



Wichita-Sedgwick County Metropolitan Area Planning Department

May 22, 2012

Nordyke Ventures, LLC
Attn: Mark Nordyke
8558 W. 21st Ste 200
Wichita KS 67205

REFERENCE: CON2012-00021 - City Conditional Use for a Night Club in the City on LC Limited Commercial ("LC") zoned property; generally located north and east of 21st Street North and Tyler Road. Legal Description: Lot 1, Block #, Reflection Ridge 3rd Addition.

Dear Applicant:

At its regular meeting on **May 17, 2012**, 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 following conditions:

- (1) No outside loudspeakers or entertainment, including dancing.
- (2) A revised site plan will be provided showing, but not limited to, existing screening, landscaping and parking. If the required parking is not available the applicant must apply for an Administrative Adjustment or a Variance to resolve the issue. The night club shall be located in the building shown on the approved site plan.
- (3) 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.

NOTICE: The public hearing on planning items is conducted by the MAPC under provisions of State Law. Adopted policy is that the City Council will not take additional testimony on zoning related applications and other issues for which the MAPC has held a public hearing. However, interested parties may file a written statement with the City Clerk by 5:00 p.m. on the Wednesday preceding this meeting, providing new facts on the issue or alleging an unfair hearing. The Council will determine from such statements whether to return the issue to the

City Hall • 10th Floor • 455 North Main • Wichita, Kansas 67202-1688

T 316.268.4421 **F** 316.268.4390

www.wichita.gov

RE: CON2012-00021 - City Conditional Use for a Night Club in the City on LC Limited Commercial ("LC") zoned property; generally located north and east of 21st Street North and Tyler Road.

Page | 2

May 22, 2012

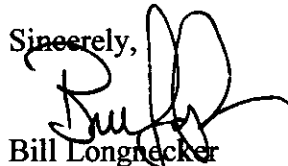
MAPC for reconsideration or to reverse their recommendation.

Property owners may also file written protest petitions on zoning related items heard by the MAPC. 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 within 200 feet of the property for which the application was filed, and must be submitted to the City Clerk within 14 days of the conclusion of the MAPC hearing, by **May 31, 2012, at 5 p.m.** Such petitions may cause the application to be disapproved, if the land area encompassed by the protesting owners exceeds 20% of the land area within 200 feet of the perimeter of the application area, unless the Council overrides such a protest and approves the application by a vote of 6 of its members.

If there are no valid appeals or protest petitions filed opposing this action by **May 31, 2012**, the action of the MAPC will be considered final. If appeals or protest petitions are filed, your application will be forwarded to the **June 19, 2012** City Council meeting for review and final action.

This is a reminder that the zoning 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,



Bill Longnecker
Senior Planner

BL:mc

Copies to: David Allan, 7322 Winterberry, Wichita, KS, 67226
Charlie Baldeen, 6015 Jacqueline, Wichita, KS, 67208
Garden Ridge, c/o Roy White, 2313 High Point Cir, Wichita, KS, 67205
Pines Patio Homes, c/o Mary Ann McLeland, 9111 W. 21st St, #81, Wichita, KS, 67205
Sterling Farms, c/o Gary Hofeling, 9319 W. Britton St., Wichita, KS, 67205
Reflection Ridge Master, c/o William Smith, 2514 Tee Time, Wichita, KS, 67205
Steve Lackey, 2414 Spring Meadow, Wichita, KS, 67205
Megan Buckmaster, NA V, Mail Stop 1-135
Jeff Longwell, WCC I, Mail Stop 1-13
Rick Stubbs, Superintendent OCI, Mail Stop 1-72
Paul Hayes, OCI, Mail Stop 1-72

CONDITIONAL USE RESOLUTION NO. CON2012-00021

WHEREAS, Benton Holdings, LLC - Nordyke Ventures, LLC (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 Night Club in the City on approximately 1.29-acres zoned LC Limited Commercial ("LC"), described as:

