd St. N. Suite 101
Wichita, KS 67226

August 28, 2019

Kaw Valley Engineering
200 N. Emporia Suite 100
Wichita, KS 67202

RE: CON2019-00026- City Conditional Use to permit a Nightclub in the City to be located closer than 300 feet from a public park on property zoned CBD Central Business District and generally located south of East Douglas Avenue, approximately 1,000 feet west of South Washington Avenue (703 E. Douglas).

Dear Applicant;

At its regular meeting on August 22, 2019, 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 attached conditions.

Property owners opposed to the application may file with the City Clerk a signed, written protest of the MAPC's recommendation. (Unsigned e-mails are not considered to be legal protests.) To be effective, the protest must be filed by 5:00 p.m. on September 6, 2019. 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 located within 200 feet of the property for which the application was filed, and must be submitted to the City Clerk by September 6, 2019 at 5:00 p.m.

If any protest petitions are filed against the above the captioned case, the application will be scheduled for consideration by the City Council. The City Council meeting will be held in the City Council Chambers, First Floor, City Hall, 455 N. Main, Wichita, Kansas. If no protest petitions are filed, then the ruling the Wichita - Sedgwick County Metropolitan Area Planning Commission is final subject to meeting the attached conditions.

This is a reminder that the 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,

Matt Williams
Associate Planner

Copies to: MABCD
Brandon Johnson, Council Member District I
Kameelah Alexander, CSR District I

Conditions for Approval

- A. The applicant shall submit a revised site plan within 60 days of approval that clearly denotes the Conditional Use location.
- B. The Conditional Use permits a “nightclub in the city,” which shall be maintained and operated in compliance with all applicable codes, including but not limited to zoning, building, fire and health, and in substantial compliance with the approved site plan.
- C. If the Zoning Administrator finds that there is a violation of any of the conditions of approval, 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 the Conditional Use null and void.

CONDITIONAL USE RESOLUTION NO. CON2019-00026

WHEREAS, Union Station, LLC, (Applicant) 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 Nightclub in the City, on property zoned Central Business District at 703 East Douglas, and legally described as:

Part of Lot 1, Union Station Addition, Wichita, Sedgwick County, Kansas, described as follows: Beginning at the NW corner of said Lot 1, thence N89°56'E along the North line of said Lot 1, 73 feet to a point 322.44 feet West of the NE corner of said Lot 1; thence S00°00'E, 367 feet; thence N89°56'E, 195.44 feet; thence S00°00'E, 214 feet; thence N89°56'E, 69.1 feet; thence S00°00'E, 316.30 feet to the South line of said Lot 1, said point being 39.87 feet West of the SE corner of said Lot 1; thence S89°22'W along the South line of said Lot 1, 335.91 feet to the SW corner of said Lot 1; thence Northerly on a curve to the right having a radius of 1883.87 feet, 36.02 feet to the P.T. of a said curve; thence N00°05'W along the West line of said Lot 1, 864.61 feet to the point of beginning, EXCEPT that part described as beginning at the Southeast corner of said Lot 1; thence N00°02'25"E, along the easterly line of said Lot 1, 115.01 Feet; thence N05°57'34"E, along the easterly line of said Lot 1, 143.12 feet; thence N00°02'21"W, along the easterly line of said Lot 1, 29.66 feet; thence S89°52'30"W, 17.79 feet; thence S00°W, 174.09 feet to the P.C. of a curve to the right, having a radius of 165 feet and a central angle of 20°11'03"; thence southwesterly, along said curve, 58.13 feet to the P.C. of a curve to the left, having a radius of 260 feet; thence southerly, along said curve and through a central angle of 11°00'21", 49.94 feet; thence S89°22'W, 57.02 feet; thence S68°20'30"W, 22.30 feet to a point on the southerly line of said Lot 1, said point being 103.40 feet west of the Southeast corner of said Lot 1; thence N89°22'E, along the southerly line of said Lot 1, 103.40 feet to the place of beginning.

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 22, 2019, 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 Nightclub in the City, on property zoned Central Business District at 703 East Douglas, and legally described as:

Part of Lot 1, Union Station Addition, Wichita, Sedgwick County, Kansas, described as follows: Beginning at the NW corner of said Lot 1, thence N89°56'E along the North line of said Lot 1, 73 feet to a point 322.44 feet West of the NE corner of said Lot 1; thence S00°00'E, 367 feet; thence N89°56'E, 195.44 feet; thence S00°00'E, 214 feet; thence N89°56'E, 69.1 feet; thence S00°00'E, 316.30 feet to the South line of said Lot 1, said point being 39.87 feet West of the SE corner of said Lot 1; thence S89°22'W along the South line of said Lot 1, 335.91 feet to the SW corner of said Lot 1; thence Northerly on a curve to the right having a radius of 1883.87 feet, 36.02 feet to the P.T. of a said curve; thence N00°05'W along the West line of said Lot 1, 864.61 feet to the point of beginning, EXCEPT that part described as beginning at the Southeast corner of said Lot 1; thence N00°02'25"E, along the easterly line of said Lot 1, 115.01 Feet; thence N05°57'34"E, along the easterly line of said Lot 1, 143.12 feet; thence N00°02'21"W, along the easterly line of

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Subject to the following conditions:

1. The Conditional Use permits a "nightclub in the city," which shall be maintained and operated in compliance with all applicable codes, including but not limited to zoning, building, fire and health, and in substantial compliance with the approved site plan.
2. If the Zoning Administrator finds that there is a violation of any of the conditions of approval, 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 the Conditional Use null and void.

