

DR-77-5 - Possible Amendment to
the City Zoning Ordinance - Re:
Special permit for public and
public utility structures.

ACTION

DATE

COMMITTEE _____

M.A.P.C. Approved 3-3-77

B.C.C./B. CO. C. Approved 3-15-77

DK-77-5 - Possible Amendment to
the City Zoning Ordinance - Re:
Special permit for public and
public utility structures.

February 10, 1977

John Wynkoop, Director of Water Department

Jack H. Galbraith, Chief Planner

DR-77-3 - Lime Sludge Disposal

With the advice of the Department of Law, we have prepared an amendment to Section 28.04.180 of the zoning ordinance related to special permits for governmental uses. This proposed amendment has been advertised for public hearing before the Wichita-Sedgwick County Metropolitan Area Planning Commission at the meeting of March 3, 1977. A copy of the proposed amendment is attached for your information.

A recommendation by the Planning Commission on this amendment will be forwarded to the City Commission for their consideration on March 26, 1977. Favorable action by the City Commission would place the ordinance on first reading with adoption on April 5 and would become effective upon publication April 8, 1977.

In order that the Planning Commission may consider a special permit application at the first meeting after the ordinance becomes effective, on April 14, 1977, all information pertaining to such application should be filed by March 16, 1977. Although no publication is required for such special permits, notice is given to adjacent property owners of the hearing to be held and you need to furnish an abstract ownership list of all property owners and their mailing addresses within 1000 feet of the property.

If you have any questions concerning this application, or any comments on the proposed ordinance amendment, please let me know.

Jack H. Galbraith
Chief Planner

JHG:GEL:rme
Attachment

cc: John Dekker, Director of Law
H. R. Kuhn, Assistant City Attorney
Ray Bruggeman, Director of Public Works
Robert Feldner, Superintendent of Central Inspection

2441 (First Published in the Daily Record on April 1, 1977)
IT

ORDINANCE NO. 1247
AN ORDINANCE AMENDING SECTION 28.04.100, PARAGRAPH 4 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO THE ESTABLISHMENT OF GOVERNMENTAL USES AND PUBLIC UTILITY USER, OPERATED UNDER A FRANCHISE GRANTED BY THE CITY, WITHIN ANY ZONING DISTRICT BY SPECIAL PERMIT; AND REPEALING THE ORIGINAL OF SECTION 28.04.100, PARAGRAPH 4, OF THE CODE OF THE CITY OF WICHITA, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 28.04.100, Paragraph 4 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

"4. The Board of City Commissioners may, by special permit and subject to such restrictive restrictions as it deems necessary, authorize the location in any district within the city; of any public building, structure or land use to be used by any department of the city, county, state or federal government; or any public utility operated under a franchise granted by the city."

The original of Section 28.04.100, paragraph 4, of the Code of the City of Wichita, Kansas is hereby repealed.

This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall take effect upon its passage and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this 22nd day of March, 1977.
JAMES M. DONNELL, Mayor
Attest: (SEAL) DONALD C. SISKICK, City Clerk

WICHITA-SEDGWICK COUNTY

DATE

March 7, 1977

METROPOLITAN AREA PLANNING DEPARTMENT

TO E. H. Denton, City Manager

FROM Robert A. Lakin, Director of Planning

SUBJECT DR-77-5 - Amendment to the Zoning Ordinance
Re: Special permit for governmental uses
and public utility uses.

Attached hereto is a delineated copy of an amendment to the zoning ordinance related to the special permit for public or governmental uses and for public utility uses located within any zoning district.

BACKGROUND

Over the years Section 28.04.180 paragraph 4, has been used to permit the location of buildings and structures of governmental uses, and utility uses franchised by the City, when such uses were to be located in an area not specifically zoned for such uses. In some cases, this included open land uses accessory to buildings or structures that were established on a property.

The Department of Law has advised that this section of the zoning ordinance should be amended to specifically include land uses in addition to buildings and structures.

