



Department of Planning + Urban Design

Unified Government of Wyandotte County • Kansas City, Kansas

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To: City Planning Commission
From: Planning and Urban Design Staff
Date: May 9, 2022
Re: **Special Use Permit SP2022-035**

GENERAL INFORMATION

Applicant:
Brett Epp
DBA Hickory Union Moto

Status of Applicant:
Tenant
279 Orchard Street
Kansas City, KS 66101

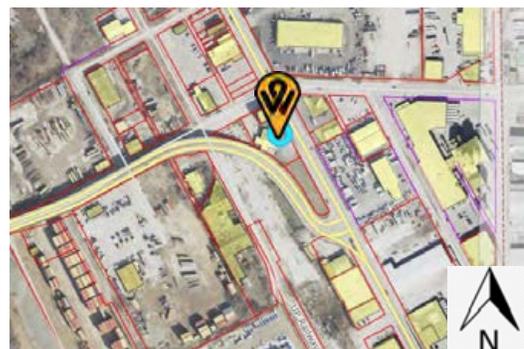
Requested Action:
Approval of a Special Use Permit

Date of Application:
February 28, 2022

Purpose:
The renewal of a Special Use Permit for Live Entertainment.

The renewal of a Special Use Permit for operation of a community motorcycle repair garage. The prior Special Use Permit expired in January 2022.

Property Location:
10 South James Street
Kansas City, KS 66118



Commission Districts: Commissioner At Large, District #2: Tom Burroughs
District Commissioner #2: Brian McKiernan

Existing Zoning: M-3 Heavy Industrial District

Adjacent Zoning:
North: M-3 Heavy Industrial District
South: M-3 Heavy Industrial District
East: M-3 Heavy Industrial District
West: M-3 Heavy Industrial District

Adjacent Uses:
North: Parking lot and Vacant
Railway Warehouse
South: Vacant lot
East: Parking lot
West: Parking lot and Central Avenue
Viaduct

Total Tract Size: 0.56 Acre

Master Plan Designation: The City-Wide Master Plan designates this property as Industrial. Allowed industrial uses include industrial processing, manufacturing, heavy truck traffic, excessive noise, potentially noxious uses, and outdoor storage. Discouraged uses include all residential usages.

Major Street Plan: The Major Street Plan designates South James as a Class B Throughfare.

Parking Requirement: Sec. 27-467(e) states that uses in this district require paved off-street parking at a ratio of no less than four (4) spaces per 1,000 square feet of floor area in the building. The subject property's square footage requires a minimum of 22 parking spaces, while only eight (8) are provided.

Sec. 27-668(a)(12) Taverns or private clubs serving alcoholic or cereal malt beverages, bingo parlors, discotheques, dance halls must provide 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. The subject property requires 42 stalls, while only eight (8) are provided.

The Applicant received a Variance for Required Parking in 2020 of 34 Spaces, thus meeting this requirement.

Advertisement:	<u>The Wyandotte Echo</u> – March 17, 2022 Letters to Property Owners – March 18, 2022 and April 5, 2022
Public Hearing:	May 9, 2022
Public Support:	None to date.
Public Opposition:	None to date.

PROPOSAL

Detailed Outline of Requested Action: The Applicant, Brett Epp with Hickory Union Moto, is seeking the renewal of a Special Use Permit for the subject property at 10 South James Street. The Applicant is requesting the Renewal of Special Use Permit which expired January 30, 2022 so that they may continue to have community events that feature live entertainment and alcohol consumption and to continue to operate a community motorcycle repair garage. Community garage members receive educational guidance on motorcycle repair and are provided with shared-use spaces to repair and build their personal motorcycles, similarly to a trade or craft guild. The garage’s community members gather periodically for events to showcase their work to other members or the public and have smaller, less-public events such as barbeques or watch parties throughout the year to foster the sense of community among members. The prior Special Use Permit was for two (2) years and the Applicant is seeking a five (5) year renewal term.

