



Wichita-Sedgwick County Metropolitan Area Planning Department

February 28, 2023

MLC/CCH Limited Partnership
7701 E. Kellogg #490
Wichita, KS 67207

RE: BZA2022-00057 – Variance request in the City to reduce parking minimum from 10 spaces to 2 spaces; generally located on the southwest corner of South Morningside Drive and South Woodlawn Avenue (441 South Morningside).

Dear Applicant,

At its regular meeting on January 19, 2023, the Board of Zoning Appeals considered this application. The action by the BZA was to approve the request subject to the following conditions and subject to City Council approval of CON2022-00052 for Group Residence, Limited. On February 21, 2023, the City Council approved CON2022-00052.

1. A revised site plan shall be submitted to Planning for approval by the Planning Department within 30 days of approval. Any construction shall strictly adhere to the approved site plan.
2. Residents within the care of this facility are prohibited from having personal vehicles at the facility.
3. All State, County, and any other applicable permits, inspections, and standards shall be met.

If you have any questions concerning this matter, please call our office at (316)-268-4421.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Philip Zevenbergen'.

Philip Zevenbergen, AICP
Current Plans
Division Manager

Copies to: MABCD

BZA RESOLUTION NO. BZA2022-00057

WHEREAS, MLC/CCH Limited Partnership (owner); pursuant to Kansas Statutes Annotated 12-759, requests a Variance to reduce the required number of parking spaces from 10 to 2 parking spaces to redevelop property located at 441 South Morningside Drive; legally described as follows:

Lot 4, Block R, Village 5th Addition to Wichita, Sedgwick County, Kansas

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of January 19, 2023, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Kansas Statutes Annotated 12-759 *et. seq.*; and

WHEREAS, the request is unique to this property and was not created by the applicant; and

WHEREAS, there should not be any adverse harm to nearby properties; and

WHEREAS, the strict application of the provisions of the applicable code would constitute an unnecessary hardship; and

WHEREAS, the variance requested will not adversely affect the public health, safety, morals, order, convenience, prosperity, general welfare, or the harmonious development of the community; and

WHEREAS, granting of the variance will not be opposed to the general spirit and intent of the Unified Zoning Code; and

WHEREAS, each of the five conditions required by Kansas Statutes Annotated 12-759, are found to be present for a variance to be granted.

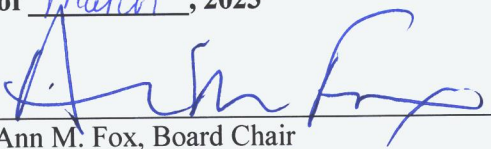
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals, pursuant to Kansas Statutes Annotated 12-759, a Variance to reduce the number of required parking spaces from 10 to 2 spaces at 441 South Morningside Drive and legally described as follows:

Lot 4, Block R, Village 5th Addition to Wichita, Sedgwick County, Kansas

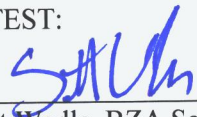
The variance is hereby **GRANTED**, subject to the following conditions:

1. A revised site plan shall be submitted to Planning for approval by the Planning Department within 30 days of approval. Any construction shall strictly adhere to the approved site plan.
2. Residents within the care of this facility are prohibited from having personal vehicles at the facility.
3. All State, County, and any other applicable permits, inspections, and standards shall be met.

ADOPTED AT WICHITA, KANSAS, this 9th Day of March, 2023


Ann M. Fox, Board Chair

ATTEST:


Scott Wadle, BZA Secretary



Beaufort Gazette
Belleville News-Democrat
Bellingham Herald
Bradenton Herald
Centre Daily Times
Charlotte Observer
Columbus Ledger-Enquirer
Fresno Bee

The Herald - Rock Hill
Herald Sun - Durham
Idaho Statesman
Island Packet
Kansas City Star
Lexington Herald-Leader
Merced Sun-Star
Miami Herald

el Nuevo Herald - Miami
Modesto Bee
Raleigh News & Observer
The Olympian
Sacramento Bee
Fort Worth Star-Telegram
The State - Columbia
Sun Herald - Biloxi

Sun News - Myrtle Beach
The News Tribune Tacoma
The Telegraph - Macon
San Luis Obispo Tribune
Tri-City Herald
Wichita Eagle

AFFIDAVIT OF PUBLICATION

Account #	Order Number	Identification	Order PO	Amount	Cols	Depth
16399	363558	Print Legal Ad-IPL01031600 - IPL0103160		\$234.04	3	93 L

