



Wichita-Sedgwick County Metropolitan Area Planning Department

Carrie Brown
24617 W. Pheasant Ct.
Viola, KS 67149

October 18, 2019

RE: CON2019-00030- County Conditional use for dog kennel on property zoned RR Rural Residential generally located 1,200 feet south of the southeast corner of West 55th Street South and south 247th Street West (24617 W Pheasant Ct).

Dear Applicants;

At its regular meeting on **October 16, 2019** the Sedgwick County Board of County Commissioners considered the above captioned request. The action of the Commissioners was to **APPROVE** the request in accordance with the attached resolution.

If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

Philip Zevenbergen
Associate Planner

Copies to: MABCD
David Dennis, BoCC District III
Kate Flavin, District III
Michele Tice, 5828 S 247th St West, Viola KS, 67149
Kellie Phipps, 5801 S Killdeer Lane, Viola, KS 67149
James Baker, 1424 N Lark Ln, Wichita, KS 67212

228-2019

CONDITIONAL USE RESOLUTION NO. CON2019-00030

Published On: N/A

WHEREAS, Carrie Brown, (Applicant) pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requests a Conditional Use for Kennel, Boarding/Breeding/Training Use, on property zoned Rural Residential at 24617 West Pheasant Court, Viola, and legally described as:

A tract in the Northwest Quarter of Section 26, Township 28 South, Range 3 West of the 6th P.M., Sedgwick County, Kansas, described as commencing at the Northwest corner thereof; thence south along the West line of said Northwest Quarter 1354 feet for a place of beginning; thence N 88 degrees 29' E parallel with the North line of said Northwest Quarter 665.20 feet; thence Easterly along a curve to the left with a front tangent at S 37 degrees 12' 15" E, a radius of 60 feet, an interior angle of 90 degrees 15' 16" for an arc distance of 95.16 feet to a point 750 feet East of the West line of said Northwest Quarter; thence S parallel with the West line of said Northwest Quarter 303.29 feet more or less to a point 1670.5 feet South of the North line of said Northwest Quarter; thence West parallel with the North line of said Northwest Quarter 750 feet to a point of the West line of said Northwest Quarter; thence North 316.5 feet to the place of beginning, except the West 50 feet thereof for street.

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 September 5, 2019, consider said application; and

WHEREAS, the MAPC has authority to permit a Conditional Use, subject to any special conditions deemed appropriate in order to assure full compliance with the criteria of the Unified Zoning Code.

NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Area Planning Commission that this application be approved to allow a Conditional Use for Kennel, Boarding/Breeding/Training Use, on property zoned Rural Residential at 24617 West Pheasant Court, Viola, and legally described as:

A tract in the Northwest Quarter of Section 26, Township 28 South, Range 3 West of the 6th P.M., Sedgwick County, Kansas, described as commencing at the Northwest corner thereof; thence south along the West line of said Northwest Quarter 1354 feet for a place of beginning; thence N 88 degrees 29' E parallel with the North line of said Northwest Quarter 665.20 feet; thence Easterly along a curve to the left with a front tangent at S 37 degrees 12' 15" E, a radius of 60 feet, an interior angle of 90 degrees 15' 16" for an arc distance of 95.16 feet to a point 750 feet East of the West line of said Northwest Quarter; thence S parallel with the West line of said Northwest Quarter 303.29 feet more or less to a point 1670.5 feet South of the North line of said Northwest Quarter; thence West parallel with the North line of said Northwest Quarter 750 feet to a point of the West line of said Northwest Quarter; thence North 316.5 feet to the place of beginning, except the West 50 feet thereof for street.

Subject to the following conditions:

1. The Conditional Use shall permit a "kennel, boarding/breeding/training for up to 15 dogs. No dogs will be boarded outdoors overnight.
2. The applicant shall submit a revised site plan for review and approval by the Planning Director within 30 days of approval.
3. The kennel shall be developed, operated, and maintained in compliance with the approved site plan and with all applicable local, state, and federal regulations, resolutions, or statutes.
4. The applicant shall have all required screening per the approved site plan in place within 60 days of approval.
5. The kennel shall have on file proof of rabies vaccinations for all dogs harbored at the facility.
6. Cleaning of the boarding kennel facility shall be performed as often as necessary to maintain sanitary conditions. A suitable method of eliminating excessive water from any kennel enclosures shall be provided. Interior surface materials shall be constructed of a non-porous materials or materials approved by The Metropolitan Area Building and Construction Department. (MABCD)
7. Sufficient quantities of food and water shall be provided to keep the dogs in good physical health. The animals shall be fed at least once daily and provided clean water at all times. Food and water containers shall be located to minimize contamination and shall be cleaned as often as necessary to maintain sanitary conditions.
8. All waste materials shall be disposed of in such a manner to minimize odors and disease hazards. The kennel shall be maintained in a sanitary manner as required by applicable codes. All solid waste generated by the kennel must be removed from the site.
9. The animals confined in the kennel shall be maintained in good physical condition, free of infectious disease and parasites.
10. The applicant shall obtain all applicable permits including, but not limited to, building, health, and zoning.
11. The boarding facility shall be open to the unannounced inspection by MABCD personnel during normal business hours.
12. The Conditional Use shall be valid for 5 years. Upon which the Conditional Use shall need to be renewed or it shall be considered null and void. The renewal of the Conditional Use can be done by Administrative Adjustment.

13. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

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.

Commissioners present and voting were:

PETER F. MEITZNER
MICHAEL B. O'DONNELL, II
DAVID T. DENNIS
LACEY D. CRUSE
JAMES M. HOWELL

Aye
Aye
Aye
Aye
Aye

Dated this 16th day of October, 2019.

ATTEST:

Karen S. Baird
KELLY B. ARNOLD, County Clerk



BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

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

Peter F. Meitzner
PETER F. MEITZNER, Chair Pro Tem
Commissioner, First District

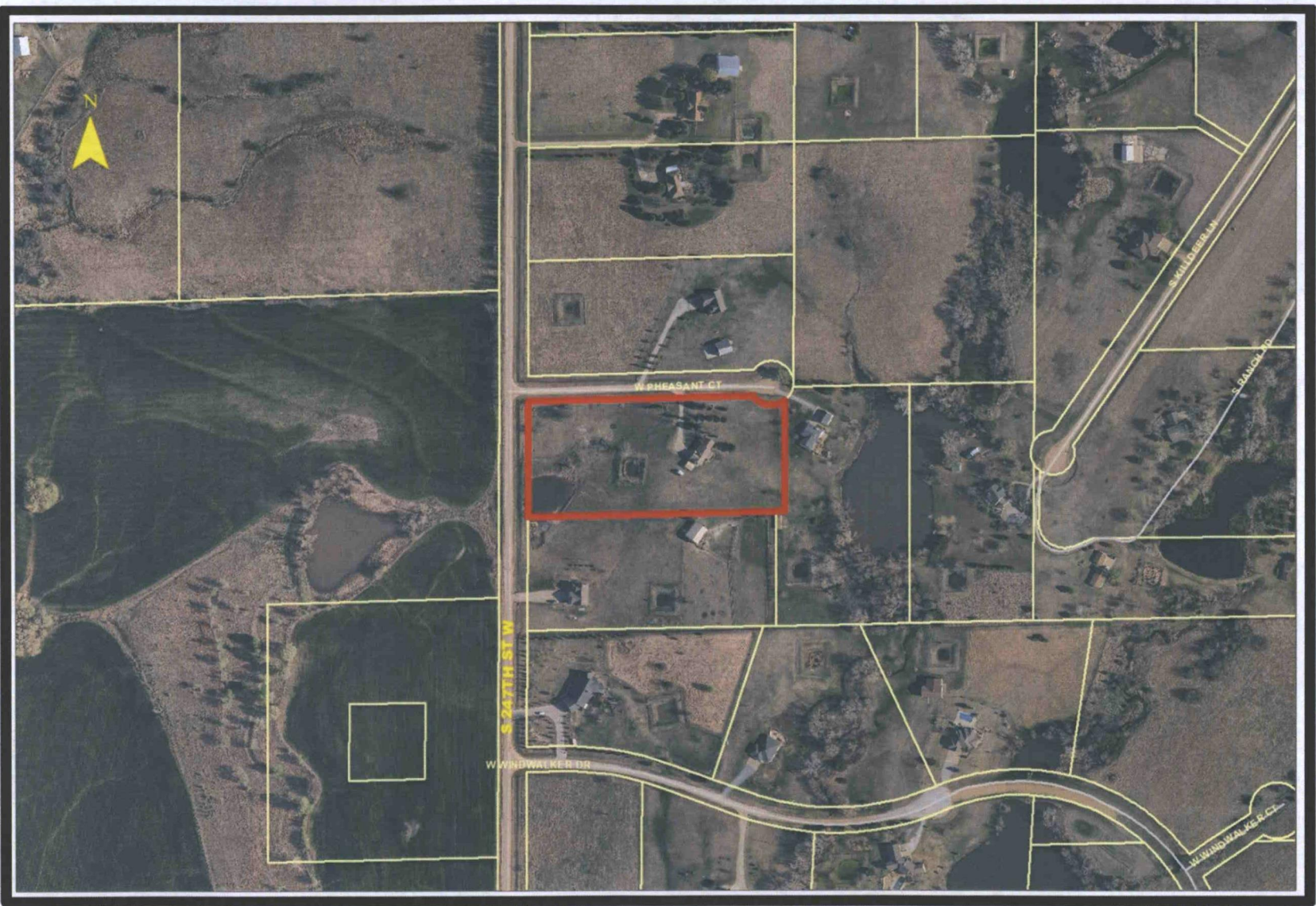
APPROVED AS TO FORM:

Justin M. Waggoner
JUSTIN M. WAGGONER
Assistant County Counselor

Michael B. O'Donnell, II
MICHAEL B. O'DONNELL, II
Commissioner, Second District

Lacey D. Cruse
LACEY D. CRUSE
Commissioner, Fourth District

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

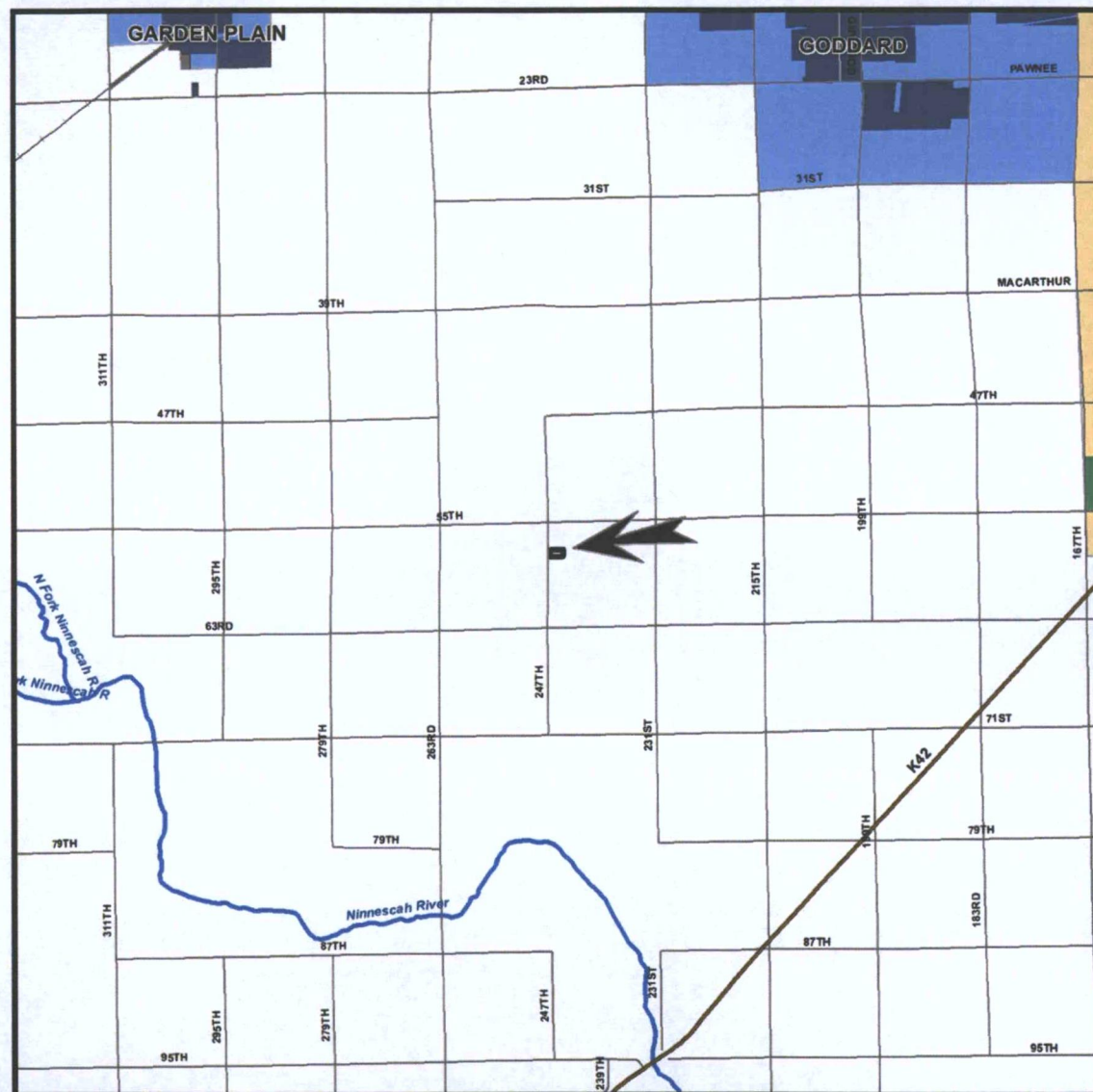


2035 Urban Growth Areas Map

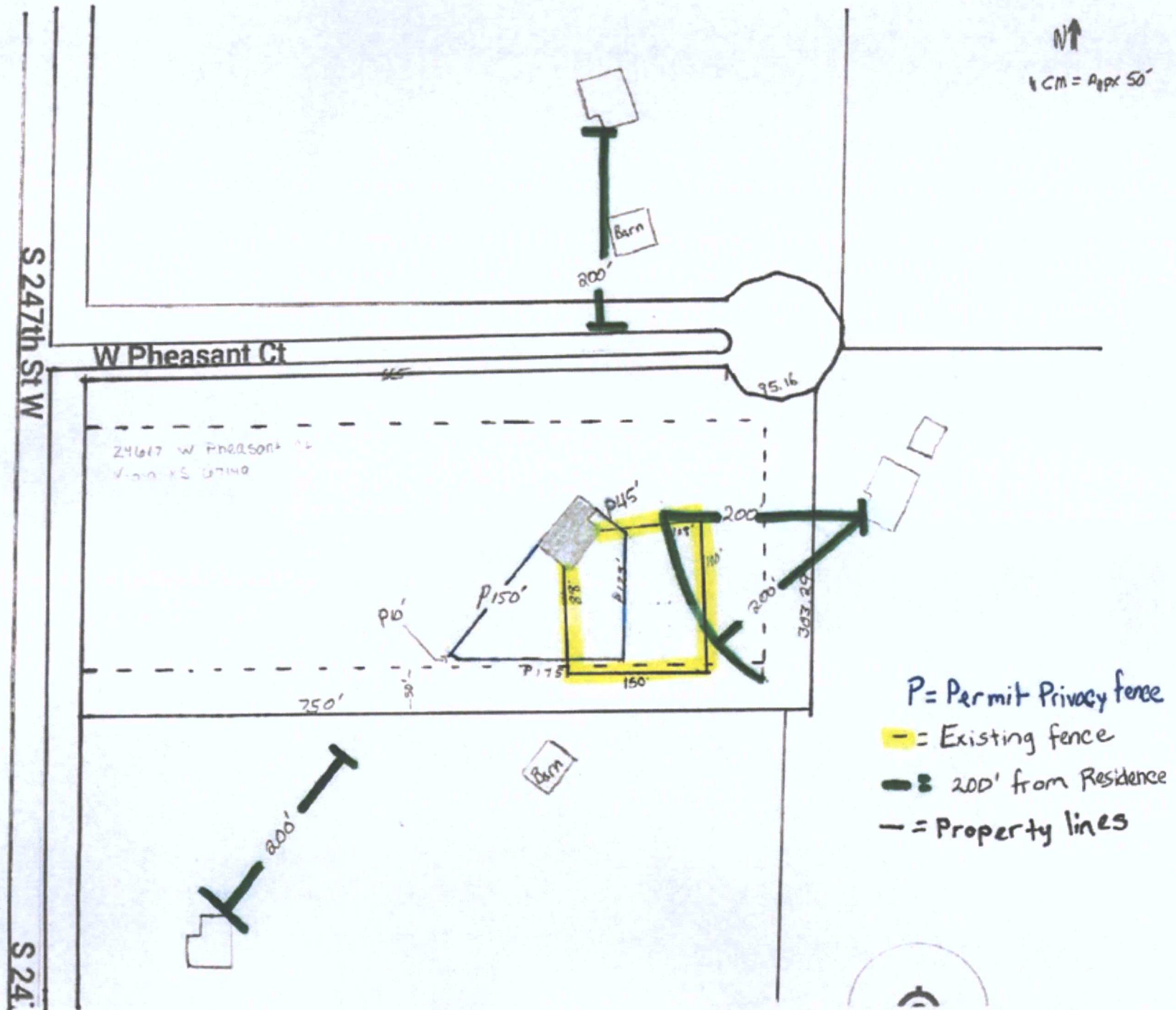
(This map is not reflective of the Zoning Areas of Influence in Sedgwick County)

Legend

-  Small City Limits
-  Small City Limits
-  Wichita City Limits
-  Established Central Area
-  Wichita Growth Areas
-  Small City Urban Growth Areas
-  Small City Urban Growth Areas
-  Rural Areas
-  K-96 Special Uses Corridor
-  Industrial & Improvement Districts and Sedgwick County Park



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AGENDA ITEM NO. 5.1

STAFF REPORT

MAPC September 5, 2019

CAB III September 16, 2019

CASE NUMBER: CON2019-00030

APPLICANT: Carrie Brown (owner & applicant)