City Ordinance Requirements: 27-592 through 27-606

RELATED ENFORCEMENT AND ACTION ITEMS

Noise or Disturbance Complaints:

1. The current property owner has received no disturbance complaints. There are several complaints registered to the property, although these complaints are not a result of the business’s operation, but are complaints made by the owner due to the frequency of hazards under the Central Avenue Bridge and Railroad right of way. Both properties have no legal address. The Applicant frequently reports abandoned vehicles, dumping, vagrancy, and other similar concerns relative to vacant property in an industrial area. The Applicant has been working with SOAR, Public Works, and Community Policing to reduce dumping and illegal activity on or near the property.

Building or Code Enforcement Complaints:

1. The subject property received several code enforcement complaints related to abatement, vacancy, and environmental issues. These were prior to the

Applicant's lease. There have been no violations since the applicant's lease on the property.

- a. 2013: 13220-00225 – graffiti
- b. 2003: HIS03-0487 – abatement

Outstanding or Related Permits and Cases:

1. The applicant has two (2) prior Planning Cases:
 - a. 2019: SP-2019-70 – Special Use Permit for Live Entertainment with Alcohol Consumption at a Community Motorcycle Repair Garage
 - b. 2019: BOZA 2364 – Variance for required minimum parking

FACTORS TO BE CONSIDERED

1. The Character of the Neighborhood.

The character of the neighborhood is primarily industrial in nature, with a mixture of parking lots and trucking related businesses along James Street. The Central Avenue Bridge connects to James Street adjacent to this property's frontage. Buildings in this area are a mix of masonry and metal. The subject property's building is a former fire station.

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

The zoning uses of the nearby properties are set out above. Other uses in the area include trucking companies, diesel repair, firework sales, roofing companies, and a lounge-style bar. A community motorcycle repair garage is highly compatible.

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 property is suitable for small gatherings serving club members because it is an industrial area where automotive establishments are popular. The current zoning allows for uses considered the most adverse, including animal processing, hazardous chemicals, salvage yards, railyards, and heavy manufacturing, thus the occasional live entertainment with alcohol consumption will not be adversely affect nearby property.

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

The subject property is not vacant, and Hickory Union Moto has been at the location since 2015.

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

Special Use Permits are not addressed in the Master Plan. The current Master Plan Designation of Industrial includes industrial processing, manufacturing, heavy truck traffic, excessive noise, potentially noxious uses, and outdoor storage. Commercial and service usages are encouraged as supplemental neighborhood conveniences. Discouraged uses include all residential usages. A community motorcycle repair garage's operation is considered highly compatible to the Master Plan. The addition of live entertainment may not be directly compatible with an industrial use, however, it would be less impactful to a district already known for uses including noise or hazards than it would be a residential or other commercial district, when combined with motorcycle repair. The proposed use is conforming 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 use will not result in increasing the amount of vehicular traffic to the point where it exceeds the capacity of the Class B 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 those who benefit will be those who patronize the shop and its members. The use will not substantially or permanently injure the appropriate use, visual quality, or marketability of adjacent property given the industrial nature of surrounding uses.

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, dust, and illumination are issues that may be associated with the operation of a motorcycle repair garage or with live entertainment, although nearby properties operate in a similar manner with heavy traffic and noise during day and night hours during the weekdays and weekends.

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

The applicant is not proposing any new structures currently, however, the proposed renovation would allow for the operation of an automotive-related business that may include automotive chemicals such as oil and tire storage. The applicant has utilized free oil recycling at a local automotive retailer and stores

tires for periodic disposal and recycling. There is no foreseen pollution of air, land, or water as proper disposal methods are being utilized.

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

The subject property is within a built-out industrial area and its continued operation would not damage or destroy an irreplaceable natural resource. The Kansas River is west of the property but would see no impact as long as proper disposal methods for tires, trash, and oil disposal are properly utilized. The applicant has previously stated they take their tires to a tire recycling facility on a quarterly basis and recycle their oil chemicals at a local Automotive Retailer.

