

## **Department of Planning + Urban Design**

Unified Government of Wyandotte County • Kansas City, Kansas

701 N 7<sup>th</sup> Street, Suite 423 Kansas City, Kansas 66101 www.wycokck.org/planning Phone: (913) 573-5750 Fax: (913) 573-5796 Email: planninginfo@wycokck.org

**To:** City Planning Commission

From: Planning and Urban Design Staff

Date: February 14, 2022

Re: Special Use Permit Petition SP2021-083

#### **GENERAL INFORMATION**

#### Applicant:

Aurelio & Maria Navarez

#### **Status of Applicant:**

Owner El Parasio Night Club and Restaurant 6550 Kaw Drive Kansas City, KS 66111

#### **Requested Action:**

Renewal of a Special Use Permit.

#### **Date of Application:**

November 29, 2021

#### Purpose:

To renew a Special Use Permit (expired 10/27/2021) to allow live entertainment at an existing drinking establishment and restaurant.

#### **Property Location:**

6550 Kaw Drive Kansas City, KS 66111

#### **Commission Districts:**

Commissioner At-Large #1: Melissa Bynum District #8 Commissioner: Andrew Davis

**Existing Zoning:** M-2 General Industrial District





Adjacent Zoning: North: M-2 General Industrial District

**South:** M-2 General Industrial and M-3 Heavy

**Industrial Districts** 

**East:** M-2 General Industrial District **West:** M-2 General Industrial District

Adjacent Uses: North: Industrial warehouse

South: Industrial warehouse and railroad right-of-

way

**East:** Commercial strip **West:** Auto repair and sales

**Total Tract Size:** 0.89 Acre

**Master Plan Designation:** The City-Wide Master Plan designates this property as

a Business Park. Business Park allows light industrial uses such as warehouse, distribution, office and limited retail and office (compatible with light industrial uses). Light industries are small-scale and non-polluting. Other uses may include business/research

parks and medical facilities.

Major Street Plan: The City-Wide Master Plan classifies Kaw Drive as a

Class A thoroughfare.

**Parking Requirement:** The M-2 General Industrial District requires

commercial uses within the district to use the C-3 District requirements. The C-3 Commercial District requires paved off-street parking at a ratio of not less than four spaces per 1,000 square feet of floor area in

the building. Section 27-667 of the Code of

Ordinances requires drinking establishments with live entertainment to have one (1) space for each 50 square feet of seating or assembly area plus one space for each remaining 200 square feet of total floor

area.

Overall, El Parasio is responsible for providing 40 parking spaces; There is plenty room on the lot for these spaces, however, no spaces are currently

marked.

Advertisement: The Wyandotte Echo – December 16, 2021

Letters to Property Owner - December 14, 2021 and

February 10, 2022

Public Hearing: February 14, 2022

Public Support: None to date.

Public Opposition: None to date.

#### **PROPOSAL**

<u>Detailed Outline of Requested Action</u>: The applicants, Auerlio and Maria Navarez, are requesting a renewal of Special Use Permit (SP-2016-79) for a drinking establishment, restaurant, and live entertainment venue at 6550 Kaw Drive. This property was approved for Special Use Permit (SP-2009-36) to operate a drinking establishment, in 2009 and was renewed in 2012 and 2014 for two (2) years and then again in 2016 for five (5) years.

City Ordinance Requirements: 27-592 through 27-606

#### RELATED ENFORCEMENT AND ACTION ITEMS

#### **Noise or Disturbance Complaints:**

- The applicant has had multiple police service calls since the last renewal of their Special Use Permit. These calls include calls for theft, battery, robbery, and damage.
- 2. 2021 Case 2021-00058288 Aggravated Robbery with bodily harm.
- 3. 2021 Case 2021-00023695 Theft of property or services; Value \$1,500 to \$25,000.
- 4. 2017 Case 2017-00124021 Aggravated Battery.
- 5. 2016 Case 2016-00054839 Criminal Damage.

#### **Building, Zoning, or Code Enforcement Complaints:**

1. There are no outstanding Notice of Violations on this property. The property has previously been cited by Code Enforcement twice in 2008 for Graffiti. These citations occurred before Mr. and Mrs. Navarez owned the property.