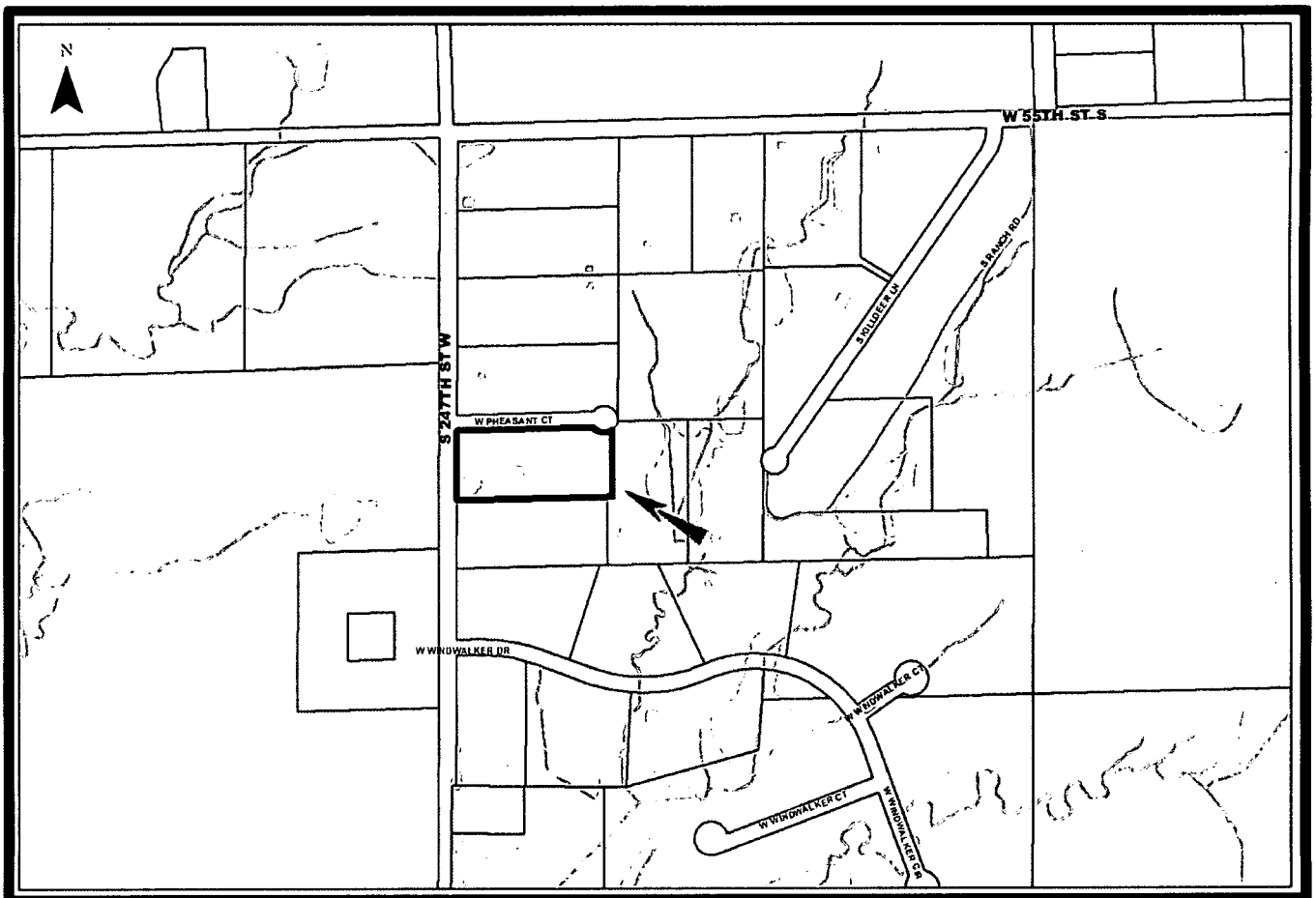
REQUEST: Kennel, boarding, breeding and training

CURRENT ZONING: RR Rural Residential

SITE SIZE: 5.01 acre

LOCATION: On the east side of South 247th Street West and 1,200 feet south of West 55th Street South (24617 W. Pheasant Ct.)

PROPOSED USE: To operate a dog kennel out of the personal residence.



BACKGROUND: The applicant is seeking a Conditional Use approval for a “kennel, boarding/breeding/training” use to continue operating a dog kennel business in her personal residence. The property is addressed as 24617 W. Pheasant Ct., and is generally located on the east side of South 247th Street West and 1,200 feet south of W 55th Street South. The subject site is zoned RR Rural Residential and is just over 5 acres in size. The property encompasses the entire south portion of the cul-de-sac. It fronts W. Pheasant Ct., and the west side abuts South 247th Street West.

The applicant is licensed by the Kansas Department of Agriculture to operate a dog kennel. She has owned her own business since 2015, and she has been operating the business out of this location since May 2018. She is seeking a Conditional Use after she was visited by a Zoning/Nuisance Inspector in July. The Inspector received an anonymous phone call regarding her business, and upon conducting a site visit, advised the applicant she needed a Conditional Use permit to operate a kennel on her property. The Unified Zoning Code (UZC) defines Kennel, Boarding/Breeding/Training as:

Premises that houses five or more Adult Dogs, three or more of which are owned by someone other than the property resident, and premises housing over ten Adult Dogs.