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

The relative public gain is negligible, as the operation of a community motorcycle garage is not considered reasonably necessary for the health, safety, or welfare of the public. If approved, the impact on adjacent landowners is negligible as the surrounding uses are more intense. Should the Special Use Permit not be approved, the owner and community members would lose the ability to operate a hobby activity in an area with minimal negative impact on surrounding property owners and there would be a vacant building in the neighborhood, which may be difficult to lease otherwise due to its unique former use as a fire station.

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

When evaluating concentrations of population, places of assembly are a concern if not properly managed, however, the majority of floor space is used for bike space and tools rather than general floor space for large groups of people. When live events do occur, they are typically in the outdoor spaces such as the front parking lot. The Applicant is currently under negotiations with Union Pacific Railway to lease the vacant but paved parking lot to the rear of the property, which provides ample parking for the subject property and surrounding neighbors.

NEIGHBORHOOD MEETING

The applicant held a neighborhood meeting in person on-site on April 25, 2022. Attached is the list of persons who attended the meeting, minutes, affidavit and/or submitted comments to the applicant.

KEY ISSUES

Automotive Use
Parking and Traffic
Overcrowding
Hazard Disposal
Landscaping
Live Entertainment
Noise, Vibration, Dust, and Illumination
District Compatibility

STAFF COMMENTS AND SUGGESTIONS

Planning and Urban Design Comments:

General:

1. The existing land use designation for the subject property, Industrial, includes uses such as industrial processing, manufacturing, heavy truck traffic, excessive noise, potentially noxious uses, and outdoor storage. Discouraged uses include all residential usages. The land use does not change with the granting of the Special Use Permit. The Special Use Permit allows for the Applicant to operate a community motorcycle repair shop with live entertainment and alcohol service.
2. The Subject Property Resides within a 100-Year Floodplain SHFA Zone.
3. Hours of operation are to remain consistent with previously stated operational use.
4. The applicant has stated they do not intend to host more than four (4) major events that would be open to the public, which is consistent to their prior Special Use Permit, however, club group gatherings such as watch parties for sporting events, outdoor gatherings for barbeques, outdoor movie viewing, or similar activities have been defined by staff as also being live entertainment as they have the possibility for negative externalities of noise and illumination to the public, thus staff has expanded the scope of their Special Use Permit to include these activities and uses.
5. Although a prior plan to open a kitchen and add food service was previously discussed, the applicant has chosen not to continue with that plan and to remain focused on the activity of motorcycle repair. The applicant understands that revising this plan may result in a change of building occupancy and may change the terms of their Special Use Permit or require an additional variance for parking.
6. The applicant has met the requirements of the Special Use Permit, including maintaining hours of operation and striping the parking lot and installing new landscaping.

Planning Engineering Comments:

1. Items that require plan revision or additional documentation before engineering can recommend approval:
 - (a) None
2. Items that are conditions of approval:
 - (a) None
3. Comments that are not critical to engineering's recommendations for this specific submittal, but may be helpful in preparing future documents:
 - (a) 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 **SP2022-035** subject to all comments and suggestions outlined in this staff report, and summarized by the following conditions:

1. **Hours of operation are to remain consistent with previously stated operational use;**
2. **All entertainment must cease by 1:30 AM;**
3. **Alcohol consumption must remain on the subject property and not continue onto overflow parking;**
4. **Security and staffing during events must follow the ratios outlined in Section 4-104(f);**
5. **Any automotive-related business in Wyandotte County that is required to obtain any Special Use Permit, shall be responsible to ensure that the business operations are at all times compliant with all applicable local ordinances and State Statutes and Regulations [27-463 through 27-470; 27-592 through 27-616] [KSA 65-3424, KAR 28-29-29 through 28-29-33]. Proof of proper disposal of waste tires with a Kansas State permit-holding waste tire collector or waste tire processor is required to be maintained at the management office and provided to any enforcement staff upon request;**
6. **Any automotive-related business in Wyandotte County that is required to obtain any Special Use Permit shall be responsible to ensure that the business operations are at all times compliant with all applicable local ordinances and State Statutes and Regulations [27-463 through 27-470; 27-592 through 27-616] [KSA 65-3424, KAR 28-29-29 through 28-29-33]. Proof of proper disposal of waste tires with a Kansas State permit-holding waste tire collector or waste tire processor is required to be maintained at the management office and provided to any enforcement staff upon request;**
7. **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;