SUMMARY

This amendment to the zoning ordinance changes the language to include not only buildings and structures, but also open land uses as part of a use established under the special permit provision. The provisions limiting the special permit to governmental or public utility uses remains the same.

The language of the amendment has been reviewed by the Department of Law and was found acceptable.

Copies of the proposed ordinance were furnished to the Wichita Board of Realtors and the Wichita Association of Home Builders. No response was received from either organization.

This amendment was discussed at the regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission on March 3, 1977. Porter moved, Barrier seconded, that an ordinance be forwarded to the City Commission with a recommendation for adoption.

E. H. Denton, City Manager
March 7, 1977
Page 2

This motion carried 6 in favor (Barrier, Greider, Kamen, Goebel, Porter, Bell) and 3 opposed (Bayouth, Hennessy, Savina). Taylor absent.

RECOMMENDATION

It is recommended by the Planning Commission that this ordinance be adopted.



Robert A. Lakin
Director of Planning

RAL:GEL:rme
Attachment

cc: John Dekker, Director of Law
John Wynkoop, Director of Water and Water Pollution Control
Ray Bruggeman, Director of Public Works

Additions underlined
Deletions marked-thus

ORDINANCE NO. _____

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BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

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"4. The Board of City Commissioners may, by special permit and subject to such protective restrictions as it deems necessary, authorize the location in any district within the city, ~~of any public building, structure or land use erected and to be used by any department of the city, county, state or federal government; or any building, structure or land use or other structure erected and to be used by any public utility operated under a franchise granted by the city.~~

The original of Section 28.04.180, paragraph 4, of the Code of the City of Wichita, Kansas is hereby repealed.

This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall take effect upon its passage and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this _____ day of _____, 1977.

James M. Donnell, Mayor

ATTEST:

Donald C. Casick, City Clerk

Approved as to form

John Dekker, City Attorney

ORDINANCE NO. _____

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ADOPTED at Wichita, Kansas, this _____ day of _____, 1977.

James M. Donnell, Mayor

ATTEST:

Donald C. Gisick, City Clerk

Approved as to form

John Dekker, City Attorney

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This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall take effect upon its passage and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this ____ day of _____, 1977.

James M. Donnell, Mayor

ATTEST:

Donald C. Gisick, City Clerk

Approved as to form

John Dekker, City Attorney

ORDINANCE NO. _____

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This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall take effect upon its passage and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this _____ day of _____, 1977.

James M. Donnell, Mayor

ATTEST:

Donald C. Gisick, City Clerk

Approved as to form

John Dekker, City Attorney

EXCERPT FROM PLANNING COMMISSION MINUTES OF MARCH 3, 1977:

25. Case No. DR 77-5 - Amendment to City Zoning Ordinance
Re: Special permit for public uses and public utility
uses.

GALBRAITH reviewed the following staff comments:

BACKGROUND

Over the years Section 28.04.180 paragraph 4, has been used to permit the location of buildings and structures of governmental uses, and utility uses franchised by the City, when such uses were to be located in an area not specifically zoned for such uses. In some cases, this included open land uses accessory to buildings or structures that were established on a property.

The Department of Law has advised that this section of the zoning ordinance should be amended to specifically include land uses in addition to buildings and structures. This would then clarify, and provide for without question, any governmental or utility open land use to be able to be included in a special permit application.

SUMMARY

The amendment, as proposed, changes the language to include all buildings, structures or land uses to be included as part of a use established under this special permit provision. The amendment does not affect the method of approval of such a permit.

RECOMMENDATION

Forward an ordinance to the City Commission with a recommendation for adoption.

LAKIN pointed out that this would permit a governmental use of land in any district. He said the Commission would recall when they were considering the Juvenile Court case it specifically stated "structure" and did not state use of the land. He stated that the Board of City Commissioners could authorize any governmental use of land in any district but that it required a ruling of the Law Department to permit land uses. He said this proposed amendment would strengthen the ordinance and would also permit land uses for public utilities. He said the proposed amendment was also in line with the County zoning resolution.