The UZC allows Kennel, Boarding/Breeding/Training by Conditional Use approval in the RR zoning district. However, the use is subject to the Supplemental Use Regulations portion of the code as well. Per Art. III Sec. III-D.6.k.:

1. The minimum lot size for Boarding/Breeding/Training Kennels shall be five acres, unless all animals are harbored indoors with no discernible noise or odor at the property lines.
2. Outside runs, holding pens or other open-air type enclosures and shelters shall be located behind the Front Setback Line and located at least 200 feet from any Dwelling Unit other than the Owner's and at least 50 feet from Contiguous property lines.
3. Screening shall be provided except for those facilities located 600 feet or more from Contiguous property lines. Screening shall be provided by Structure, solid or semi solid Fencing, landscape materials, earth berms or natural Site features maintained for the purpose of concealing the view of the animals behind such (screening)... from activities on Contiguous properties. (See attachments for full description of property Screening from Sec.III-D.6.k (3)).

The applicant houses no more than 15 dogs at any given time. This limit is usually only when care overlaps from owners dropping off dogs before other owners return to pick up their dog. The dog runs are located south and east of the house, with the house acting as the northwest corner of the enclosure. The dogs are kept inside overnight, but are allowed outside into the fenced dog runs throughout the day. There are no predetermined times or set limitations as to when the dogs are outside. The enclosure is split up into multiple dog runs that the applicant uses to segregate dogs based on size and temperament to help ensure good behavior. The applicant also provides doggy day care services, though this is a very small portion of her business. Currently, she only has one dog enrolled in the day care service. Due to the nature of the business, there is little or no daily traffic in and out of the property. The applicant's property is 5 acres; therefore, these activities are permissible by Conditional Use according to the code as long as the other supplemental regulations are met.

As seen on the site plan, the distance from the fenced dog run to the dwelling unit to the north is approximately 385 feet and is separated from the subject site by W. Pheasant Ct. The distance from the fenced dog run to the dwelling unit to the south is approximately 450 feet, and the dog run is approximately 42 feet from the property line. This distance to the contiguous property line does not meet the minimum distance set forth in the supplemental use regulations. The distance from the fenced dog run to the dwelling unit to the east is only approximately 130 feet,

and the dog run is approximately 100 feet from the property line. Though the distance from the dog run to the property line to the east is in compliance with the code, the distance from the dog run to the dwelling unit is less than the required 200 feet. To address the areas of non-compliance, the applicant has developed a plan for a new layout of the dog run that will be in compliance with the 50-foot distance from contiguous property lines and 200-foot distance from dwelling unit regulations. The new layout is also illustrated on the site plan. The proposed dog run will shift to the south and west of the residence. The current fence is a chain-link fence which does not meet the minimum standard set forth in the supplemental use regulations. The screening will need to be upgraded to a material and opacity as required in by Sec. III-D.6.k.(3)

Properties north, east, and south of the site are zoned RR and are developed with single family homes built on lots of at least 5 acres. Property to the west is zoned RR is undeveloped, agricultural land.

CASE HISTORY: The property is unplatted. There is no other case history for this property.

ADJACENT ZONING AND LAND USE:

North: RR Large lot single family residential
South: RR Large lot single family residential
East: RR Large lot single family residential
West: RR Agricultural uses.

PUBLIC SERVICES: South 247th Street West is a gravel arterial street with 80 feet of right-of-way and a 25-foot bidirectional travel lane. West Pheasant Court is a gravel, local street with 70 feet of right-of-way with a 15-foot bidirectional travel lane. The property uses well water and a septic sewer system with lagoon.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, *The Community Investments Plan*, identifies the site as being located outside the 2035 urban growth areas for Wichita and the small cities. The site is located in the Rural Area for which the Plan states is suitable for agricultural uses, rural-based businesses, and larger lot residential exurban subdivisions. The UZC permits boarding, breeding and training kennels with Conditional Use approval, subject to Supplementary Use Regulation Section III-D.6.k noted above, unless modified or waived by the County Commission upon recommendation by the Planning Commission.

RECOMMENDATION: Based upon the information available at the time the staff report was prepared, staff recommends the request be **APPROVED** subject to the following conditions:

1. The Conditional Use shall permit a “kennel, boarding/breeding/training for up to 15 dogs. No dogs will be boarded outdoors overnight.
2. The applicant shall submit a revised site plan for review and approval by the Planning Director within 30 days of approval.
3. The kennel shall be developed, operated, and maintained in compliance with the approved site plan and with all applicable local, state, and federal regulations, resolutions, or statutes.
4. The applicant shall have all required screening per the approved site plan in place within 60 days of approval.
5. The kennel shall have on file proof of rabies vaccinations for all dogs harbored at the facility.
6. Cleaning of the boarding kennel facility shall be performed as often as necessary to maintain sanitary conditions. A suitable method of eliminating excessive water from any kennel enclosures shall be provided. Interior surface materials shall be constructed of a non-porous materials or materials approved by The Metropolitan Area Building and Construction Department. (MABCD)