#### **Outstanding or Related Permits and Cases:**

- 1. The applicant has only received one (1) building permit since purchasing the property; The permit was for the installation for a hot water tank.
- 2. 2010 10390-00440 The applicant received a permit to install a hot water tank.

#### **FACTORS TO BE CONSIDERED**

#### 1. The Character of the Neighborhood.

The character of the neighborhood is comprised of industrial uses and commercial businesses. Kaw Drive is one of the major east/west commercial thoroughfares in the Muncie area. It is a mixed-use, urban neighborhood with commercial and industrial uses along Kaw Drive with residential uses to the north and the Kansas River to the south.

# 2. The zoning and uses of properties nearby and the proposed use's expected compatibility with them.

The zoning and uses of property are set out above. The continuation of the proposed use is relatively compatible with the surrounding uses considering the nature of the businesses directly adjacent to this establishment. Drinking establishments are permitted in the M-2 District with a Special Use Permit.

# 3. The suitability of the property for the uses to which it has been restricted. Will removal of the restrictions detrimentally affect nearby property.

The removal of the restrictions will not detrimentally affect nearby properties if the conditions are adhered to. A drinking establishment is a permitted use per the M-2 General Industrial District with a Special Use Permit, and the establishment is surrounded by many higher-intensity uses.

#### 4. The length of time the property has remained vacant as zoned.

The property is not vacant, it has been an active restaurant and drinking establishment with live entertainment since 2009.

#### 5. The degree of conformance of the proposed use to the Master Plan.

The City-Wide Master Plan does not address Special Use Permits. The City-Wide Master Plan designates this property as a Business Park. Business Park allows light industrial uses such as warehouse, distribution, office and limited retail and office (compatible with light industrial uses). Light industries are small-scale and non-polluting. Other uses may include business/research parks and medical facilities. The proposed use conforms to the Master Plan with a Special Use Permit.

# 6. Whether the proposed use will result in increasing the amount of vehicular traffic to the point where it exceeds the capacity of the street network to accommodate it.

The proposed use should not result in an increase in traffic as this is an existing use. The vehicular traffic created by this existing use is not expected to result in the increase of traffic to the point where it would exceed the capacity of the Class A thoroughfare.

7. Whether the proposed use is reasonably necessary for the convenience and welfare of the public and will not substantially or permanently injure the appropriate use, visual quality, or marketability of adjoining property.

The proposed use is not reasonably necessary for the convenience and welfare of the public as it is not a public good. The proposed use also has the possibility to affect the quality and marketability of adjoining and surrounding properties due to noise, vibration and illumination from live entertainment. This should not be a concern since the surrounding properties are industrial in nature.

8. Whether the noise, vibration, dust, or illumination that would normally be associated with such use is of such duration and intensity as to create problems for near-by property.

Noise, vibration, and illumination are typical issues for this type of use. While this is not expected to be a concern, since the surrounding uses are industrial in nature, these issues should still be properly managed.

9. Whether the proposed use will pollute the air, land or water.

The proposed use would not pollute air, land, or water as it is located in an existing building, in a built-out industrial area.

10. Whether the use would damage or destroy an irreplaceable natural resource.

The proposed use should not result in the damage or destruction of an irreplaceable natural resource as it is located in an existing, built-out commercial, industrial and residential area.

11. The relative gain to the public health, safety, and welfare as compared to the hardship imposed on the individual landowner or landowners.

The gain to the public health, safety and welfare would be minimal. A denial of this application would cause the business owner to have to find a new location for their business.

12. Whether the proposed use would result in overcrowding of land or cause undue concentrations of population.

The proposed use should not result in the overcrowding of land if it is properly managed and operates within the required conditions. The parking of cars on site may become an issue if not managed properly. The proposed use should not cause undue concentrations of population so long as the building's capacity limits are met, along with any additional conditions.

#### **PREVIOUS ACTIONS**

Approval of a Special Use Permit (#SP-2009-36) in 2009 for two (2) years.

Approval of a Special Use Permit (#SP-2012-39) in 2012 for two (2) years.