Attention: MANDY HEBERT

CITY OF WICHITA/PLANNING DEPT
271 WEST THIRD ST., 2ND FL, SU 203
WICHITA, KS 67202

LEGAL PUBLICATION

OCA 180004
Published in The Wichita Eagle on December 29, 2022
(One Time Only)
MAPC/EZA January 19, 2023
OFFICIAL HEARING NOTICE

NOTICE IS HEREBY GIVEN that on Thursday, January 19, 2023, no earlier than 1:30 p.m., the WichitaSedgwick County Metropolitan Area Planning Commission/Board Zoning Appeals will consider the following applications. The meeting will be held at the Ronald Reagan Building, 271 West Third Street, 2nd Floor, Wichita, KS 67202. Public participation may also occur through virtual methods (specified at the end of this notice). If you have any questions regarding the meeting or items on this notice, please call the WichitaSedgwick County Metropolitan Area Planning Department at (316) 2684421.

BZA2022-00057: Variance request in the City to reduce parking minimum from 10 to 2 spaces; generally located on the southwest corner of South Morningside Drive and South Woodlawn Blvd (441 South Morningside).

CON2022-00048: Conditional Use request in the City to allow a 155-foot monopole telecommunications facility with a 4-foot lightning rod; generally located on the north side of West Pawnee Avenue and south of Southwest Boulevard (3800 West Pawnee Avenue).

CON2022-00052: Conditional Use request in the City to allow Group Residence, Limited on property zoned SF-5 Single-Family Residential District; generally located on the southwest corner of South Morningside Drive and South Woodlawn Blvd (441 South Morningside).

CON2022-00053: Conditional Use in the City to permit entertainment as an accessory use to a restaurant (defined as "Nightclub in the City"); generally located on the south side of West 13th Street North, within one-block east of North West Street (2827 West 13th Street North).

CON2022-00054: Conditional Use request in the City to permit Wrecking/Salvage as use on property (with ZON2022-00074) to rezone from LC to LI Limited Industrial; located on the east side of South Seneca, within one-quarter mile south of West 55th Street South (5640 South Seneca).

CUP2022-00059: CUP Amendment in the City to DP-229 to allow for outdoor equipment and vehicle sales; generally located on the southeast corner of East Central Avenue and North Greenwich Road (310 North Greenwich Road).

PUD2022-00025: Zone Change request in the City from TF-3 Two-Family Residential to RU0 Planned Unit Development to unify commonly owned parcels and create common amenity space on property; generally located between North Waco and North Back Bay Blvd and on the south side of West 9th Street North.

PUD2022-00027: Planned Unit Development request in the City to split lots to provide separate lots for each structure; generally located within one-half mile east of South Meridian Avenue and one-quarter mile south of West Harry Street (1801 South Glenn Street).

ZON2022-00070: Zone Change request in the City from TF-3 Two-Family Residential District to NR Neighborhood Retail District for retail; generally located on the northeast corner of East 21st Street North and North Minneapolis Avenue (2202 North Minneapolis Avenue).

ZON2022-00071: Zone Change request in the City from SF-5 (Single Family) to OW (Office Warehouse); located on the northwest corner of North Arkansas Avenue and West 38th Street North (3825 N. Arkansas Avenue).

ZON2022-00072: Zone Change request in the City from SF-5 Single-Family Residential to TF-3 Two-Family Residential on property; generally located one-quarter mile north of East Pawnee Avenue and 200 feet west of South Broadway Avenue (2152 South Market Street).

ZON2022-00074: Zone Change request in the City from LC Limited Commercial to LI Limited Industrial (with CON2022-00054) to permit Wrecking and Salvage use for a low-yard on property; located on the east side of South Seneca Street, within one-quarter mile south of East 55th Street South (5640 S Seneca).

Complete legal descriptions are available for public inspection at the Metropolitan Area Planning Department, 271 W. Third St., 2nd Floor, Wichita, Kansas 67202. As provided in Section V of the WichitaSedgwick County Unified Zoning Code, the same will then and there be discussed and considered by the said MAPC, and all persons interested in said matters will be heard at this time concerning their views and wishes in the premises, and any protest against any of the provisions of the proposed changes to the zoning regulations will be considered by the MAPC as by law provided.