7. Sufficient quantities of food and water shall be provided to keep the dogs in good physical health. The animals shall be fed at least once daily and provided clean water at all times. Food and water containers shall be located to minimize contamination and shall be cleaned as often as necessary to maintain sanitary conditions.
8. All waste materials shall be disposed of in such a manner to minimize odors and disease hazards. The kennel shall be maintained in a sanitary manner as required by applicable codes. All solid waste generated by the kennel must be removed from the site.
9. The animals confined in the kennel shall be maintained in good physical condition, free of infectious disease and parasites.
10. The applicant shall obtain all applicable permits including, but not limited to, building, health, and zoning.
11. The boarding facility shall be open to the unannounced inspection by MABCD personnel during normal business hours.
12. The Conditional Use shall be valid for 5 years. Upon which the Conditional Use shall need to be renewed or it shall be considered null and void. The renewal of the Conditional Use can be done by Administrative Adjustment.
13. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Properties north, east, and south of the site are zoned RR and are developed with single family homes built on lots of at least 5 acres. Property to the west is zoned RR is undeveloped, agricultural land.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR, which permits boarding, breeding and training kennels with Conditional Use approval.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should not detrimentally impact adjacent properties provided the kennel is developed, operated and maintained in compliance with Code requirements and conditions of approval.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval would provide the public with additional kennel services. Denial would presumably represent a loss of economic opportunity to the applicant.
5. Opposition or support of neighborhood residents: At the time this report was prepared, staff had not received any negative comments regarding the application.
6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The adopted Wichita-Sedgwick County Comprehensive Plan, *the Community Investments Plan*, identifies the site as being located outside the 2035 urban growth areas for Wichita and the small cities. The site is located in the Rural Area for which the Plan states is suitable for agricultural uses, rural-based businesses, and larger lot residential exurban subdivisions. The UZC permits boarding, breeding and training kennels with Conditional Use approval, subject to Supplementary Use Regulation Section III-D.6.k noted above, unless modified or waived by the County Commission upon recommendation by the Planning Commission.
7. Impact of the proposed development on community facilities: The small size of this kennel business means there is only minor increase in traffic for which existing street infrastructure is adequate to handle.

Supplemental Use Regulations for “Kennel, Boarding/Breeding/Training and Hobby Screening

UZO Section III.D.6.k (3)

(3) Screening. Screening shall be provided except for those facilities located 600 feet or more from Contiguous property lines. Screening shall be provided by Structure, solid or semi-solid Fencing, landscape materials, earth berms or natural Site features maintained for the purpose of concealing the view of the animals behind such Fence, landscape material, berm or natural feature from activities on Contiguous properties. If Fencing is used, it shall not be less than four nor more than eight feet in height. If Fences over six feet in height, landscape materials or earth berms are used, a plan shall be submitted for approval to the Planning Director and Zoning Administrator. Fences used for Screening may have no more than five percent open surface. Landscape materials must provide the desired Screening effect within the first growing season following installation and throughout the year every year thereafter.

Letter of Support

From: Michele Tice <mdtice66@gmail.com>
Sent: Friday, August 16, 2019 5:57 PM
To: Pagan, Betsy
Subject: Case no con2019-00030

I'm unable to come to the hearing but want my views expressed. We live next to Carrie and feel like she runs a exceptionally doggie business. We are never bothered by barking dogs!!! In fact I never see the dogs out unless she is out with them. I often see her throwing balls and picking up dog doo. My dog and my family also send their dogs to her. I would highly recommend this business and hope that she is allowed to continue providing doggie care.

Michele Tice
5828 S 247th St West
Viola, Kansas. 67149

316-648-3877

Letter of Opposition

Date: August 20, 2019

To: Metropolitan Area Planning Commission
271 West Third Street, 2nd Floor, Ste #203
Wichita, Ks 67202

Regarding: Case CON2019-00030

County Conditional Use for dog kennel on property zoned RR Rural Residential, generally located 1,200 feet South Southeast corner of West 55th Street South and South 247th West (24617 West Pheasant Ct.)

Dear MAPC leaders,

I am clearly against a change to the zoning of for the described property from RR a less restrictive class to allow a dog kennel. I appreciate Dogs as pets as well as other animals however I don't wish to have a Dog kennel located near my home. The reasons I object to having a commercial dog kennel located just a few hundred feet to the South areas follows; *noise* generated by barking disturbs the peace of the area (peace is the reason why many people live in rural areas), *unseemly smells* (prevailing South winds would carry directly to our home), *increase in road traffic* on a unpaved road creating noise and dust. All of the above if allowed to happen will irreversibly decrease my property value and/or the resale value of my property.