Approval of a Special Use Permit (#SP-2014-68) in 2014 for two (2) years.

Approval of a Special Use Permit (#SP-2016-79) in 2016 for five (5) years.

#### **NEIGHBORHOOD MEETING**

The applicant held a neighborhood meeting on December 27, 2021 at 6550 Kaw Drive.

Attached is the list of persons who attended the meeting, minutes, affidavit and/or submitted comments to the applicant (see the "Attachments" section of this report).

#### **KEY ISSUES**

Noise Vibration Illumination Safety Parking Lot Conditions Signage

#### STAFF COMMENTS AND SUGGESTIONS

#### Planning & Urban Design Comments:

- 1. Provide updated site photos for the following:
  - a. Condition of the Building Exterior:
  - b. Condition and location of trash enclosure; and,
  - c. Screening Elements from adjacent properties.

**Staff Response:** Please see attached photos provided by staff, dated December 13, 2021 for the most accurate representation of the site.

- 2. Provide an updated site plan that shows the following:
  - a. Two trees to meet the minimum landscaping requirements;
  - b. Required screening elements for the parking lot, such as fencing, trees, shrubs, or other screening elements;
  - c. Location of Trash enclosure; and,
  - d. Location of any additional on-site landscaping or waste receptacles.

**Applicant Response:** Please see attached site plan.

**Staff Response:** The attached site plan omits the trash enclosure; The current trash can is located to the east of the structure, on the adjacent parcel, also owned by the applicant.

3. Have there been any police calls, issues with neighbors, or other disturbances in the past five (5) years since approval of the Special Use Permit (SP-2016-79) for live entertainment.

**Applicant Response:** Other than the noted disturbances, there have been no additional police calls or issues since the last renewal.

- 4. Safety and Security
  - a. Please provide a security plan documenting how this establishment will ensure safety and security of the patrons, adjacent property owners, and the overall public.

**Applicant Response:** The applicant states that they employ two (2) guards on evenings where they have live-entertainment or large turn-out. The applicant stated however that they do not currently use an ID scanner. The applicant will be required to use an ID scanner pending approval of this Special Use Permit.

**Staff Response #1:** Please see attached security plan.

**Staff Response #2:** Major Raymond Nunez of the Kansas City, Kansas Police Department reviewed the security plan for El Parasio. Major Nunez recommended that if the club serves over 30 patrons, that the club should have additional security staff inside the building, and if the club serves over 80 patrons, that the club would be required to have additional interior security staff, as well as one off-duty police office on the exterior of the club.

In addition to that, Major Nunez recommends two (2) additional security cameras on the front of the building to monitor patrons that are coming and going, and one camera at the exit of the parking lot to capture license plates.

5. Are there any plans to repave the parking lot and apply stripes for parking spaces? If so, this parking shall include parking spaces that follow the proper Americans with Disabilities Act (ADA) requirements.

**Applicant Response**: The applicant does not intend to fully repave the parking lot, citing financial hardships due to the downturn in business due to the COVID-19 pandemic. The applicant states that they do patchwork where and when it is needed. A site Visit on December 13, 2021 confirms this. Additionally, the applicant has stated the intention to apply stripes to the parking lot that meet Code of Ordinances Section 27-669 (a)-(c).

6. Does the applicant intend to recycle?

**Applicant Response:** The applicant does not intend to recycle or place recycling bins on the property.

7. Did the applicant receive the proper sign permits for the Department of Planning + Urban Design?

**Applicant Response:** The applicant has not received a permit for the wall signs currently posted on the building. The applicant has stated they are willing to obtain the proper sign permit from Planning + Urban Design, or remove the signs altogether.

#### **Planning Engineering Comments:**

- A) Items that require plan revision or additional documentation before engineering can recommend approval:
  - 1) None
- B) Items that are conditions of approval:
  - 1) None
- C) Comments that are not critical to engineering's recommendations for this specific submittal, but may be helpful in preparing future documents:
  - 1) None

#### STAFF RECOMMENDATION

Staff recommends that the City Planning Commission make the findings contained within the staff report related to *Factors to be Considered*, and *Key Issues* and recommend **APPROVAL** of Petition **SP2021-083** subject to all comments and suggestions outlined in this staff report.