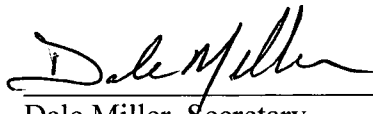
Adopted this 22nd Day of August 2019

METROPOLITAN AREA PLANNING COMMISSION



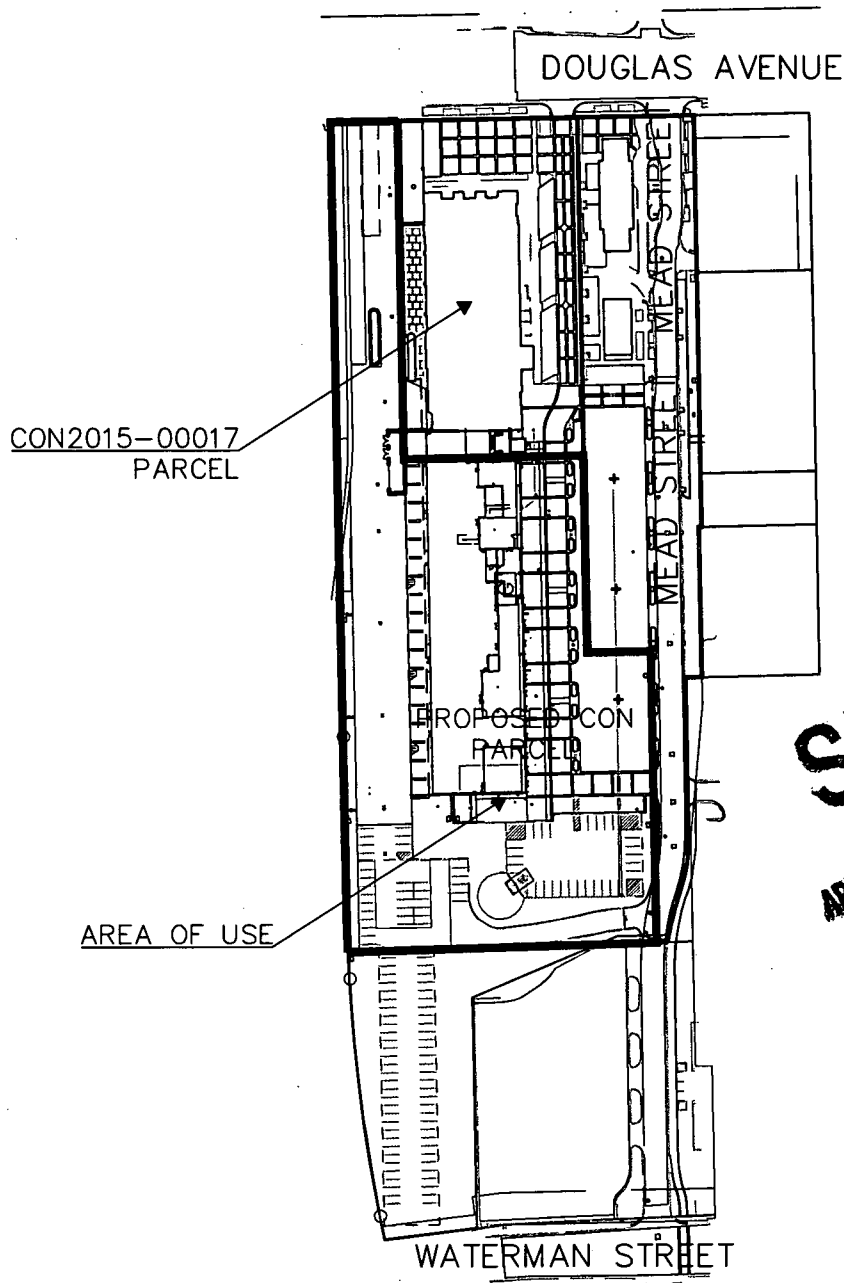
Charles A. Warren, Chair MAPC

ATTEST:



Dale Miller, Secretary

EXHIBIT

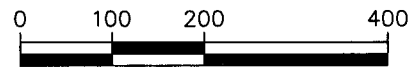


SITE PLAN
APPROVED [Signature] 07/12/19



200 N. EMPORIA, SUITE 100
WICHITA, KANSAS 67202
PH. (316) 440-4304 | FAX (316) 440-4309
wh@kveng.com | www.kveng.com

KAW VALLEY ENGINEERING



SCALE: 1" = 200'

2019-07-09
0597EXBA_JD CU