8. Any business in Wyandotte County that is required to obtain any Special Use Permit shall be responsible to ensure that all vehicle parking or vehicle storage must occur entirely on private property of the same land parcel and be at all times be compliant with all applicable local ordinances [27-463 through 27-470; 27-592 through 27-616; 27-667 through 27-676; 35-468 through 35-492]. No such business shall use the public right of way for any business operation. Any shared parking with another property is only allowed by a properly executed legal document that has been filed with the Unified Government and ratified by the City Planning Commission. Failure to comply at all times with parking regulations will result in municipal summons, administrative citation, or revocation of the Special Use Permit;
9. 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 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; and,
10. 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.

ATTACHMENTS

Aerial Map
Zoning Map
Land Use Map
Neighborhood Meeting Information
Staff Site Visit Photos Dated May 5, 2022

REVIEW OF INFORMATION AND SCHEDULE

Action	Planning Commission	Unified Government Commission
Public Hearing Special Use	May 9, 2022	May 26, 2022

STAFF CONTACT: **Kallie McLaughlin**
kdmclaughlin@wycokck.org

MOTIONS

I move the Kansas City, Kansas City Planning Commission **RECOMMEND APPROVAL** of Petition **SP2022-035** 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. _____ .

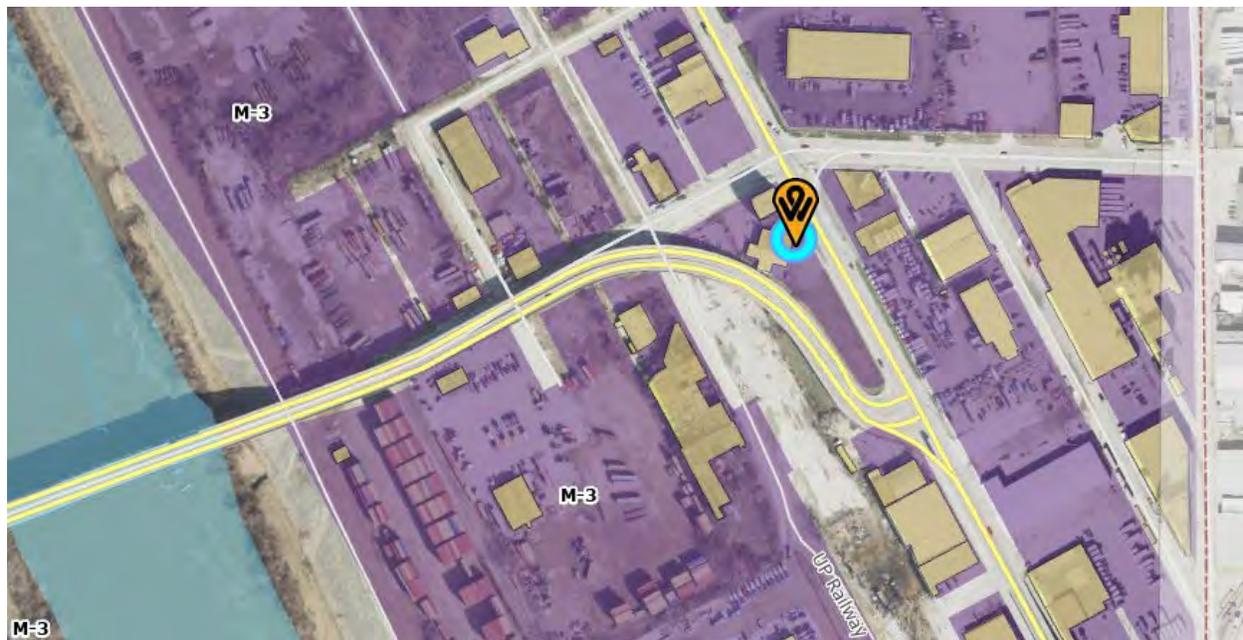
OR

I move the Kansas City, City Planning Commission **RECOMMEND DENIAL** of Petition **SP2022-035**, 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 met.