- 1) The applicant shall build an enclosure around their trash receptacles on the east side of their property;
- 2) The applicant shall either patch their parking lot or repave the parking lot for the parcel in which their reestablishment resides on;
- 3) The applicant shall install parking space striping for the required forty (40) parking spaces in the manner outlined by the Code of Ordinances Section 27-669;
- 4) Per recommendation by Major Raymond Nunez of the Kansas City Kansas Police Department, the applicant shall install two (2) security cameras on the front of the building and one (1) security camera at the exit of the premises;
- 5) Per recommendation by Major Raymond Nunez of the Kansas City Kansas Police Department, anytime the club hosts 30 or more patrons, additional interior security shall be provided, and any time the club hosts more than 80 patrons, the club shall provide both additional interior security and an off-duty police officer to monitor the exterior;
- 6) Per Code of Ordinances Section 27-577(g), if the applicant wishes to complete this work in phases, "the first phase of construction should

- include perimeter landscaping, entry drives, and detention ponds. Future phases must indicate interim landscaping";
- 7) Per Section 27-723(a), no sign (including the structure or sign surface) shall be erected, installed, altered, relocated, rebuilt, or refaced until the Unified Government issues a sign permit. Only those signs permitted in this division shall be granted a sign permit. Contact the Department of Planning and Urban Design to begin this process;
- 8) The applicant shall remove the two (2) signs on the south elevation that show the menu and that read "now open for lunch" and the sign that is mounted to the right of the main entrance on the south elevation, as those signs do not have the proper sign permits, nor do they conform to the sign ordinance Sec 27-720 Sec 27-739;
- 9) All exterior lighting on the building must be hooded or controlled to direct light 90 degrees downward. No light may cast light or glare off the property or onto the public street;
- 10) The applicant, contractors, subcontractors, and related third parties shall comply with Planning Engineering Comments for General Engineering, Erosion Control, Sanitary Sewer, Storm Drainage, Stormwater Quality, Streets and Retaining Walls, as applicable;
- 11)All entertainment must cease by at least 1:30AM;
- 12) Doors and windows must stay closed during any entertainment performance;
- 13) Any illumination that results from an entertainment event shall not be seen or otherwise impact adjacent uses;
- 14) Must comply with Unified Government Security Ordinance (Chapter 4, Article II Division 1, Sec 4-104,f), including:
  - a. Must have at least one (1) security personnel stationed at the door at all times that is able to monitor any required parking area. Additional security guards may be required depending on the building capacity;
  - b. Patrons are not allowed to loiter in their vehicles. If so determined, they will be asked to leave;
  - c. An I.D. scanner will be used at all times;
  - d. At closing time, all security personnel will begin from a designated area to move patrons towards the exit and then to their vehicles.
- 15)The Special Use Permit is not valid for the approved use to be in operation until all the conditions of approval are met. The Applicant acknowledges that both the property owner and the business owner are collectively responsible to ensure that the use of the property is compliant with all ordinances, conditions and other requirements of this approval. Failure to meet all these requirements may result in revocation of this permit. The

property may also be subject to enforcement actions and administrative citations;

- 16) Subject to approval, a \$125.00 ordinance publication fee must be submitted to the Planning and Urban Design Department (checks made payable to the Unified Treasurer) within 30 days following the Unified Government Board of Commissioners meeting. If a check is not submitted within 30 days, the petition becomes invalid. The approval will not go into effect until the ordinance is published in the newspaper; and,
- 17) The Special Use Permit shall be valid for five (5) years from the publication of the associated Ordinance. The Applicant is solely responsible for renewing their Special Use Permit. The Applicant should contact the Planning and Urban Design Department no less than two (2) months prior to the expiration of the permit in order to begin the renewal process. Any application for renewal that is submitted after the expiration date will be considered a new application with the associated application fee and approval term. If the renewal deadline is not met, all operations must cease until such time as a new Special Use Permit is approved.