SAVINA asked why the government should have use of land indiscriminately.

LAKIN replied that public uses such as utility substations, fire stations, etc., might not be properly zoned for those uses, but were in the public interest to be conveniently located and a special permit has been the procedure used.

SAVINA asked if this meant the city could put something next to a development and get away with it.

Lakin stated that such uses would have to go through the due process procedure.

Savina asked if an application for a special permit would have to be filed to use a building.

LAKIN stated that it would be just like the special permit case considered for the juvenile court, an application would have to be made for a special permit and the Planning Commission could attached such conditions as they deemed appropriate to protect the public interest.

BAYOUTH stated that this would do away with all prototype zoning and he would approve it under the condition that everyone be given the same right as the government.

BELL stated that if he had heard the staff comments correctly, this was the interpretation that staff had placed on the ordinance all along, and that this suggested amendment would now satisfy the City Legal Department.

MOTION: That an ordinance be forwarded to the City Commission with a recommendation for adoption. Porter moved, Barrier seconded, and motion carried by a vote of 6 in favor (Barrier, Bell, Graider, Goebel, Kamen and Porter), 3 opposed (Bayouth, Hennessy, Savina.) Taylor was absent.

WICHITA-SEDGWICK COUNTY

DATE
March 7, 1977

METROPOLITAN AREA PLANNING DEPARTMENT

TO E. H. Denton, City Manager
FROM Robert A. Lakin, Director of Planning
SUBJECT DR-77-5 - Amendment to the Zoning Ordinance
Re: Special permit for governmental uses
and public utility uses.

Attached hereto is a delineated copy of an amendment to the zoning ordinance related to the special permit for public or governmental uses and for public utility uses located within any zoning district.

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The language of the amendment has been reviewed by the Department of Law and was found acceptable.

Copies of the proposed ordinance were furnished to the Wichita Board of Realtors and the Wichita Association of Home Builders. No response was received from either organization.

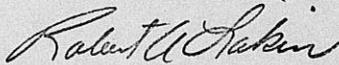
This amendment was discussed at the regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission on March 3, 1977. Porter moved, Barrier seconded, that an ordinance be forwarded to the City Commission with a recommendation for adoption.

E. H. Denton, City Manager
March 7, 1977
Page 2

This motion carried 6 in favor (Barrier, Greider, Kamen, Goebel, Porter, Bell) and 3 opposed (Bayouth, Hennessy, Savina). Taylor absent.

RECOMMENDATION

It is recommended by the Planning Commission that this ordinance be adopted.



Robert A. Lakin
Director of Planning

RAL:GEL:rme
Attachment

cc: John Dekker, Director of Law
John Wynkoop, Director of Water and Water Pollution Control
Ray Bruggeman, Director of Public Works

Additions underlined
Deletions marked thus

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ADOPTED at Wichita, Kansas, this _____ day of _____, 1977.

James M. Donnell, Mayor

ATTEST:

Donald C. Gisick, City Clerk

Approved as to form

John Dekker, City Attorney

March 7, 1977

E. H. Denton, City Manager

Robert A. Lakin, Director of Planning

DR-77-5 - Amendment to the Zoning Ordinance
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The language of the amendment has been reviewed by the Department of Law and was found acceptable.

Copies of the proposed ordinance were furnished to the Wichita Board of Realtors and the Wichita Association of Home Builders. No response was received from either organization.

This amendment was discussed at the regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission on March 3, 1977. Porter moved, Barrier seconded, that an ordinance be forwarded to the City Commission with a recommendation for adoption.

E. H. Denton, City Manager
March 7, 1977
Page 2

This motion carried 6 in favor (Barrier, Greider, Kamen, Goebel, Porter, Bell) and 3 opposed (Bayouth, Hennessy, Savina). Taylor absent.