We moved to our acreage in the rural area to enjoy peace and reasonable quietness which would be disturbed by rezoning and allowing a Dog Kennel nearby.

Thank You for your consideration of my point of view.

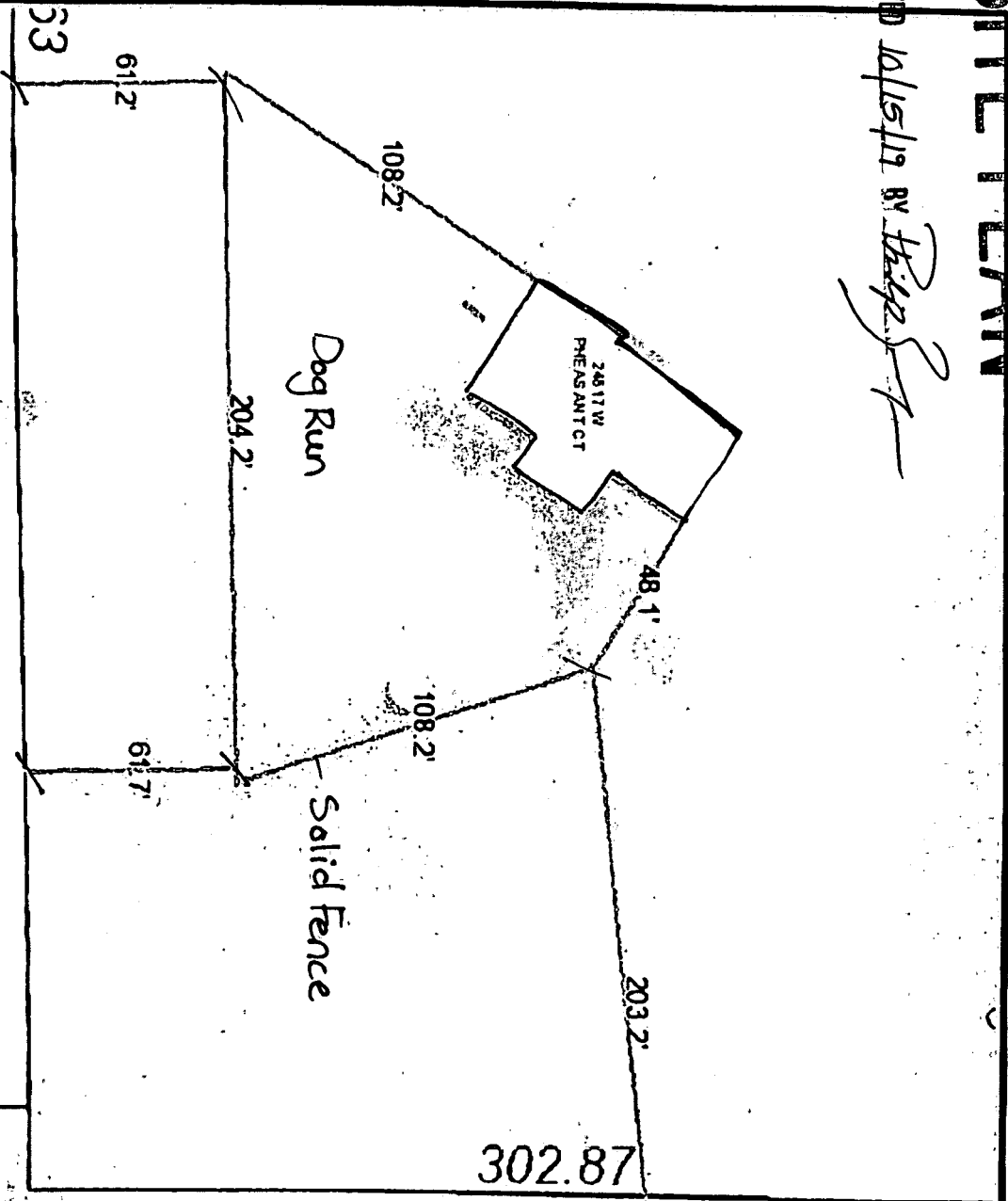
Sincerely,



Kelmer Leon Hansen

SITE PLAN

APPROVED 10/15/19 BY *Theresa*



Barn

My Map



Complete Information Services
Safely with Clarity...
working for you

0 0.00375 0.0075
1 inch = 47 feet

Scale: 1" = 47.00' 0.000000



This map was prepared by the Surveyor of the State of New York, Office of the Surveyor, Albany, New York, on the basis of the information furnished by the client. The Surveyor does not warrant the accuracy of the information furnished by the client, nor does the Surveyor warrant the accuracy of the map. The Surveyor is not responsible for any errors or omissions on this map. The Surveyor is not responsible for any errors or omissions on this map.