#### **ATTACHMENTS**

Aerial Map
Zoning Map
Land Use Map
Site Plan
Security Plan
Security Plan Recommendations by Major Raymond Nunez of KCKPD
Applicant Response Letter – Dated December 20, 2021
Neighborhood Meeting Minutes, Sign-In, and Affidavit
Photographs of the Property, taken by Staff – Dated December 13, 2021

#### REVIEW OF INFORMATION AND SCHEDULE

Action	Planning Commission	Unified Government Commission
Public Hearing	February 14, 2022	March 3, 2022
Special Use	•	

STAFF CONTACT: James Molloy

jlmolloy@wycokck.org

#### **MOTIONS**

I move the Kansas City, Kansas City Planning Commission **RECOMMEND APPROVAL** of Petition **SP2021-083** to the Unified Government Board of Commissioners as meeting all the requirements of the City code and being in the interest of the public health, safety

and welfare subject to such modifications as are necessary to resolve to the satisfaction of City Staff all comments contained in the Staff Report; and the following additional requirements of the Kansas City, Kansas City Planning Commission:

1	····;
2	; And
3	·

#### OR

I move the Kansas City, City Planning Commission **RECOMMEND DENIAL** of Petition **SP2021-083**, to the Unified Government Board of Commissioners as it is not in compliance with the City Ordinances and as it will not promote the public health, safety and welfare of the City of Kansas City, Kansas; and other such reasons that have been mentioned.

## **ATTACHMENTS**

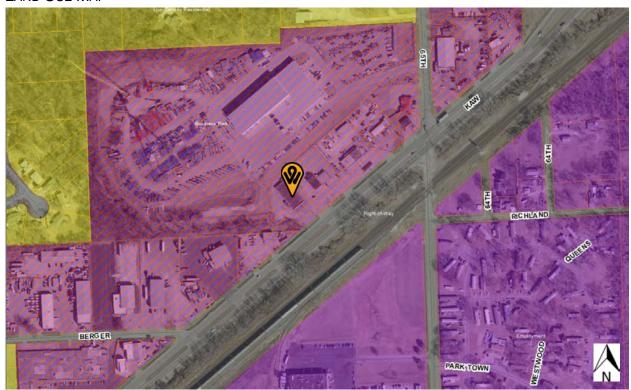
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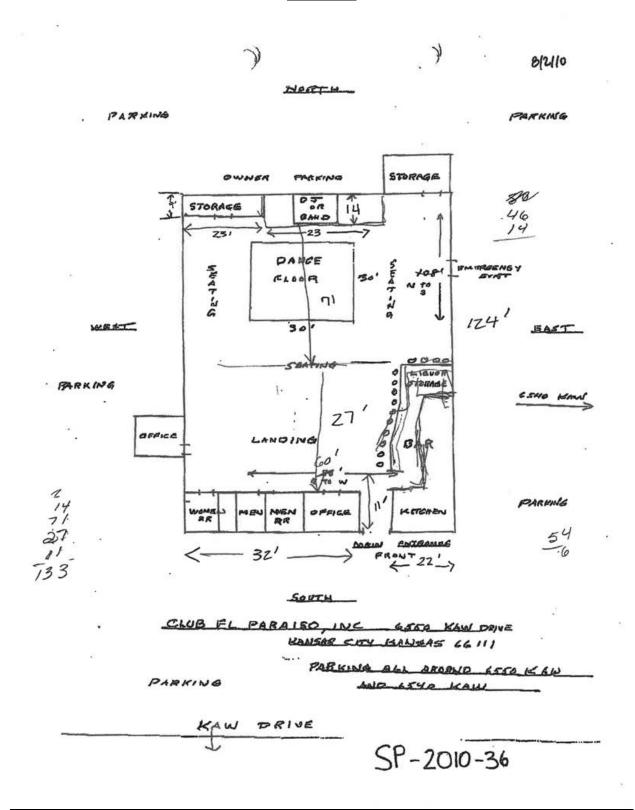


