

RESOLUTION NO. 192-2017

Published on:

December 6, 2017

A RESOLUTION CHANGING THE ZONING CLASSIFICATION AND GRANTING A CONDITIONAL USE FOR CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D AS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY KANSAS, DECEMBER 12, 1984, AND SUBSEQUENTLY AMENDED.

WHEREAS, THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS APPROVED ZON2010-0040 AND CON2010-00038 BY A UNANIMOUS (5-0) VOTE ON DECEMBER 8, 2010, SUBJECT TO PLATTING THE PROPERTY.

WHEREAS, THE PROPERTY SUBSEQUENTLY HAS BEEN PLATTED AS DOWNWIND ESTATES 2ND ADDITION.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS

SECTION I. That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-D of the Wichita Sedgwick County Unified Zoning Code, a Conditional Use for the lands legally described hereby is approved as follows:

Case No. ZON2010-00040 and CON2010-00038

A Zone Change from RR Rural Residential to SF-20 Single-Family Residential on property generally located south of 71st Street South and west of 143rd Street East legally described as follows:

Downwind Estates 2nd Addition, Sedgwick County, Kansas

A Conditional Use to allow expansion of an existing airport on property generally located south of 71st Street South and west of 143rd Street East legally described as follows:

Downwind Estates 2nd Addition, Sedgwick County, Kansas

SECTION II. That application ZON2010-00040 and CON2010-00038 is hereby approved and the Conditional Use is subject to the following conditions:

- (1) The subject property shall be developed in general conformance with the approved site plan. The site plan must be approved within 60 days of approval of the Conditional Use. A 35-foot building setback shall be established around the entire parameter of the site. Provide both a 24" (x) 36" copy and an 11" (x) 17" copy of the approved site plan.
- (2) Operation of a heliport, manufacturing and/or assembly, vocational training, retail, office uses and any other use not permitted by right or by Conditional Use in the SF-20 zoning

district is not permitted until there is a change to the appropriate zoning or approval of a Conditional Use.

- (3) The airport may be used for sky diving and hot air balloon activities, as outdoor recreation and entertainment.
- (4) Development and use of the subject site shall be in accordance with all applicable federal, state, and local rules and regulations, including building and health codes, and operational standards.
- (5) Any on-site sewer system used on the application area shall meet Sedgwick County standards. No building permits shall be issued until the on-site sewer system is improved.
- (6) No building permits shall be issued until all private roads are constructed to Sedgwick County standards.
- (7) The applicant shall obtain any required rural water district taps prior to the issuance of building permits.
- (8) As applicable, all utilities will be located underground.
- (9) If VAC2010-00012 is approved, all conditions attached to this case (VAC2010-00012) will apply to both CON2010-00004/CON2010-00038 and ZON2010-00003/ZON2010-00040.
- (10) 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.

SECTION III. That upon the taking effect of this Resolution, the notation of such Conditional Use shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director of the Wichita-Sedgwick County Metropolitan Area Planning Department.

SECTION IV. That this Resolution shall take effect and be in force from and after its adoption by the Governing Body and publication in the official county newspaper.

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Commissioners present and voting were:

DAVID M. UNRUH
MICHAEL B. O'DONNELL, II
DAVID T. DENNIS
RICHARD RANZAU
JAMES M. HOWELL

Aye
Aye
Aye
Aye
Aye

Dated this 29th day of November, 2017.

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

ATTEST:

KBA
KELLY B. ARNOLD, County Clerk



David M. Unruh
DAVID M. UNRUH, Chairman
Commissioner, First District

M. B. O'Donnell, II
MICHAEL B. O'DONNELL, II, Chair Pro Tem
Commissioner, Second District

APPROVED AS TO FORM:

Justin M. Waggoner
JUSTIN M. WAGGONER,
Assistant County Counselor

David T. Dennis
DAVID T. DENNIS
Commissioner, Third District

Richard Ranzau
RICHARD RANZAU
Commissioner, Fourth District

James M. Howell
JAMES M. HOWELL
Commissioner, Fifth District

STAFF REPORT

MAPC November 2, 2010

CASE NUMBER: ZON2010-00040 & CON2010-00038

APPLICANT/OWNER: Paul A. and Tasha D. Brackeen Crosswinds Aviation c/o Greg Thomas & Steve Logue

