CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

Doreen and Paul Hardiman
9025 E 42nd Street South
Derby, KS 67037

March 23, 2020

RE: CON2019-00043 – County Conditional Use for a training Kennel on property zoned SF-20 Single Family Residential generally located ¾ mile east of South Rock Road and ½ mile south of East 39th Street South (9025 E. 42nd Street South)

Dear Applicant;

At its regular meeting on **February 19, 2020** the Sedgwick County Board of County Commissioners considered the above captioned request. The action of the Commission was to **APPROVE** the recommendation of the Metropolitan Area Planning Commission and approve the Conditional Use Permit as outlined in the attached Resolution.

This concludes this case and the zoning action is considered closed.
If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

Philip Zevenbergen
Associate Planner

Copies to: MABCD
Jim Howell, BoCC District V
Larry Gutzmer, 9129 E 42nd St South, Derby, KS 67037
Brett Wittarff, 2236 E Tall Tree Cir, Derby, KS 67037
Dale Nerrel, 413 W Whitetail, Derby, KS 67037
Paula Kim, 112 E Stone Creek, Derby, KS 67037
Anne Thompson, 4530 S Land Ave, Derby, KS 67037
Jill Loomis, 1004 E Moss Wood Ct, Derby KS 67037
Waynetta Hall and Gil Demieville, 1775 S George Washington Blvd, Wichita, KS 67218
Vincent Painter, 8600 E 44th Street South, Derby, KS 67037

RESOLUTION NO 039-2020

Published on: 3/4/2020

WHEREAS, Doreen and Paul Hardiman, (Applicants) pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), request a Conditional Use for Kennel, Boarding/Breading/Training Use, on property zoned SF- 20 Single Family Residential at 9025 E 42nd Street South, Derby, and legally described as:

> A tract of land in the Northeast Quarter of Section 17, Township 28 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas described as: Beginning 1,468.59 feet west of the southeast corner of the Northeast Quarter; thence West 463.5 feet; thence North 470 feet; thence East 463.5 feet; thence South 470 feet to beginning, EXCEPT the south 9 feet thereof AND EXCEPT north 35 feet for road.

WHEREAS, proper notice as required by the Unified Zoning Code and by the policy of the Metropolitan Area Planning Commission (hereinafter referred to as MAPC) has been given; and

WHEREAS, the MAPC did, at the meeting of December 5, 2019, consider said application; and

WHEREAS, the Board of County Commissioners of Sedgwick County 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 Board of County Commissioners of Sedgwick County that this application be approved to allow a Conditional Use for Kennel, Boarding / Breading / Training Use, on property SF- 20 Single Family Residential at 9025 E 42nd Street South, Derby, and legally described as:

> A tract of land in the Northeast Quarter of Section 17, Township 28 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas described as: Beginning 1,468.59 feet west of the southeast corner of the Northeast Quarter; thence West 463.5 feet; thence North 470 feet; thence East 463.5 feet; thence South 470 feet to beginning, EXCEPT the south 9 feet thereof AND EXCEPT north 35 feet for road.

Subject to the following conditions:

1. The Conditional Use shall permit a "kennel, boarding/breeding/training for up to 10 dogs at any given time for training sessions. No boarding or day care services shall be permitted. All dogs shall be accompanied outdoors at all times. Dogs shall only be outside for the duration of an appropriate training session and/or to relieve themselves. Any outdoor training shall be confined to a property screened dog run.

2. The minimum lot size shall be waived following approval from the Board of County Commissioners.

3. The screening requirement shall be waived for the south property line following approval from the Board of County Commissioners. Should the abutting property to the south be developed

with a dwelling unit within 300 feet of the property line, then screening shall be required in compliance with UZC Section III-D.6.k.

4. The applicant shall submit a revised site plan for review and approval by the Planning Director within 30 days of approval.

5. 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.

6. The kennel shall have on file proof of rabies vaccinations for all dogs harbored at the facility.

7. Cleaning of the training kennel facility shall be performed as often as necessary to maintain sanitary conditions. Interior surface materials shall be constructed of a non-porous materials or materials approved by The Metropolitan Area Building and Construction Department. (MABCD)

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 applicant shall obtain all applicable permits including, but not limited to, building, health, and zoning.

10. The training facility shall be open to the unannounced inspection by MABCD personnel during normal business hours.

11. 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.

12. 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 Board of County Commissioners and publication in the official county newspaper.

Commissioners present and voting were:

PETER F. MEITZNER	Aye
MICHAEL B. O'DONNELL, II	Aye
DAVID T. DENNIS	Aye
LACEY D. CRUSE	Aye
JAMES M. HOWELL	No

Dated this 19th day of February, 2020.