#### ZONING MAP

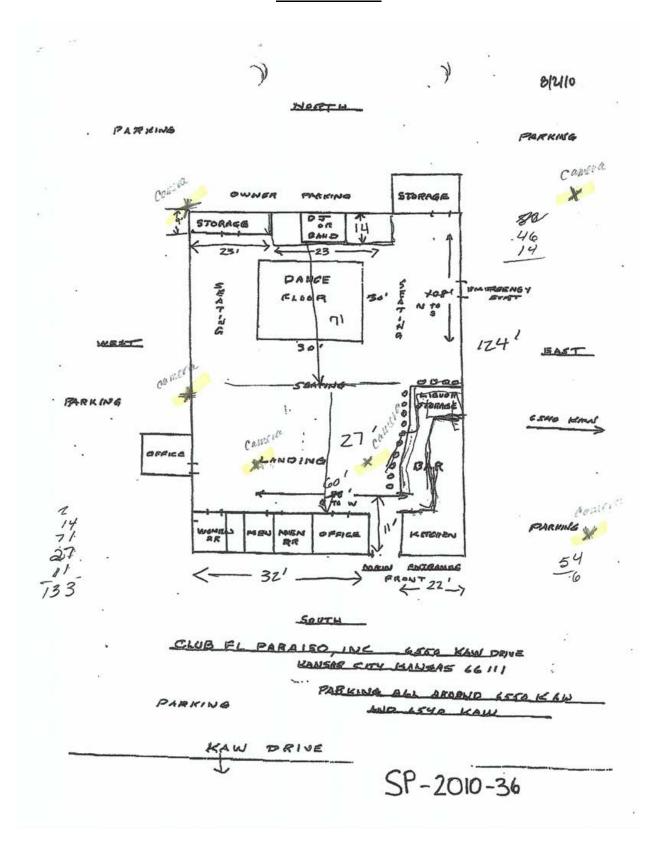


## LAND USE MAP





#### **SECURITY PLAN**



Janet Parker

James Molloy

Urban Planning and Land Use Department

**Unified Government** 

701 North 7th Street Room 423

Kansas City, Ks 66101

RE: Aurelio & Maria Nevarez/Club El Paraiso, Inc.

Petition # SP2021-083 for Special Use Permit

Location: 6550 Kaw Drive Kansas City, Ks 66111

January 31, 2022

#### Dear Janet and Staff:

Overall, attendance continues to be significantly below the applicant's expectations. The
average attendance varies depending on the day of the week and type of entertainment as
shown in the following chart. Mr. Nevarez advised that sometimes they will close early because
they have no patrons.

DAY	ENTERTAINMENT	AVG ATTENDANCE
MONDAY	NONE	10 OR LESS
TUESDAY	NONE	10 OR LESS
WEDNESDAY	NONE	10 OR LESS
THURSDAY	NONE	10 OR LESS
FRIDAY	DJ / BAND-SOMETIMES	25
SATURDAY	DJ/ BAND-SOMETIMES	80
SUNDAY	DJ/ KARAOKE	25

- 2. Aurelio & Maria Nevarez advises that there have been no changes to the security. They continue to have two private duty security officers -one inside and one outside. When they have entertainment that will potentially bring in over 80 customers, they hire off-duty KCKPD through their contact Jesus Casas. For the large attendance events they will have two off-duty officers in addition to their two private duty security.
- 3. Applicant currently possess all current State and City licensing and will comply with security codes, alcohol ordinances, and all City and State statutes.
- 4. The requested floor plans are enclosed. They have 6 cameras on site (4 outside and 2 inside) and each has been noted on the floor plans.

#### SECURITY PLAN RECOMMENDATIONS BY MAJOR RAYMOND NUNEZ OF KCKPD

#### Good afternoon.

I reviewed the plan and layout of the facility. It appears that they have enough security officers to cover the amount of people they claim to have at one time. I recommend anything over 30 patrons would require additional security staff inside and anything over 80 would require interior security staff plus off-duty police officers to manage the exterior. In the event a situation happens inside the building, off-duty officers can enter to assist interior security staff.

#### Security cameras:

All the cameras they currently have are in good positions. However, I recommend two ADDITIONAL cameras on the front of the building to monitor patrons coming and going. Plus, one camera at the parking lot exit to capture vehicle license plates. The license plate could potentially be useful if a shooting or robbery occurs. If you have questions let me know.