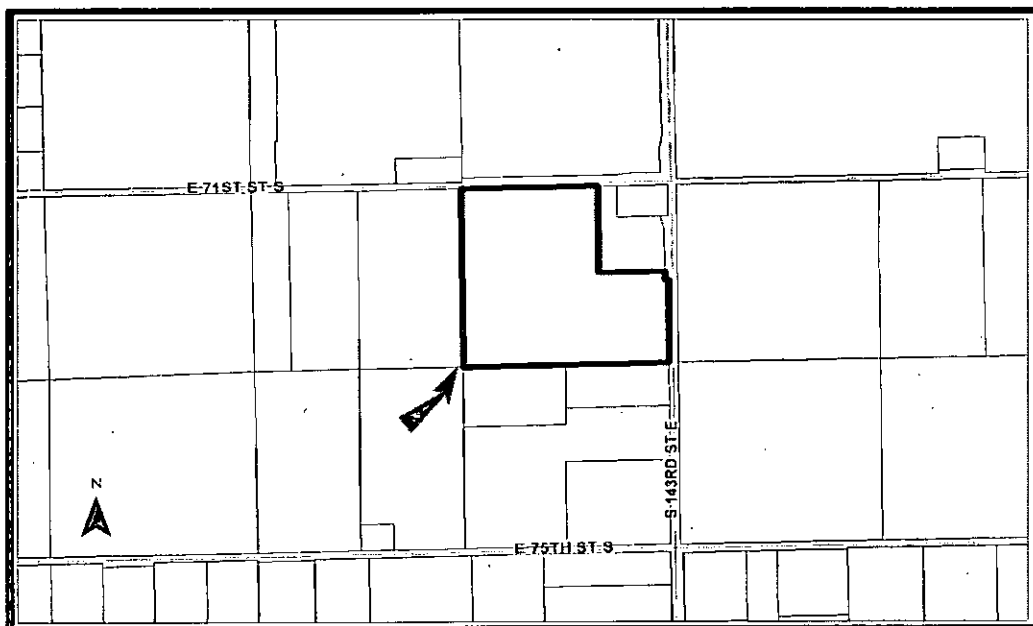
REQUEST: A re-hearing of ZON2010-00003 & CON2010-00004; A zoning request for SF-20 Single-Family Residential ("SF-20") and an amendment to Conditional Use CON2004-00014, to allow expansion of an existing airport

CURRENT ZONING: RR Rural Residential ("RR")

SITE SIZE: Approximately 33.3-acres

LOCATION: Generally located south of 71st Street South and west of 143rd Street East. (BOCC #5)

PROPOSED USE: Mostly 1.2 to 1.7-acre single-family residential lots, with optional hangers for light aircraft and expansion of existing runway



BACKGROUND: On June 17, 2010 the MAPC considered and recommended approval (12-0-1) of CON2010-04 and ZON2010-03. However the previous ownership list as certified by a title company did not provide current ownership for all property owners within 1,000 feet of the application area, thus the need to re-advertise and re-hear CON2010-04 and ZON2010-03. The Staff report is the same except as noted in bold and underlined and in the "CASE HISTORY" portion of this MAPC report; the following is the June 17, 2010 MAPC staff report.

The applicants are requesting an amendment to CON2004-00014, which was a Conditional Use for an expansion of services, buildings and uses on an existing 80-acre airport development on a RR Rural Residential ("RR") zoned property; Cook Airfield (see 'Case History' below). Cook Airfield is located on the north side of 71st Street South and on the west side of 143rd Street East. The requested amendment will expand the 80-acre airport development over to the south side of 71st and increase its size by approximately 33.3-acres; the subject site. The subject site is currently an agricultural field. As proposed, the subject site will include a 1,300-foot runway extension, which is proposed to be attached to the existing 2,507 foot runway located on the north side of 71st. To attach the two runways the applicants have requested the vacation of approximately 1,255 feet of 71st Street South, beginning from the west side of its intersection with 143rd Street East, heading west; VAC2010-00012, which will be considered by the MAPC at today's public hearing; **VAC2010-00012 was approved (8-4-1) by the MAPC at the June 17, 2010 meeting.**