RECOMMENDATION

It is recommended by the Planning Commission that this ordinance be adopted.

Robert A. Lakin
Director of Planning

RAL:GEL:rme
Attachment

cc: John Dekker, Director of Law
John Wynkoop, Director of Water and Water Pollution Control
Ray Bruggeman, Director of Public Works

WICHITA-SEDGWICK COUNTY

DATE

March 7, 1977

METROPOLITAN AREA PLANNING DEPARTMENT

TO E. H. Denton, City Manager
FROM Robert A. Lakin, Director of Planning
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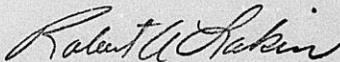
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E. H. Denton, City Manager
March 7, 1977
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RECOMMENDATION

It is recommended by the Planning Commission that this ordinance be adopted.



Robert A. Lakin
Director of Planning

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Attachment

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John Wynkoop, Director of Water and Water Pollution Control
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Additions underlined
Deletions marked thus

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This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall take effect upon its passage and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this _____ day of _____, 1977.

James M. Donnell, Mayor

ATTEST:

Donald C. Gisick, City Clerk

Approved as to form

John Dekker, City Attorney

ORDINANCE NO. _____

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ADOPTED at Wichita, Kansas, this ____ day of _____, 1977.

James M. Donnell, Mayor

ATTEST:

Donald C. Gisick, City Clerk

Approved as to form

John Dekker, City Attorney

ORIG.
/

WICHITA-SEDGWICK COUNTY

DATE

February 10, 1977

METROPOLITAN AREA PLANNING DEPARTMENT

TO Wichita-Sedgwick County Metropolitan
Area Planning Commission
FROM Robert A. Lakin, Director of Planning

SUBJECT DR-77-5 - Possible amendment to the City Zoning Ordinance. Re: Special permit for public uses and public utility uses.

The attached proposed amendment to the City Zoning Ordinance has been advertised for public hearing at your regularly scheduled meeting of March 3, 1977.

BACKGROUND

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SUMMARY

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RECOMMENDATION

Forward an ordinance to the City Commission with a recommendation for adoption.



Robert A. Lakin
Director of Planning

RAL:GEL:rme
Attachment

MAPC
February 10, 1977
Page 2

cc: John Wynkoop, Director of Water Department
Ray Bruggeman, Director of Public Works
Robert Feldner, Superintendent of Central Inspection
John Dekker, Director of Law
Wichita Board of Realtors, 435 N. Broadway, 67202
Wichita Association of Home Builders, 730 N. Main, 67203

(Published in The Daily Record on February 7, 1977)

OFFICIAL NOTICE

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED.

NOTICE IS HEREBY GIVEN that on Thursday, March 3, 1977, the Wichita-Sedgwick County Metropolitan Area Planning Commission, in the City Commission Meeting Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at 1:30 p.m., will consider the following change in Title 28, the Code of the City of Wichita, Kansas:

An amendment to Section 28.04.180, paragraph 4, of the zoning ordinance, to include open land uses in addition to buildings and structures as part of a special permit.

Copies of the proposed amendment are available upon request from the Wichita-Sedgwick County Metropolitan Area Planning Department.

The proposed amendment will there be discussed and considered by the Wichita-Sedgwick County Metropolitan Area Planning Commission, and all persons interested in said matter will be heard at this time concerning their views and wishes, and any protest against any of the provisions of the proposed changes of the zoning ordinance will be considered by the Commission as by law provided.

WITNESS my hand and seal this 3rd day of February, 1977.

Robert A. Lakin, Secretary
Wichita-Sedgwick County Metro-
politan Area Planning Commission

(SEAL)

Additions underlined

Deletions ~~marked-thus~~

Proposed Amendment to the
Zoning Ordinance of the
City of Wichita, Kansas

It is proposed to amend Section 28.04.180, paragraph 4, to include open land uses in addition to buildings and structures.