## Raymond Nuñez

Assistant Chief Kansas City KS Police Dept. 0: (913)573-6014 0: (913) 229-0871

## DRAFT REPORT RESPONSE - DATED DECEMBER 20, 2021

C	)raft Response, In-Person 12120/21
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	in business related to the pandemic
	Applicant instants to mark parking
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6.	No plans to recycle currently
	Applicant is willing and offer to follow

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## NEIGHBORHOOD MEETING LETTER – DATED DECEMBER 14, 2021

#### **Neighborhood Meeting Request**

De	cember 14, 2021
Clu	b El Parasio Inc.
655	50 Kaw Drive
Kar	nsas City, Ks 66111
SUI	BJECT: Neighborhood Meeting
I/w	re have filed an application with the Department of Urban Planning and Land Use # SP2021-083.
The	e purpose of this Special Use Permit is for Live Entertainment at the following address:
65	50 Kaw Drive Kansas City, Kansas 66111.
I/W	e are having a neighborhood meeting on December 27, 2021 at 6pm at the following address:
655	60 Kaw Drive Kansas City, Kansas 66111.
The	e purpose of this meeting is to explain the proposal and to answer any questions/concerns you may
	e look forward to seeing you at the neighborhood meeting. If you are unable to attend, please stact me at the address/phone number listed below.
This	s will be a socially distanced meeting and masks are required.
Ma	ria & Aurelio Navarez
(77	3) 817-1107

#### AFFIDAVIT - NEIGHBORHOOD MEETING

STATE OF A	nsas	) ) SS:			
COUNTY OF	Vyandatte	_) 55:			
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My commission	n expires	of	200		
		Notary Pub	lic		

#### **Minutes for Neighborhood Meeting**

Application Number: SP2021-083					
December 27, 2021					
6550 Kaw Drive					
Kansas City, Ks 66111					
Meeting called to order at: 600 pm					
Names of people in attendance:					
Number of people in attendance:					
Introductions:					
	Presentation by applicant/and or team (explain what information was given to those in attendance and a summary of what the speaker said).				
Questions and answers (include the following):					
Who asked question or gave comment					
<ul> <li>What was the question or comment</li> </ul>					
<ul> <li>Who Answered the question/comment</li> </ul>					
<ul> <li>What was the answer given</li> </ul>					
Meeting Adjourned at: pm					
Minutes taken by: Maria Q-Marianez					

#### Neighborhood Meeting Sign-In – Dated December 27, 2021

# SP2021-083

**Neighborhood Meeting Request Attendance List** December 27, 2021 6pm BARB KILL/ TURNER COMMUNITY CONNECTION 5548 PAWNEE DRIVE KANSAS CITY, KS 66106 COMMISSIONER ANDREW DAVIS 701 NORTH 7TH STREET, 9TH FLOOR KANSAS CITY, KS 66101 COMMISSIONER MELISSA BYNUM 701 NORTH 7TH STREET, 9TH FLOOR KANSAS CITY, KS 66101 AURELIO & MARIA NEVAREZ Clevelei Meus & Maira a Mairay 6550 KAW DRIVE KANSAS CITY, KS 66111 PROPERTY OWNER 6634 KAW DRIVE KANSAS CITY, KS 66111 DUNN REALTY INC 1001 LOCUST ST KANSAS CITY, MO 64106 KAW DRIVE PROPERTY LLC 10027 KNOW DR. OVERLAND PARK, KS 66212 AURELIO & MARIA NEVAREZA LENE Lio pour ang Maria a. Mavarez 7748 SWARTZ RD. KANSAS CITY, KS 66111

NEXTRAN PROPERTIES, LLC 1986 W. BEAVER ST JACKSONVILLE, FL 32209

6634 KAW DR. KANSAS CITY, KS 66111

REX J. BURNS AND SHIRLEY J BURNS TRUSTS \_

## PHOTOGRAPHS OF THE PROPERTY, PROVIDED BY STAFF – DATED DECEMBER 14, 2021













### PHOTOGRAPHS OF THE PROPERTY, PROVIDED BY STAFF – DATED DECEMBER 14, 2021. CONT.