The applicants are also requesting a zone change from RR to SF-20 Single-Family Residential ("SF-20") on the 33.3-acre subject site. Providing the subject site with a County approved alternative sewer system will allow the applicant to subdivide it into seventeen lots ranging in size between 1.2-acres to 1.77-acres, as shown on the site plan. There is also a 4.1-acre lot located at the south end of the runway extension. Besides the runway extension, development of the lots will include additional hangers and single-family residences with hangers on the same lots. Owners of these residences will be able to taxi their planes to the appropriate part of the runway for flight, as well as taxi them back to their residences. The applicants have developed the existing airport on the north side of 71st in much the same manner. All hangers can be rented out for light aircraft. There is an interior private street to serve these subject lots which ends as a cul-de-sac west of 143rd Street East. The applicants' site plan also shows dedication of 30-foot of public street right-of-way, running the length of the west side of the subject site.

The Kansas Department of Transportation Division of Aviation (KDOT) has developed a comprehensive plan for the state's system of 142 public airports. The public airports in Sedgwick County are: Cook, Dead Cow, Westport, Jabara, Beech, Cessna and Mid-Continent. Riverside (north of 21st Street North, near Hoover Road) is also a public airport, but it was sold at auction June 4 of this year and is not known if it will continue to be a public airport. Cook is included in KDOT's comprehensive plan and is identified as a 'Community Airport.' K-DOT recognizes community airports as serving a supplemental role in the local economy, primarily serving smaller businesses,

recreational and personal flying. The KDOT plan helps identify projects to improve these airports and provides a funding source to help the airports realize these projects. Because Cook is a privately owned airport, the Federal Aviation Administration (FAA) does not include it in the National Plan of Integrated Airport Systems and; therefore it is not eligible to apply for federal airport development funding. KDOT has stated that Cook can currently handle aircraft with approach speeds of less than 91 knots and wing spans of less than 49 feet. It is not known how the expanded runway will impact the size of aircraft using Cook, but the applicants anticipate larger business aircraft using the expanded facilities. There currently are 51 aircraft at Cook. Sky diving and hot air balloons also use Cook Airport, and both are classified as outdoor recreation and entertainment in the Unified Zoning Code (UZC).

The character of the surrounding area is rural with the airport, agriculture and large-lot residential uses being the predominate uses in the area. Large lot single-family residences abuts the west side and the northeast side of the site. Agricultural fields also abut the west and northeast side of the site. Cook airport is located north of the site as are agricultural fields and large lot single-family residences. Agricultural fields abut the south side of the site. The closest house directly under the path of the expanded airstrip is located approximately 1,300 feet south, off of 75th Street South. There are 8 -10 single-family residences located 1,300 feet or more south of the proposed airstrip, plus the urban scale, 16 lot, Arrowhead Hills Addition located approximately 1/2-mile south. The site and all of the surrounding area is zoned RR.

CASE HISTORY: The first paragraph of the "BACKGROUND" portion of the report states why CON2010-04 and ZON2010-03 are being re-heard. During the June 17, 2010 MAPC meeting many people spoke for and against the requests. The MAPC approved, 12-0-1, CON2010-04 and ZON2010-03. Subsequently at the end of the two-week protest period, 44.56 percent of the total land area within the protest area submitted valid protests against the requested Conditional Use and zoning. In unincorporated Sedgwick County the protest area is a 1,000-foot radius from the outer boundaries of the application area. The Sedgwick County Board of County Commissioners (BoCC) considered CON2010-04 and ZON2010-03 at their July 21, 2010 meeting. It takes a 3/4 majority vote of the BoCC to overturn a greater than 20 percent protests. The BoCC voted 5-0 to approve CON2010-04 and then approved ZON2010-03 with a 5-0 vote. Prior to the votes on CON2010-04 and ZON2010-03, VAC2010-12 was approved, 3-2, by the BoCC.