4. The Board of City Commissioners may, by special permit and subject to such protective restrictions as it deems necessary, authorize the location in any district within the city, ~~of~~ any public building, structure or land use erected-and to be used by any department of the city, county, state or federal government; or any building, structure or land use ~~or-other-structure-erected-and to be~~ used by any public utility operated under a franchise granted by the city.

WICHITA-SEDGWICK COUNTY

DATE
February 10, 1977

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TO Wichita-Sedgwick County Metropolitan
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The attached proposed amendment to the City Zoning Ordinance has been advertised for public hearing at your regularly scheduled meeting of March 3, 1977.

BACKGROUND

Over the years Section 28.04.180 paragraph 4, has been used to permit the location of buildings and structures of governmental uses, and utility uses franchised by the City, when such uses were to be located in an area not specifically zoned for such uses. In some cases, this included open land uses accessory to buildings or structures that were established on a property.

The Department of Law has advised that this section of the zoning ordinance should be amended to specifically include land uses in addition to buildings and structures. This would then clarify, and provide for without question, any governmental or utility open land use to be able to be included in a special permit application.

SUMMARY

The amendment, as proposed, changes the language to include all buildings, structures or land uses to be included as part of a use established under this special permit provision. The amendment does not affect the method of approval of such a permit.

RECOMMENDATION

Forward an ordinance to the City Commission with a recommendation for adoption.

Robert A. Lakin
Director of Planning

RAL:GEL:rme
Attachment

*Copied sent
2-16-77
Wynke
Decker
Fisher
Bryant
WAHB
WDR.*

February 10, 1977

Wichita-Sedgwick County Metropolitan
Area Planning Commission
Robert A. Lakin, Director of Planning

DR-77-5 - Possible amendment to the City Zoning
Ordinance. Re: Special permit for public uses
and public utility uses.

The attached proposed amendment to the City Zoning Ordinance has
been advertised for public hearing at your regularly scheduled
meeting of March 3, 1977.

BACKGROUND

Over the years Section 28.04.180 paragraph 4, has been used to
permit the location of buildings and structures of governmental
uses, and utility uses franchised by the City, when such uses
were to be located in an area not specifically zoned for such
uses. In some cases, this included open land uses accessory to
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The Department of Law has advised that this section of the zoning
ordinance should be amended to specifically include land uses in
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SUMMARY

The amendment, as proposed, changes the language to include all
buildings, structures or land uses to be included as part of a
use established under this special permit provision. The amendment
does not affect the method of approval of such a permit.

RECOMMENDATION

Forward an ordinance to the City Commission with a recommendation
for adoption.

Robert A. Lakin
Director of Planning

RAL:GEL:rme
Attachment

MAPC
February 10, 1977
Page 2

cc: John Wynkoop, Director of Water Department
Ray Bruggeman, Director of Public Works
Robert Feldner, Superintendent of Central Inspection
John Dekker, Director of Law
Wichita Board of Realtors, 435 N. Broadway, 67202
Wichita Association of Home Builders, 730 N. Main, 67203

DR-77-5

February 10, 1977

John Wynkoop, Director of Water Department

Jack H. Galbraith, Chief Planner

DR-77-3 - Lime Sludge Disposal

With the advice of the Department of Law, we have prepared an amendment to Section 28.04.180 of the zoning ordinance related to special permits for governmental uses. This proposed amendment has been advertised for public hearing before the Wichita-Sedgwick County Metropolitan Area Planning Commission at the meeting of March 3, 1977. A copy of the proposed amendment is attached for your information.

A recommendation by the Planning Commission on this amendment will be forwarded to the City Commission for their consideration on March 26, 1977. Favorable action by the City Commission would place the ordinance on first reading with adoption on April 5 and would become effective upon publication April 8, 1977.

In order that the Planning Commission may consider a special permit application at the first meeting after the ordinance becomes effective, on April 14, 1977, all information pertaining to such application should be filed by March 16, 1977. Although no publication is required for such special permits, notice is given to adjacent property owners of the hearing to be held and you need to furnish an abstract ownership list of all property owners and their mailing addresses within 1000 feet of the property.