Options to participate (see below)

- 1) Participate virtually
- 2) Attend in-person at the Ronald Reagan Building
- 3) Submit comments ahead of time

Participate Virtually

Topic: WichitaSedgwick County Metropolitan Planning Commission

Time: 1:30 PM

Join Zoom Meeting

https://us06web.zoom.us/j/4089866967?pwd=a0k3bW0ySjBnbFJ0dFV0XjV0eDk0UT09

Meeting ID: 408 986 6967

Passcode: 094136

One tap mobile

+16699006833, 4089866967#...094136# US (San Jose)

+17193594580, 4089866967#...094136# US

Meeting ID: 408 986 6967

Passcode: 094136

Find your local number: https://us06web.zoom.us/j/uc65c0dtb1

Attend In-Person

You may also participate in the hearing in-person at the Ronald Reagan Building, 271 West Third Street, 2nd Floor, Wichita, Kansas 67202. The in-person option is primarily intended for those without other technology options, and who have not previously submitted recorded audio or video comments. If you have any written or visual materials you wish to present, please contact Planning Department Graphics staff (316-2684464) by 5pm, 3 days prior to the meeting.

Submit Comments Ahead of Time

You can submit comments regarding items on the Planning Commission agenda to the WichitaSedgwick County Metropolitan Area Planning Department (Planning Department). Comments must be received by the Planning Department no later than 5pm 3 days prior to the meeting. Please be sure to provide ample time for delivery. The comments can be submitted in the following formats: email; letter; video; and audio message (mp3, etc.). The comment should indicate which item they pertain to and be less than three (3) minutes in duration. The comments should be submitted to Planning Department staff using the contact information below. The comments received ahead of the submission deadline will be shared with the MAPC, prior to or during the meeting.

Email: Planning@wichita.gov

Mailing Address: WichitaSedgwick County Metropolitan Area Planning Department

Attn: Scott Wadle

271 W. 3rd Street - Suite 201

Wichita, KS 67202

Phone: 316.268.4421

Fax: 316.858.7764

WITNESS MY HAND on December 29, 2022

Scott Wadle, Secretary

WichitaSedgwick County

Metropolitan Area Planning Commission

IPL0103160

Dec 29 2022

In The STATE OF KANSAS
In and for the County of Sedgwick

1 insertion(s) published on:

12/29/22

STATE OF KANSAS)

SS

County of Sedgwick)

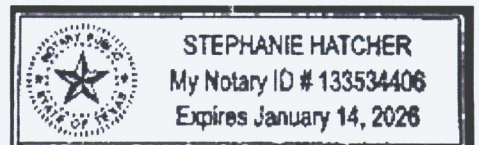
Hayley Martin, of lawful age, being first duly sworn, deposeth and saith: That he is Record Clerk of The Wichita Eagle, a daily newspaper published in the City of Wichita, County of Sedgwick, State of Kansas, and having a general paid circulation on a daily basis in said County, which said newspaper has been continuously and uninterruptedly published in said County for more than one year prior to the first publication of the notice hereinafter mentioned, and which said newspaper has been entered as second class mail matter at the United States Post Office in Wichita, Kansas, and which said newspaper is not a trade, religious or fraternal publication and that a notice of a true copy is hereto attached was published in the regular and entire Morning issue of said The Wichita Eagle from 12/29/2022 to 12/29/2022.

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

DATED: 12/29/2022

Stephanie Hatcher

Notary Public in and for the state of Texas, residing in Dallas County



Extra charge for lost or duplicate affidavits.
Legal document please do not destroy!

CASE NUMBER:

APPLICANTS:

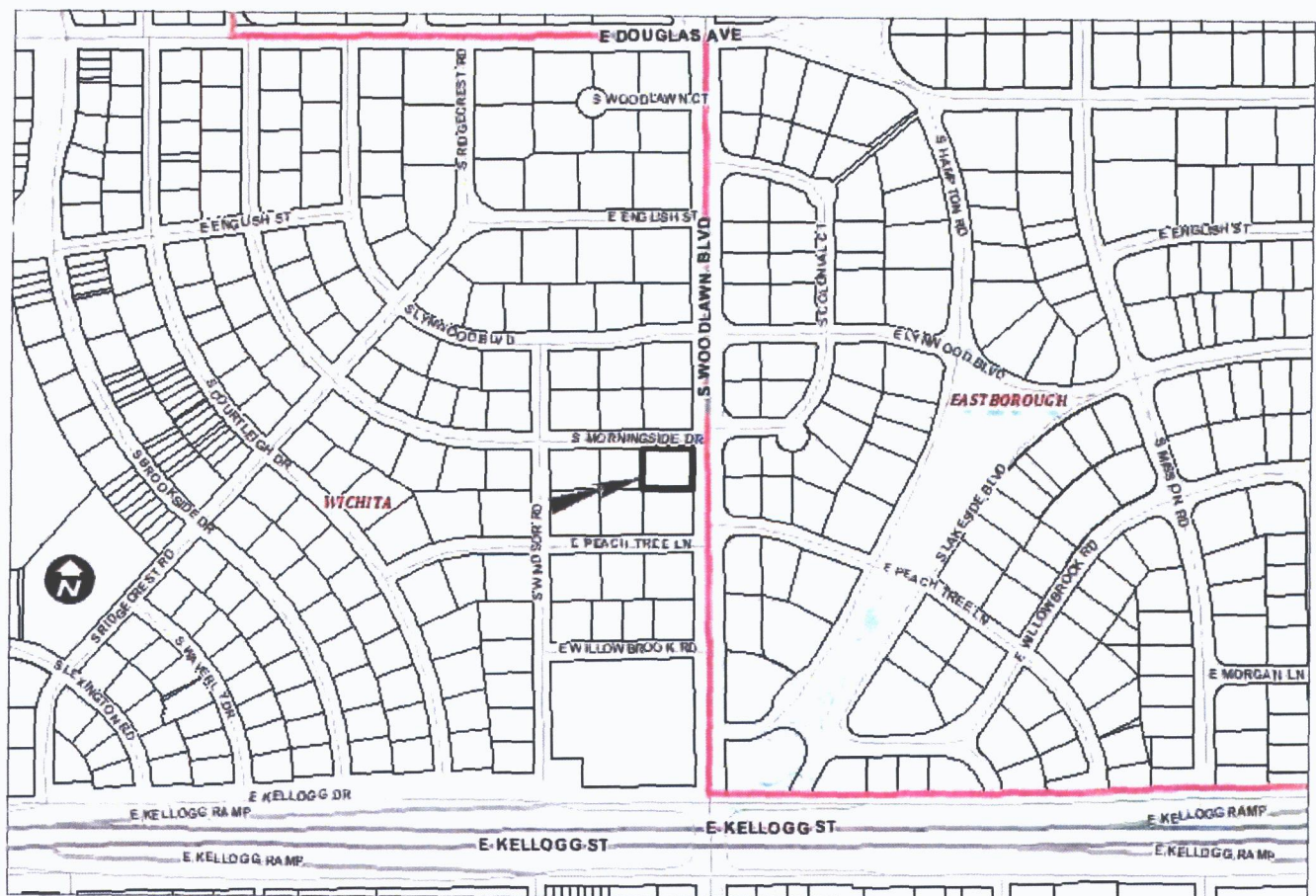
REQUEST:

CURRENT ZONING:

SITE SIZE:

LOCATION:

On the west side of South Woodlawn Boulevard, within one-quarter mile north of East Kellogg (441 South Morningside Drive).



JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Kansas Statutes Annotated 12-759. The Board may grant the request when all five conditions, as required by the statutes, are found to exist.

BACKGROUND: The applicant is requesting the reduction in the parking requirement for Group Residence, Limited from 10 spaces to two (2) spaces on property addressed 441 South Morningside Drive, which is generally located on the west side of South Woodlawn Boulevard and within one-quarter mile north of East Kellogg. This case is being heard concurrently with CON2022-00052—a Conditional Use request for Group Residence, Limited on a property zoned SF-5 Single Family Residential District.

The applicant currently operates a Home Plus Group Home on the property and houses up to eight residents in addition to two staff. The request for Group Residence, Limited would allow the facility to house up to 15 persons including staff. The applicant stated they intend to house 10 residents and two staff members. The Kansas Department for Aging and Disability Services (KDADS) generally defines Home Plus as “any residence or facility caring for not more than 12 individuals not related within the third degree of relationship to the operator or owner by blood or marriage...who...need personal care or supervised nursing care to help with limitations in activities of daily living” (see attached full definition).

The Unified Zoning Code states that the off-street parking requirement for Group Residence, Limited is one per bedroom (per Sec.IV-A.4.). The facility is proposed to have 10 bedrooms when the building addition is complete. The Unified Zoning Code defines the typical uses of a Group Residence as “fraternity or sorority houses, dormitories, residence halls, boarding or lodging houses, children’s homes, and emergency shelters for the homeless or victims of crime, abuse, or neglect.” The typical uses of a Group Residence describe uses that would typically need a larger defined off-street parking requirement. The applicants indicate that all residents do not drive or own vehicles as they are care-dependent. Therefore, the only vehicles parked on site will be for staff (maximum of two at any given time) in addition to visiting family members. The facility’s driveway can only satisfy the parking requirement. Therefore, the applicant has filed this Variance application to reduce the parking requirement down to two spaces.

Properties to the north, west, and south are zoned SF-5 Single-Family Residential District and are developed with single-family dwellings. Property immediately abutting to the east is the South Woodlawn Boulevard right-of-way. East of South Woodlawn Boulevard are single-family residential properties in the City of Eastborough.