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

ATTEST:

KELLY B. ARNOLD, County Clerk

CLERK OF SEDGWICK COUNTY SEDGWICK COUNTY KANSAS KANSAS

PETER F. MEITZNER, Chairman
Commissioner, First District

LACEY D. CRUSE, Chair Pro Tem
Commissioner, Fourth District

APPROVED AS TO FORM:

JUSTIN M. WAGGONER
Assistant County Counselor

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

DAVID T. DENNIS
Commissioner, Third District

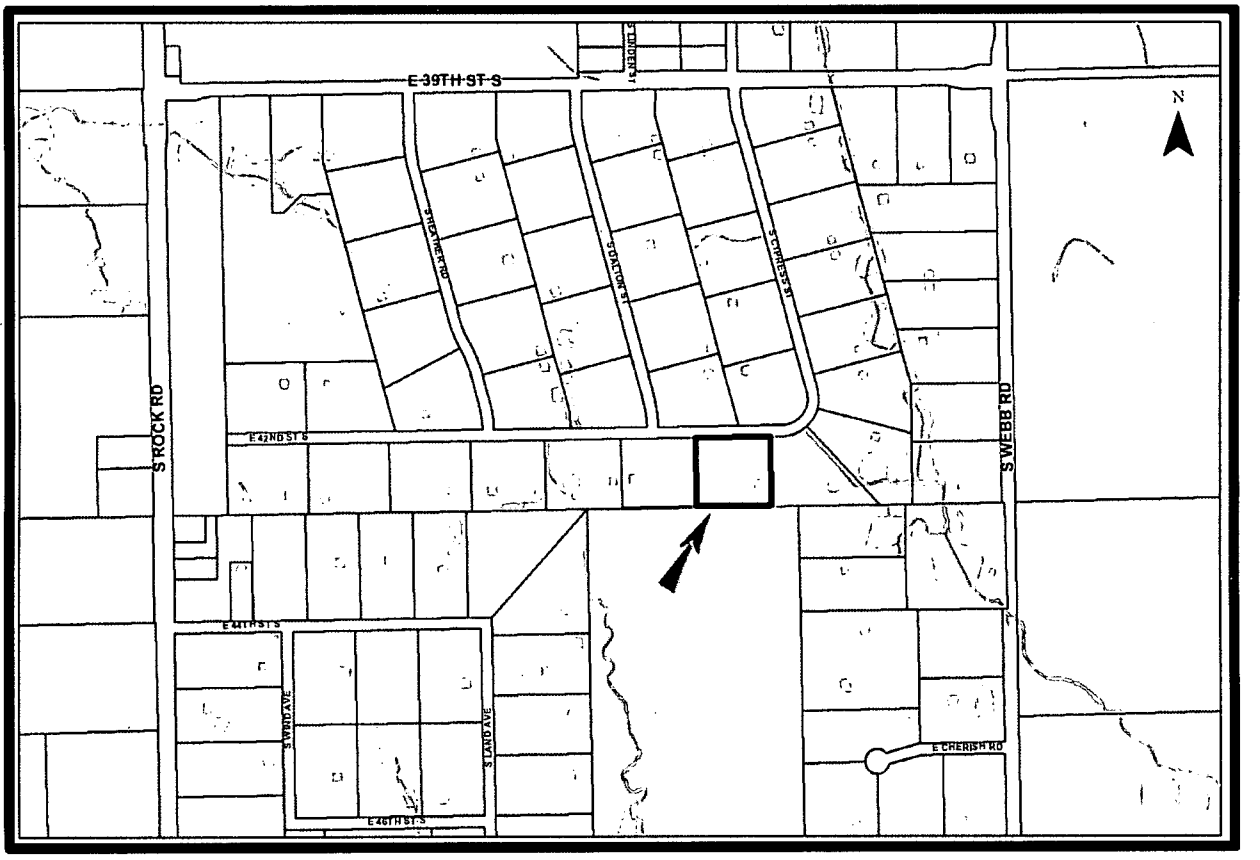
JAMES M. HOWELL
Commissioner, Fifth District

WICHITA–SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 4.2

STAFF REPORT
MAPC December 5, 2019

CASE NUMBER:	CON2019-00043
APPLICANT:	Doreen and Paul Hardiman (owners & applicants)
REQUEST:	Kennel, boarding, breeding and training
CURRENT ZONING:	SF-20 Single Family Residential
SITE SIZE:	4.5 acres
LOCATION:	Approximately ¾ miles east of South Rock Road and approximately ½ mile south of East 39th Street South (East MacArthur Road). (9025 E 42nd Street south.
PROPOSED USE:	To operate a dog training and boarding kennel.