The South 248.58' of the West 232.11' of Lot 1, Block 3, Reflection Ridge 3rd Addition, Wichita, Sedgwick County, Kansas AND That part of Lot 1 beginning at the northwest corner; thence South 271.41'; thence East 228.79'; thence North to the North line; thence Northwesterly to beginning, Block 3, Reflection Ridge 3rd Addition, Wichita, Sedgwick County, Kansas; generally located north and east of 21st Street North and Tyler 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 May 17, 2012, 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 Night Club in the City on approximately 1.29-acres zoned LC Limited Commercial ("LC"), described as:

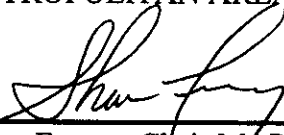
The South 248.58' of the West 232.11' of Lot 1, Block 3, Reflection Ridge 3rd Addition, Wichita, Sedgwick County, Kansas AND That part of Lot 1 beginning at the northwest corner; thence South 271.41'; thence East 228.79'; thence North to the North line; thence Northwesterly to beginning, Block 3, Reflection Ridge 3rd Addition, Wichita, Sedgwick County, Kansas; generally located north and east of 21st Street North and Tyler Road.

Approved subject to the following conditions:

- (1) No outside loudspeakers or entertainment, including dancing.
- (2) A revised site plan will be provided showing, but not limited to, existing screening, landscaping and parking. If the required parking is not available the applicant must apply for an Administrative Adjustment or a Variance to resolve the issue. The night club shall be located in the building shown on the approved site plan.
- (3) 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.

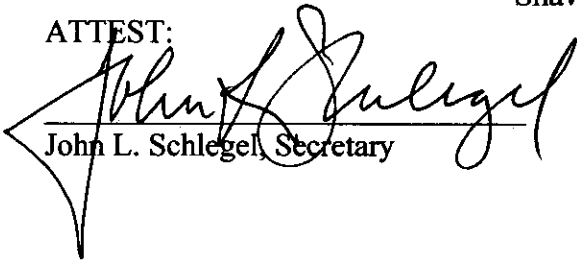
Adopted this 17th day of May 2012.

METROPOLITAN AREA PLANNING COMMISSION



Shawn Farney, Chair MAPC

ATTEST:



John L. Schlegel, Secretary



STAFF REPORT

MAPC May 17, 2012

DAB V June 4, 2012

CASE NUMBER: CON2012-00021

APPLICANT/OWNER: Nordyke Ventures, c/o Mark Nordyke (owner) David Allen and Charlie Baldeen (applicants)

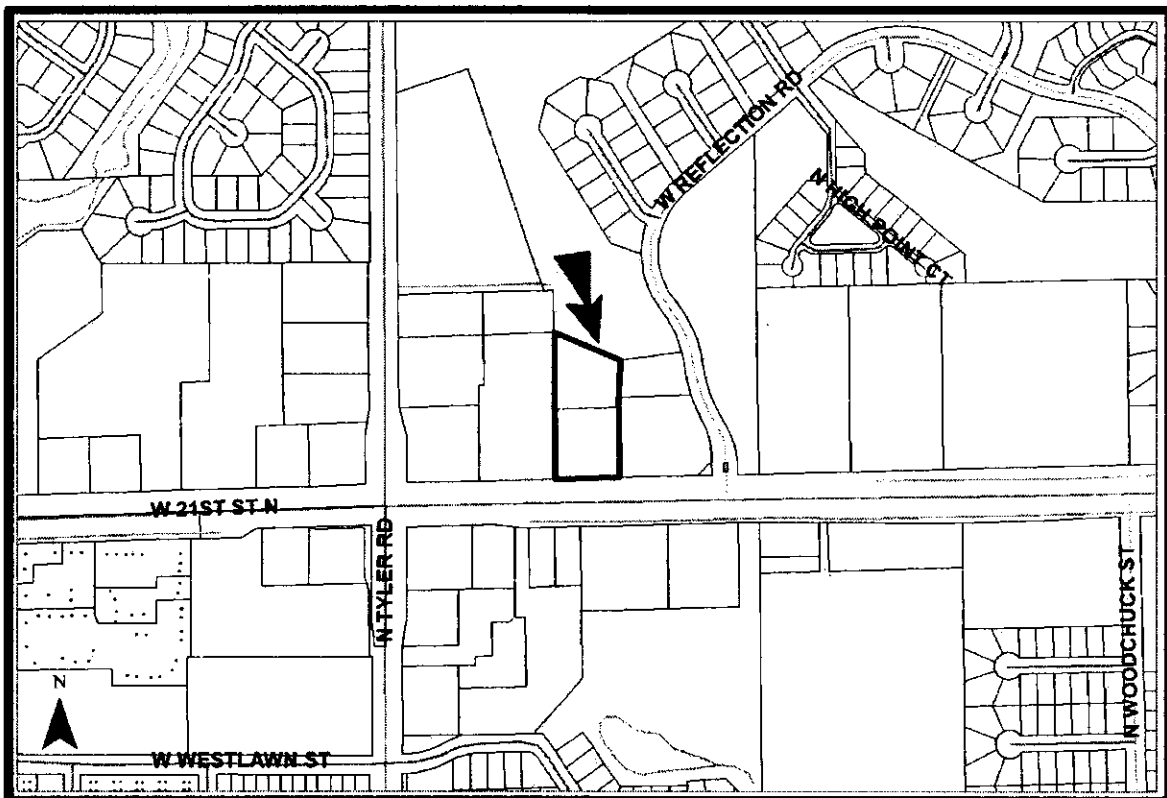
REQUEST: Conditional Use to allow a "Nightclub in the City"