The site is unplatted RR zoned land, located in rural Sedgwick County, outside of all 2030 urban growth areas. The applicants are requesting an expansion of the existing privately owned public airport, located north of subject site across 71st Street South; reference VAC2010-12. Based on aerials it appears that the airfield had been in operation prior to 1960. There was a reconfiguration of its airstrips in the 1980s, when it was also zoned R Rural Residential (now RR as of 1996) in 1985, the year County-wide zoning was adopted. County-wide zoning made Cook a legal non-conforming use, as an airport required a Conditional Use in R zoning and now in RR zoning. CON2004-14 was approved April 22, 2004 by the MAPC. CON2004-14 allowed the site to more

than double the floor area of hangers for the airport, add more support structures, build additional taxiways, re-pave the existing runway and taxiways and build six residences with accessory hangers and grass taxiways; there was no additional land added to the existing 80-acres. The proposed internal expansion was more than the 30% permitted by the UZC, thus the application for CON2004-14. CON2004-14 required platting, thus the Downwind Estates Addition was recorded with the Register of Deeds May 26, 2005.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Cook Air Field, agricultural, large lot residential
SOUTH:	RR	Agricultural, large lot residences, urban scale residential
EAST:	RR	A large lot residence, agricultural
WEST:	RR	A large lot residence, agricultural

PUBLIC SERVICES: The subject property currently has access to 71st Street South and 143rd Street East. 71st is a sand and gravel section line road, maintained by Rockford Township. It also marks the boundary of Gypsum and Rockford Townships. All utilities are available to the site. This is the only portion of 143rd Street East, 63rd to 71st, from Pawnee to the Sedgwick – Sumner County line that is paved. 143rd is also a section line road. There are no Capital Improvement Projects (CIP) for this portion of 71st and 143rd. There are no traffic counts for these roads at this location; **At the June 17, 2010 MAPC meeting, County Public Works did provide traffic counts, which are attached.** There is no public sewer available; properties are served by on site sewer service. The site is located in Rural Water District #3. Electric is available, although it is not Westar. The Sedgwick County Fire Department, the Sedgwick County EMS, and the Sedgwick County Sheriff's Office, as well as Rose Hill Fire, Boeing Fire, McConnell Fire, Butler County EMS, and Derby Fire & EMS serve the area. Mail is out of Derby. The area is in the Rose Hill school district. Rockford Township maintains this portion of 71st. All of these entities will be impacted by the proposed development, which to be fully realized means the vacation of approximately 1,250 feet of 71st.

CONFORMANCE TO PLANS/POLICIES: The '2030 Wichita Functional Land Use Guide' categorizes this area as 'Rural.' The Rural category is outside of all the 2030 urban growth areas and is intended to accommodate agricultural uses, rural based uses no more offensive than those agricultural uses commonly found in the county and predominately large lot residences. The Unified Zoning Code (UZC) allows consideration for an airport in the RR zoning district, as a Conditional Use. The UZC does not have specific supplemental use regulations for airports, when they are Conditional Uses. A Conditional Use is considered on a site-by-site basis; in this case the current request will not introduce a new use to the area, as the Cook airport has been at its current location before 1960.

The current request will expand the airport and its main airstrip by 1,300 feet. The applicants' anticipate the increase of the length of the airstrip to attract larger business aircraft and more aircraft using the expanded facilities. The increase of the number of planes arriving and leaving the privately owned public airfield could potentially increase a loss of privacy for the area, although that has already been compromised by the

existing Cook airport. There will be an increase of aircraft noise, but at this time staff has not had much comment on that. Several callers have wondered how the expanded airport will impact their property values. KDOT's comprehensive plan has listed Cook airport as a Community Airport serving a supplemental role in the local economy, primarily serving smaller businesses, recreational and personal flying. The expansion of the existing airport is not out of character with the area.

The UZC considers an airport a commercial use. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites be generally located adjacent to arterial streets. The site has access to 143rd, a section line road, which is paved between 71st Street South and 63rd Street South. The expanded use meets that guideline. Although the expansion will abut an unpaved section of 143rd the site plan shows no access onto it. The site meets this locational guideline.