BACKGROUND: The applicant is seeking a Conditional Use approval for a "kennel, boarding/breeding/training" use to continue operating a training and boarding kennel in her personal residence. The property is addressed as 9025 East 42nd Street South and is generally located three-quarters of a mile east of South Rock Road and one-half mile south of East 39th Street South (East MacArthur Road). The subject site is zoned SF-20 Single Family Residential and is four and one-half acres in size.

The applicant is a certified professional dog trainer and has been training for 12 years. She has operated out of this location since July 2017. She is seeking a Conditional Use after she was cited by a Zoning/Nuisance Inspector who instructed her to do so.

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 SF-20 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 currently conducts group training sessions in an accessory structure on the property. This structure is separated from the main residence by a paved courtyard that is suitable to accommodate the necessary parking for her training classes. The classes have 6 sessions each that run year-round with a one to two week break in between. The classes during the week have the following schedule. These classes are for up to 6 dogs. These dogs are only on premises during the time of their class.

- Classes are 45 minutes to 1 hour in length
- 4 classes held 2 days per week in the evening with 2 classes each day started at 6pm and 7:30pm.
- 1-2 classes held during the day, 4 days per week during the day starting at either 9:00am or 1:00pm or both.
- 2-4 classes held during the weekend with 1-2 classes each day starting at 8:00am and 9:30am.

She indicated that class times can depending on the season as there are times of year where business is naturally slow. All but one class is held inside with the exception of the Loose Leash Walking class which is held outside during 2 of the 4 weeks. It generally is only held once per year. Though this class is outside, the dogs are required to remain silent. The class takes place inside an enclosed dog run.

The applicant would like to add additional services to her business in the near future. She would like to provide dog Socialization sessions—where dogs are taught good behavior around other dogs and social skills. She proposes to have 1-2 classes per week. Additionally, she is considering the opportunity to provide a boarding and training

service for up to 4 dogs. The boarding and training would be held exclusively inside except for when the dogs are brought outside to relieve themselves, for which she will be present at all times. The dogs that are boarded are not counted in the previously discussed class numbers.

The applicant's property is 4 and one-half acres which does not meet the threshold set forth in the supplemental use regulations. The application is requesting a waiver of the minimum 5 acre lot size requirement. As seen on the site plan, all distances to nearby dwelling units and contiguous property lines are in compliance with the Supplemental Use Regulations. Dwelling units are at least 200 feet away and contiguous property lines are at least 50 feet away. The current fence for the designated outdoor dog run associated with the business is a solid-screened fence on all sides but the south side. That side is a wrought-iron fence. This does not meet the minimum standard set forth in the supplemental use regulations. The applicant is also requesting to have screening requirement waived for the south property line since it is undeveloped, agricultural land. If this request is denied, then the screening will need to be upgraded to a material and opacity as required in by Sec. III-D.6.k.(3). The property has additional chain-link fenced in areas that are used for the applicant's personal dogs. Therefore, they are not required to comply with the screening requirement set forth in the Code.

Properties north, east, and west of the site are zoned SF-20 and are developed with single family homes built on lots of similar size or larger. Property to the south is zoned SF-20 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: SF-20 Large lot single family residential
South: SF-20 Agricultural uses.
East: SF_20 Large lot single family residential
West: SF-20 Large lot single family residential

PUBLIC SERVICES: East 42nd Street South is a gravel local street with 70 feet of right-of-way and a 25-foot bidirectional travel lane. East 39th Street South (East MacArthur Road) is a paved, 2-lane County arterial. The property is part of Rural Water District III and uses a septic sewer system with lagoon.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, T*he Community Investments Plan*, identifies the site as being located inside the 2035 urban growth areas for Wichita and the small cities. The Plan describes these areas as "adjacent to Wichita that are primarily undeveloped but have the potential to be developed by the year 2035." The site is depicted as suitable for residential uses. This indicates that site is suitable for the full range of residential development. 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 10 dogs at any given time for training sessions in addition to up to 4 dogs for boarding. All dogs shall be accompanied outdoors at all times. Dogs shall only be outside for the duration of an appropriate training session and/or to relieve themselves. Any outdoor training shall be confined to a property screened dog run. No dogs shall be boarded outdoors overnight.
2. The minimum lot size shall be waived and the screening requirement shall be waived for the south property line following approval from the Board of County Commission.

3. The applicant shall submit a revised site plan for review and approval by the Planning Director within 30 days of approval.
4. 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.
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 west of the site are zoned SF-20 and are developed with single family homes built on lots of similar size or larger. Property to the south is zoned SF-20 is undeveloped, agricultural land.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-20, 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 and training 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 received one comment with concerns regarding noise, increased traffic, and possible reduction in property value.