If you have any questions concerning this application, or any comments on the proposed ordinance amendment, please let me know.

Jack H. Galbraith
Chief Planner

JHG:GEL:rmc
Attachment

cc: John Dekker, Director of Law
H. R. Kuhn, Assistant City Attorney
Ray Bruggeman, Director of Public Works
Robert Feldner, Superintendent of Central Inspection

85033 (First Published in The Daily Record on February 7, 1977) 1T

OFFICIAL NOTICE

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

NOTICE IS HEREBY GIVEN that on Thursday, March 3, 1977, the Wichita-Sedgwick County Metropolitan Area Planning Commission, in the City Commission Meeting Room, First Floor, City Hall, 635 North Main, Wichita, Kansas, at 1:30 p.m., will consider the following change in Title 26, the Code of the City of Wichita, Kansas:

An amendment to Section 26.04.186, paragraph 4, of the zoning ordinance, to include open land uses in addition to buildings and structures as part of a special permit.

Copies of the proposed amendment are available upon request from the Wichita-Sedgwick County Metropolitan Area Planning Department.

The proposed amendment will there be discussed and considered by the Sedgwick County Metropolitan Area Planning Commission, and all persons interested in said matter will be heard at this time concerning their views and wishes, and any protest against any of the provisions of the proposed changes of the zoning ordinance will be considered by the Commission as by law provided.

WITNESS my hand and seal this 3rd day of February, 1977.

ROBERT A. LAKIN, Secretary
Wichita-Sedgwick County Metropolitan Area Planning Commission
(SEAL)

(Published in The Daily Record on February 7, 1977)

OFFICIAL NOTICE

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED.

NOTICE IS HEREBY GIVEN that on Thursday, March 3, 1977, the Wichita-Sedgwick County Metropolitan Area Planning Commission, in the City Commission Meeting Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at 1:30 p.m., will consider the following change in Title 28, the Code of the City of Wichita, Kansas:

An amendment to Section 28.04.180, paragraph 4, of the zoning ordinance, to include open land uses in addition to buildings and structures as part of a special permit.

Copies of the proposed amendment are available upon request from the Wichita-Sedgwick County Metropolitan Area Planning Department.

The proposed amendment will there be discussed and considered by the Wichita-Sedgwick County Metropolitan Area Planning Commission, and all persons interested in said matter will be heard at this time concerning their views and wishes, and any protest against any of the provisions of the proposed changes of the zoning ordinance will be considered by the Commission as by law provided.

WITNESS my hand and seal this 3rd day of February, 1977.

Robert A. Lakin, Secretary
Wichita-Sedgwick County Metro-
politan Area Planning Commission

(SEAL)

THE CITY OF WICHITA

OFFICE OF PLANNING DEPARTMENT

DATE January 24, 1977



TO Robert A. Lakin, Director of Planning

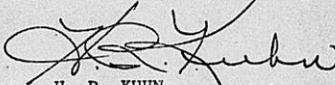
FROM H. R. Kuhn, Assistant City Attorney

SUBJECT Lime Sludge Disposal Facility

Your memorandum of January 7, 1977 directed to John Wynkoop, Director of Water, with a copy to John Dekker, Director of Law, was handed to me for attention, review and response as to the legal questions presented. After reviewing the annexation status the Department of Law concurs in the conclusion drawn by you that the concurrence of the Board of County Commissioners is not required. This is based on the specific provision of K.S.A. 12-520 (see subparagraph b). The provisions of K.S.A. 12-520c, where the concurrence of the Board of County Commissioners is required, would not apply to City owned property but would appear to apply to non-contiguous property not owned by the City.