The vacation of the described portion of 71st means a rerouting of vehicular travel and staff has received calls concerned with its impact. Vacating the described portion of 71st would cut access to the paved portion of 143rd to all the properties west of the airport, forcing them to use several dirt and gravel roads to get to paved county highway. The Sedgwick County Fire Department, the Sedgwick County EMS, and the Sedgwick County Sheriff's Office have concerns with a vacation of the described portion of 71st causing delays in their response time and the consequences of a delay to their services. KDOT has stated that the vacation of the described portion of 71st will make approaches and take offs onto the existing Cook airstrip (located approximately 120 feet north of 71st) safer for both vehicular and aircraft traffic in the area.

RECOMMENDATION: Based on these factors, plus the information available prior to the public hearing, and noting that the MAPC has in the past support expansion of existing businesses, staff recommends the request be APPROVED subject to the following conditions: **Note: the following conditions were approved by the MAPC and BoCC at their respective meetings.**

- A. APPROVE the zone change (ZON2010-00003) to SF-20 Single-family Residential ("SF-20"), subject to platting within a year.
- B. APPROVE the Conditional Use request (CON2010-00004), subject to platting within a year and the following conditions (but not limited to):
 - (1) The subject property shall be developed in general conformance with the approved site plan. The site plan must be approved within 60 days of approval of the Conditional Use. A 35-foot building setback shall be established around the entire parameter of the site. Provide both a 24" (x) 36" copy and an 11" (x) 17" copy of the approved site plan.
 - (2) Operation of a heliport, manufacturing and/or assembly, vocational training, retail, office uses and any other use not permitted by right or by Conditional Use in the SF-20 zoning district are not permitted until there is a change to the appropriate zoning or approval of a Conditional Use.

- (3) The airport may be used for sky diving and hot air balloon activities, as outdoor recreation and entertainment.
- (4) Development and use of the subject site shall be in accordance with all applicable federal, state, and local rules and regulations, including building and health codes, and operational standards.
- (5) Any on-site sewer system used on the application area shall meet Sedgwick County standards. No building permits shall be issued until the on-site sewer system is improved.
- (6) No building permits shall be issued until all private roads are constructed to Sedgwick County standards.
- (7) The applicant shall obtain any required rural water district taps prior to the issuance of building permits.
- (8) As applicable, all utilities will be located underground.
- (9) If VAC2010-00012 is approved, all conditions attached to this case (VAC2010-00012) will apply to both CON2010-00004 and ZON2010-00003.
- (10) 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 character of the surrounding area is rural with the airport, agriculture and large-lot residential uses being the predominate uses in the area. A large lot single-family residence abuts the west side and the northeast side of the site. Agricultural fields also abut the west and northeast side of the site. Cook airport is located north of the site as are agricultural fields and large lot single-family residences. Agricultural fields abut the south side of the site. The closest house directly under the path of the expanded airstrip is located approximately 1,300 feet south, off of 75th Street South. There are 8 -10 single-family residences located 1,300 feet or more south of the proposed airstrip, plus the urban scale, 16 lot, Arrowhead Hills Addition located approximately 1/2-mile south. The site and all of the surrounding area is zoned RR
2. The suitability of the subject property for the uses to which it has been restricted: The subject site is currently an agricultural field and could continue to be used for agriculture or as a large lot residence. Its location directly underneath the existing Cook Airport air strip makes it unlikely that it will ever be developed as a large lot residence.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Concerns identified with the proposed use include noise, impact on property values and rerouting of vehicular traffic, which includes denying access to paved 143rd Street East for all properties located west of the airport, as a result of the possible vacation of the described portion of 71st Street South. The

Sedgwick County Fire Department, Sedgwick County EMS, the Sedgwick County Sheriff's Office, as well as Rose Hill Fire, Boeing Fire, McConnell Fire, Butler County EMS, Derby Fire & EMS, mail delivery, Rockford Township maintenance, and the Rose Hill school district will be impacted by the proposed vacation associated with the zoning and Conditional Use requested. ``KDOT has stated that the vacation of the described portion of 71st will make approaches and take offs onto the existing airstrip (located approximately 120 feet north of 71st) safer for both vehicular and aircraft traffic in the area.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The '2030 Wichita Functional Land Use Guide' categorizes this area as 'Rural.' The Rural category is outside of all the 2030 urban growth areas and is intended to accommodate agricultural uses, rural based uses no more offensive than those agricultural uses commonly found in the county and predominately large lot residences. The Unified Zoning Code (UZC) allows consideration for an airport in the RR zoning district, as a Conditional Use. The UZC does not have specific supplemental use regulations for airports, when they are Conditional Uses. A Conditional Use is considered on a site by site basis. In this case the current request will not introduce a new use to the area, as the Cook airport has been at its current location before 1960.