CURRENT ZONING: "LC" Limited Commercial

SITE SIZE: Approximately 1.29-acres

LOCATION: Generally located north and east of 21st Street North and Tyler Road

PROPOSED USE: Live music for dancing & karaoke



BACKGROUND: The applicants are requesting a Conditional Use for a "Nightclub in the City," located in a full service restaurant (DER), located on the north side of 21st Street North and east of Tyler Road. A DER limits its liquor sales to 50% or less of the total sales. A nightclub allows unlimited liquor sales, regardless of whether or not there are food sales. The applicant proposes to provide unlimited liquor sales, live or DJ music for dancing for patrons and karaoke; a nightclub in the city: Sec.II-B, 9(b) of the Unified Zoning Code (UZC). Nightclubs are a permitted use in the LC Limited Commercial zoning district, but require a Conditional Use when located within 300 feet of "Church or a Place of Worship," public "Park," "School," or residential zoning: Sec.III-D(w) of the UZC. The site abuts a finger of a SF-5 Single-Family Residential ("SF-5") zoned private golf course, thus the requested Conditional Use.

The proposed night club is one of several tenants in a 10,500-square foot strip retail building, located on a portion of the LC zoned Lot 1, Block 3, Reflection Ridge 3rd Addition. Another LC zoned retail strip shares the same lot and is located north of the site. A SF-5 Single-Family Residential ("SF-5") zoned private golf course abuts the north side of the site's lot. A SF-5 zoned subdivision(s) is built around the golf course. LC zoned medical and dental use abut the east side of the site. An LC and GC General Commercial ("GC") zoned travel agency that offers chartered bus trips, abuts the west side of the site, with LC zoned strip retail located just east of the travel agency. There appear to be several full service restaurants in the area, but this may be the first night club in the area.

The applicant's site plan shows the portion of the strip retail building the restaurant now occupies and where the night club will be located. It also shows the 80 available parking spaces. At this time the occupancy rating is not known for the space the proposed night club will occupy. The applicants' site plan does not show the existing outdoor 'patio' area, with its chairs and tables, located along the north side of the building. The UZC requires one parking space for two occupants for either a night club or a restaurant; see BZA2007-29 below.

CASE HISTORY: The site is located on Lot 1, Block 3, of the Reflection Ridge 3rd Addition, which was recorded with the Register of Deeds March 13, 1989. In 1999 CU-523 permitted a driving range (outdoor entertainment) for 6-months. BZA2007-29 reduced the required parking spaces for a restaurant by 25%, from 123 parking spaces to 92 spaces.