The second question presents more of a problem. This relates to the provisions of 28.04.180 (4) which authorizes the granting of a special permit by the Board of City Commissioners for the location within the City of "any public building erected and used" by the City or other governmental units. We noted your observation that historically said section has been interpreted to include the use of land as well as buildings. We would be interested in the basis for such interpretation particularly since the zoning code defines "building" as any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind. If there is any likelihood that any opposition or challenge might result in proceeding as suggested, we would urge that the referenced zoning section be more strictly followed.

I'll be happy to visit with you further in detail should you feel it advisable.


H. R. KUHN
ASSISTANT CITY ATTORNEY

HRK:mb
cc: John Dekker

(Published in The Daily Record on February 9, 1977.)

Revised
w/
H. Kubo
2-1-77

OFFICIAL NOTICE

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED.

NOTICE IS HEREBY GIVEN that on Thursday, ^{March 3, 1977} ~~September 30, 1976~~, the Wichita-Sedgwick County Metropolitan Area Planning Commission, in the City Commission Meeting Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at 1:30 p.m., will consider the following change in Title 28, the Code of the City of Wichita, Kansas:

An amendment to Section 28.04.180, paragraph 4, of the zoning ordinance, to ~~change the~~ ~~of the~~ include open land uses in addition to buildings and structures ~~as a~~ part of a special permit.

Copies of the proposed amendment are available upon request from the Wichita-Sedgwick County Metropolitan Area Planning Department.

The proposed amendment will there be discussed and considered by the Wichita-Sedgwick County Metropolitan Area Planning Commission, and all persons interested in said matter will be heard at this time concerning their views and wishes, and any protest against any of the provisions of the proposed changes of the zoning ordinance will be considered by the Commission as by law provided.

WITNESS my hand and seal this 3rd day of February, 1977.

(SEAL)

Robert A. Lakin, Secretary
Wichita-Sedgwick County Metro-
politan Area Planning Commission

Additions underlined
Deletions marked thus

H. Kuhn

Proposed Amendment to the
Zoning Ordinance of the
City of Wichita, Kansas

It is proposed to amend Section 28.04.180, paragraph 4, to
~~include open land uses~~ include open land uses
in addition to buildings and structures.

4. The Board of City Commissioners may, by special permit and subject to such protective restrictions as it deems necessary, authorize the location in any district within the city, ~~of any public building, structure or land use erected and to be~~ used by any department of the city, county, state or federal government; or any building, structure or land use ~~or other structure erected and to be~~ used by any public utility operated under a franchise granted by the city.

THE CITY OF WICHITA

OFFICE OF PLANNING DEPARTMENT

DATE January 24, 1977



TO Robert A. Lakin, Director of Planning

FROM H. R. Kuhn, Assistant City Attorney

SUBJECT Lime Sludge Disposal Facility

Your memorandum of January 7, 1977 directed to John Wynkoop, Director of Water, with a copy to John Dekker, Director of Law, was handed to me for attention, review and response as to the legal questions presented. After reviewing the annexation status the Department of Law concurs in the conclusion drawn by you that the concurrence of the Board of County Commissioners is not required. This is based on the specific provision of K.S.A. 12-520 (see subparagraph b). The provisions of K.S.A. 12-520c, where the concurrence of the Board of County Commissioners is required, would not apply to City owned property but would appear to apply to non-contiguous property not owned by the City.

The second question presents more of a problem. This relates to the provisions of 28.04.180 (4) which authorizes the granting of a special permit by the Board of City Commissioners for the location within the City of "any public building erected and used" by the City or other governmental units. We noted your observation that historically said section has been interpreted to include the use of land as well as buildings. We would be interested in the basis for such interpretation particularly since the zoning code defines "building" as any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind. If there is any likelihood that any opposition or challenge might result in proceeding as suggested, we would urge that the referenced zoning section be more strictly followed.

I'll be happy to visit with you further in detail should you feel it advisable.

A handwritten signature in black ink, appearing to read "H. R. Kuhn".

H. R. KUHN
ASSISTANT CITY ATTORNEY

HRK:mb

cc: John Dekker