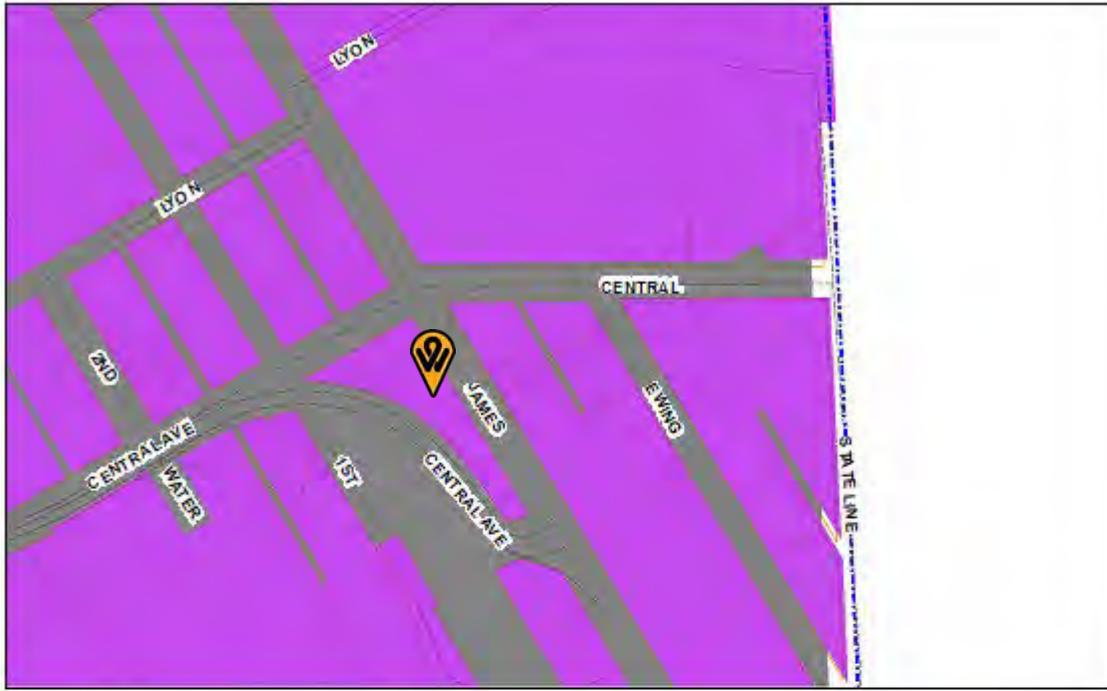
AERIAL MAP



ZONING MAP



LAND USE MAP



Legend

City-Wide Master Plan

<all other values>

FUTURE_LAN

- Utilities
- Right-of-Way
- Urban Density
- Agricultural
- Neighborhood Commercial
- Community Commercial
- Business Park
- Floodway
- Regional Commercial
- Future Residential
- Rural-Density Residential
- Employment
- High-Density Residential
- Medium Density Residential
- Low-Density Residential
- Mixed-Use
- Parks/Open Space
- Public/Semi-Public

NEIGHBORHOOD MEETING INFORMATION

HUM, LLC Neighborhood meeting minutes:

Application Number: SP2022-035

Date and Location: 4/25/2022

Meeting called to order at: 6:00 PM

Names of people in attendance: None, aside from applicant, counsel and employees.

No one from public attended meeting. Applicant waited 35 minutes from start of meeting before leaving.

Meeting adjourned at: 6:35 PM

Minutes taken by: Ross Henry Stewart

(unavailable)