ADJACENT ZONING AND LAND USE:

NORTH:	LC, SF-5	Retail strip, private golf course, single-family residential
SOUTH:	LC	Retail, fast food restaurants, a restaurant, a car wash
EAST:	LC, SF-5	Medical and dental services, private golf course
WEST:	LC, GC	Travel agency with buses, strip retail

PUBLIC SERVICES: The site has two drives onto 21st Street North, one of which is a joint drive for the east, abutting medical services. 21st is a major arterial street at this location, with four lanes, a center turn lane and outside turn lanes. The current traffic

volume along this portion of 21st is approximately 31,074 vehicles per day. The site also has access to Reflection Road, a residential street. Staff has received calls from residents in the neighborhood expressing concerns about the night club patrons using this street. All utilities are available to the site.

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.

The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed night club is located within an existing commercial development, with direct access onto the 21st Street North arterial. Existing commercial buildings are adjacent to its north, west and east sides. The adjacent north commercial building is located between the night club building and the adjacent residential neighborhood, thus offering some screening. The abutting golf course has a berm and trees along its common property line with the subject property, thus offering some screening and buffering. The Comprehensive Plan Objective II.B. is to "Minimize the detrimental impacts of higher intensity land uses and transportation facilities located near residential living environments."

The Unified Zoning Code requires a Conditional Use for a nightclub when it is located within 300 feet of a church or a place of worship, public park, school, or residential zoning. The site is not currently permitted for entertainment, including dancing for patrons. Approval of a Conditional Use for a nightclub would introduce live entertainment, or music by a DJ, dancing by patrons, and unlimited alcohol sales on this site. If approved, this may be the first night club in the area.

RECOMMENDATION: Introduction of a nightclub at this site may be introducing a new use into the area. The proposed nightclub site is currently a restaurant/drinking establishment (DER license), which limits its liquor sales to 50% of the total sales. The applicant is now requesting a Conditional Use for a nightclub, which allows unlimited liquor sales, regardless of whether or not there are food sales. The Conditional Use would also allow dancing, live music or music provided by a DJ. Because of the site's proximity to the single-family residences, a key consideration would be prohibiting outside loud speakers and all entertainment. A finger of a private golf course provides approximately 380 feet of separation and buffer from the night club site to the nearest single-family residence. A retail strip building is also located between the night club building and the residential neighborhood, offering some screening. The question of available parking must be resolved and if the required parking is not available the applicant can seek resolution through either an Administrative Adjustment or a Variance. Therefore 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) No outside loudspeakers or entertainment, including dancing.
- (2) A revised site plan will be provided showing, but not limited to, existing screening, landscaping and parking. If the required parking is not available the applicant must apply for an Administrative Adjustment or a Variance to resolve the issue. The night club shall be located in the building shown on the approved site plan.
- (3) 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 proposed night club is one of several tenants in a 10,500-square foot retail center, located on a portion of the LC zoned Lot 1, Block 3, Reflection Ridge 3rd Addition. Another LC zoned retail strip shares the same lot, and is located north of the site. A SF-5 Single-Family Residential ("SF-5") zoned private golf course abuts the north side of the site's lot. A SF-5 zoned subdivision(s) is built around the golf course. LC zoned medical and dental abut the east side of the site. An LC and GC General Commercial ("GC") zoned travel agency that offers chartered bus trips, abuts the west side of the site, with LC zoned strip retail located just east of the travel agency. There appear to be several full service restaurants in the area, but this may be the first night club in the area.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned LC, which accommodates office and retail uses, including a DER, the site's current use.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The unlimited liquor sales, the noise from the music and dancing, the hours of the nightclub and its parking all could have a detrimental impact on the adjacent SF-5 zoned residences. The conditions of the Conditional Use are intended to minimize the negative impact.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The Land Use Guide of the Comprehensive Plan identifies the site and the area as appropriate for "Local Serving Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located

adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed night club is located within an existing commercial development, with direct access onto the arterial 21st Street North. Existing commercial buildings are adjacent to its north, west and east sides. The adjacent north commercial building is located between the night club building and the adjacent residential neighborhood, thus offering some screening. The abutting golf course has a berm and trees along its common property line with the subject property, thus offering some screening and buffering. The Comprehensive Plan does not contain guidelines specifically for nightclubs, drinking establishments or taverns. However, the Plan does have an objective to minimize detrimental impacts of higher intensity land uses located near residential living environments. The conditions of Conditional Use are an attempt to realize much of this objective of the Plan.

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.