The current request will expand the airport and its main airstrip by 1,300 feet. The applicants' anticipate the increase of the length of the airstrip to attract larger business aircraft and more aircraft using the expanded facilities. The increase of the number of planes arriving and leaving the privately owned public airfield could potentially increase a loss of privacy for the area, although that has already been compromised by the existing airport. There will be an increase of aircraft noise, but at this time staff has not had much comment on that. Several calls have wondered how the expanded airport will impact their property values. KDOT's comprehensive plan has listed Cook airport as a Community Airport serving a supplemental role in the local economy, primarily serving smaller businesses, recreational and personal flying. The expansion of the existing airport is not out of character with the area.

The UZC considers an airport a commercial use. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites be generally located adjacent to arterial streets. The site has access to 143rd, a section line road, which is paved between 71st Street South and 63rd Street South the expanded use meets that guideline. Although the expansion will be abutting an unpaved section of 143rd, the site plan shows no access onto it. The site meets this locational guideline.

The vacation of the described portion of 71st means a rerouting of vehicular travel and staff has received calls concerned with its impact. Vacating the described portion of 71st would cut access to the paved portion of 143rd to all the properties west of the airport, forcing them to use several dirt and gravel roads to

get to paved county highway. The Sedgwick County Fire Department, the Sedgwick County EMS, and the Sedgwick County Sheriff's Office have concerns with a vacation of the described portion of 71st causing delays in their response time and the consequences of a delay to their services. KDOT has stated that the vacation of the described portion of 71st will make approaches and take offs onto the existing Cook airstrip (located approximately 120 feet north of 71st) safer for both vehicular and aircraft traffic in the area. Staff generally does not favor the vacation of section line roads.

5. Impact of the proposed development on community facilities: The associated vacation request of the described portion of 71st Street will reroute vehicular traffic to other sand and gravel section line roads that are maintained by Rockford and Gypsum Townships. The increase of traffic on these roads will probably increase cost of maintaining them for the Townships. Providing equity in these costs, including possible improvements to those roads impacted is a consideration that should be addressed.