6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The adopted Wichita-Sedgwick County Comprehensive Plan, T*he Community Investments Plan*, identifies the site as being located inside the 2035 urban growth areas for Wichita and the small cities. The Plan describes these areas as "adjacent to Wichita that are primarily undeveloped but have the potential to be developed by the year 2035." The site is depicted as suitable for residential uses. This indicates that site is suitable for the full range of residential development. 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 size of this kennel and training facility may produce an increase in local traffic. Existing street infrastructure is adequate to handle the increase.

Attachements

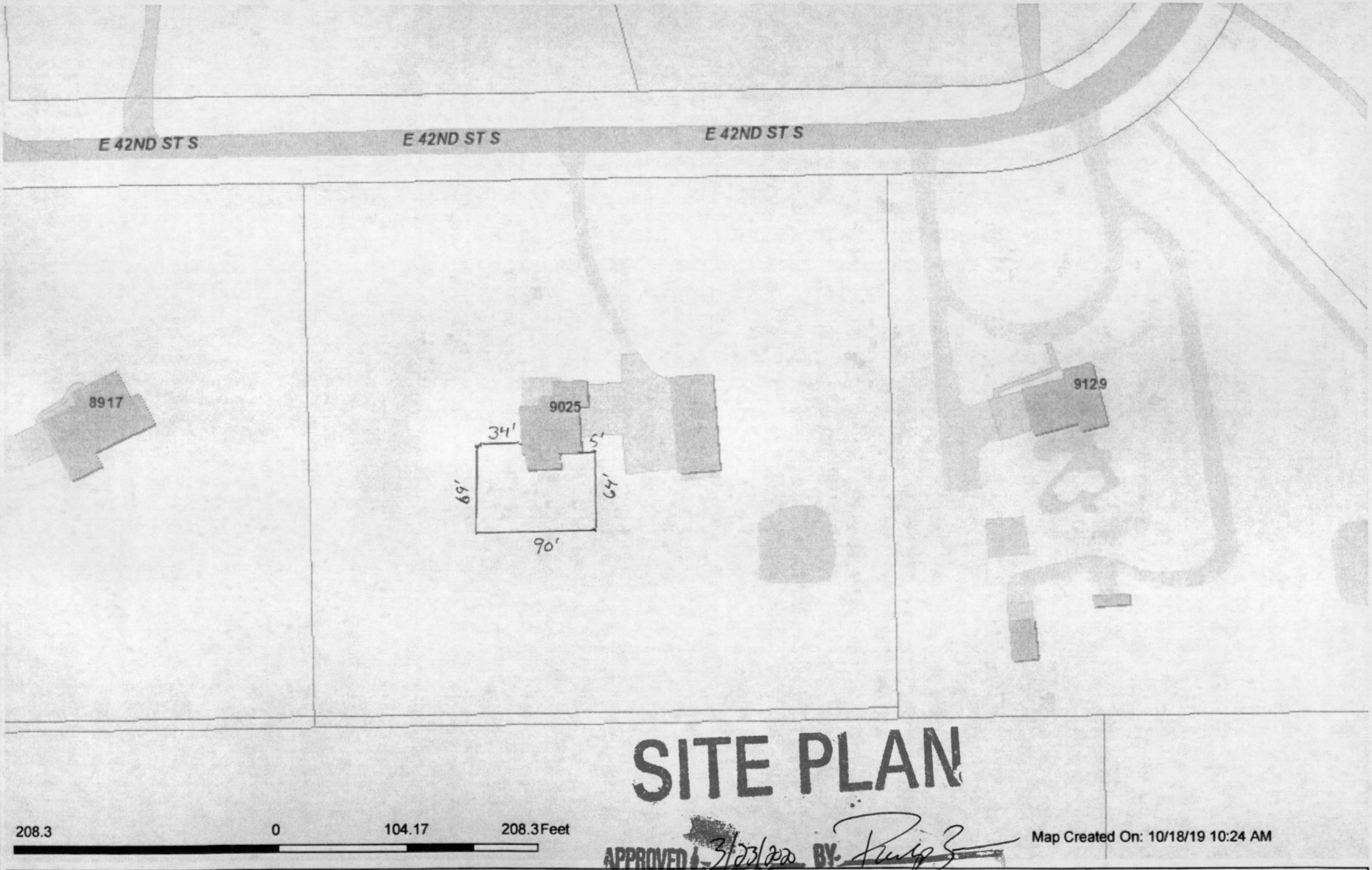
1. Screening Supplemental Use Regulation UZC Section III.D.6.k (3)
2. Aerial Map
3. Zoning Map
4. Land Use Map
5. Site Plan with Distance Study

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

UZC 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.

9025 E 42nd Street Site Plan



SITE PLAN

APPROVED 3/23/20 BY

208.3 0 104.17 208.3 Feet

Map Created On: 10/18/19 10:24 AM

This information is not an official record, and cannot be used as such. The user should rely only upon official records available from the custodian of records in the appropriate City and/or County department. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita.

1: 1,250