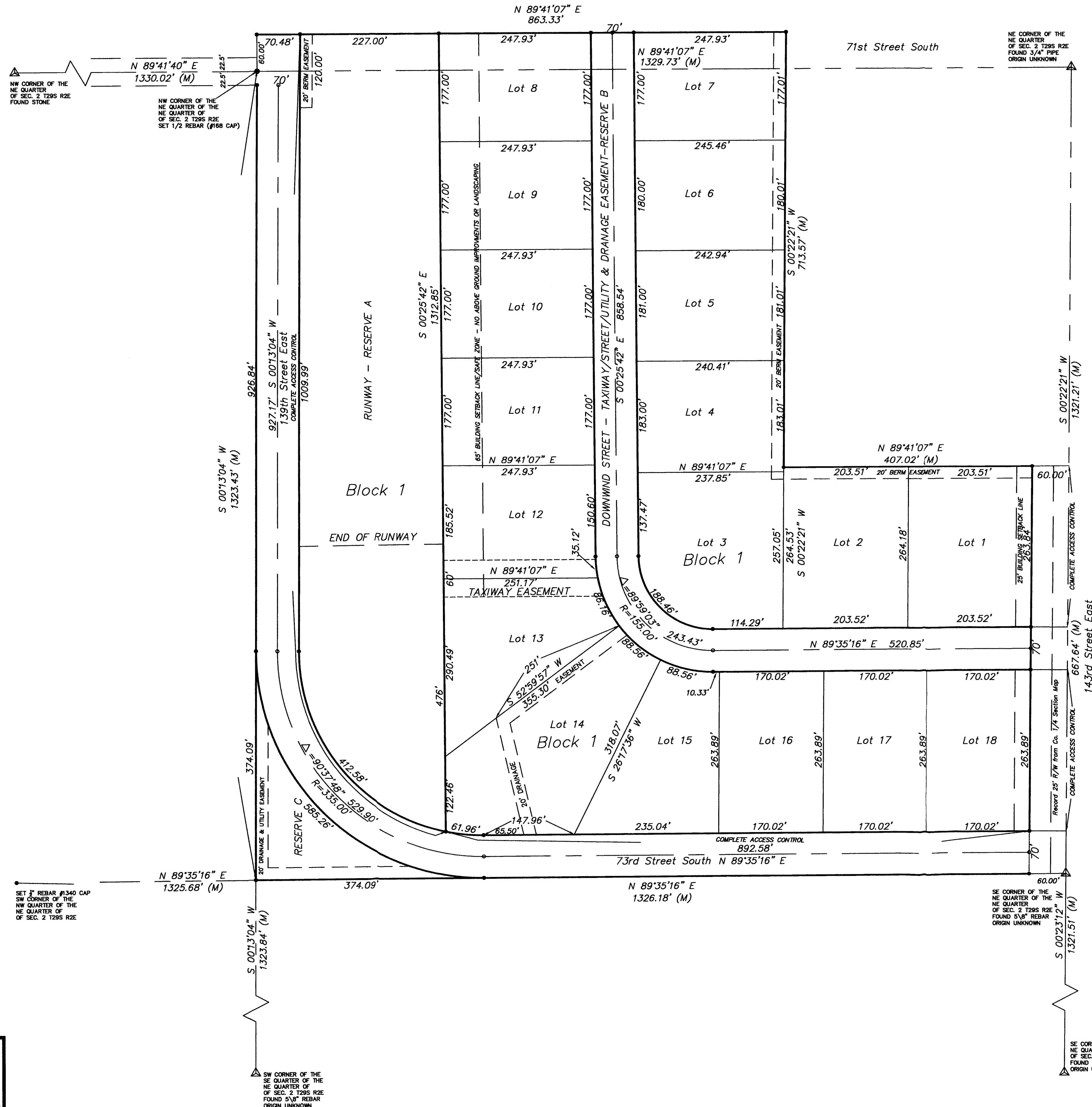
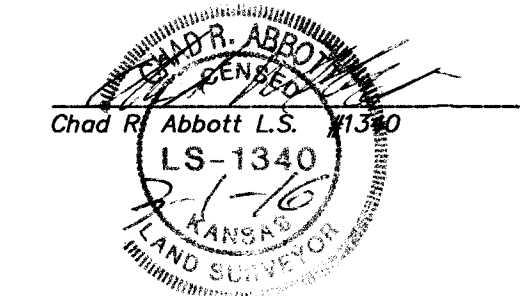
SITE PLAN
DOWNWIND ESTATES SECOND ADDITION
TO SEDGWICK COUNTY, KANSAS

SITE PLAN
APPROVED 10-31-11 BY 

CERTIFICATE OF SURVEY

State of Kansas }
County of Sedgwick } SS

I, Chad R. Abbott the undersigned registered land surveyor of the State of Kansas, do hereby certify that the following described tract of land was surveyed on July 27, 2009. The survey was made by me or under my direct supervision and the accompanying SITE PLAN OF DOWNWIND ESTATES SECOND ADDITION to Sedgwick County, Kansas, is a true and correct exhibit of the property surveyed, described as follows:
Parcel A:
The Northeast Quarter of the Northeast Quarter of Section 2, Township 29 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, EXCEPT that part described as the East 467.00 feet of the North 653.56 feet of the Northeast Quarter of the Northeast Quarter of Section 2, Township 29 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas.
Parcel B:
The South 60' of the East Half of the Southeast Quarter of Section 35, Township 28 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, EXCEPT the East 467.00' thereof.
Existing public easements and dedications being vacated by virtue of K.S.A. 12-512(b), as amended.



Notes:
1. Elevation Datum = NAVD 88



Z0N2010-00040

LEGEND:	
(M)	= MEASURED OR CALCULATED FROM MEASUREMENT
(P)	= PLATTED
●	= SET 1/2" REBAR WITH LS #1340 CAP
▲	= FOUND MONUMENT (AS NOTED)
○	= CALCULATED POINT