CASE HISTORY: In 1951, the site was platted as part of the Village 5th Addition.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single Family Residence
SOUTH:	SF-5	Single Family Residence
EAST:	Eastborough	Single Family Residence
WEST:	SF-5	Single Family Residence

THE FIVE CRITERIA FOR GRANTING A VARIANCE:

1. Criteria: The request is unique to this property and was not created by the applicant: The applicant states that they care for residents who do not drive. They only need two parking spaces for care staff. The driveway is large enough to accommodate four parking spaces.

Staff Analysis:

Staff agrees that the situation of providing care for residents who do not drive vehicles of their own is unique and not normally found in other situations with a Group Residence use.

2. Criteria: The granting of the Variance will not adversely affect the rights of the adjacent property owners or residents: The applicant states that granting the Variance will not adversely affect the adjacent properties as the only increase is vehicles will be to two care giver vehicles instead of the one currently, and both vehicles will park in the driveway.

Staff Analysis:

It is in staff's opinion that if the associated Conditional Use for Group Residence, Limited is granted, requiring the applicant to provide the minimum number of parking spaces per the standards of the Unified Zoning Code will have greater detrimental impacts to surrounding properties. If the applicant is required to provide 10 off-street parking spaces, it will degrade the residential character of the subject site, which will negatively impact the surrounding properties.

3. Criteria: The strict application of the provisions of the sign code would constitute an unnecessary hardship on the applicant: The applicant states that if the Variance is not granted, he would be forced to pave a portion of either the front or back yards, which would be very unsightly in the neighborhood and would reduce the yard space that the residents currently enjoy during nice weather.

Staff Analysis:

Staff agrees that providing the minimum required parking spaces for a Group Residence, Limited on this site would cause a hardship on how the applicant and residents currently enjoy the property. Because the site is zoned SF-5 Single-Family Residential District, no off-street parking is permitted in the front setback. Therefore, all of the parking would have to be in the backyard, which would reduce the outdoor space currently available to those who reside at the home.

4. Criteria: The Variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, general welfare, or harmonious development of the community: The applicant states that granting the Variance will not adversely affect the stated items in this criterion. The Home Plus has operated at this location for almost three decades and no one will be able to tell the difference in the home from how it operates now.

Staff Analysis: It is staff's opinion that granting the variance will promote harmonious development by not requiring this property to provide a large parking area, which would detract from the neighborhood setting.

5. Criteria: The granting of the Variance will not be opposed to the general spirit and intent of the Unified Zoning Code: The applicant states that the granting the Variance is not in opposition to the spirit and intent of the Unified Zoning Code because the residents of the Home Plus do not drive. There is no reason to provide a parking lot for 10 or 12 cars. Other Group Homes may be inhabited by people that drive, but that is not the case in this situation. Not requiring the full extent of the off-street parking will be far less disruption and in line with the spirit and intent of the Code for harmonious development.

Staff Analysis: It is staff's opinion that granting the Variance upholds the spirit and intent of the Unified Zoning Code and promotes harmonious development with the surrounding residential properties.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, the recommendation of Staff that the variance to reduce the off-street parking requirement from 10 spaces to two (2) spaces be **GRANTED**, subject to the following conditions:

1. A revised site plan shall be submitted to Planning for approval by the Planning Department within 30 days of approval. Any construction shall strictly adhere to the approved site plan.
2. Residents within the care of this facility are prohibited from having personal vehicles at the facility.
3. All State, County, and any other applicable permits, inspections, and standards shall be met.

Staff Report Attachments:

1. KDADS Definition of Home Plus
2. Variance Justification submitted by Applicant
3. Site Plan
4. Aerial Map
5. Zoning Map
6. Land Use Map
7. Site Photos

Home Plus as Defined by the Kansas Department for Aging and Disability Services (KDADS)
www.kdads.ks.gov

"Home Plus" means any residence or facility caring for not more than 12 individuals not related within the third degree of relationship to the operator or owner by blood or marriage unless the resident in need of care is approved for placement by the secretary for children and families, and who, due to functional impairment, needs personal care and may need supervised nursing care to compensate for activities of daily living limitations. The level of care provided to residents shall be determined by preparation of the staff and rules and regulations developed by the Kansas department for aging and disability services. An adult care home may convert a portion of one wing of the facility to a not less than five-bed and not more than 12-bed home plus facility provided that the home plus facility remains separate from the adult care home and each facility must remain contiguous. Any home plus that provides care for more than eight individuals after the effective date of this act shall adjust staffing personnel and resources as necessary to meet residents' needs in order to maintain the current level of nursing care standards. Personnel of any home plus who provide services for residents with dementia shall be required to take annual dementia care training.



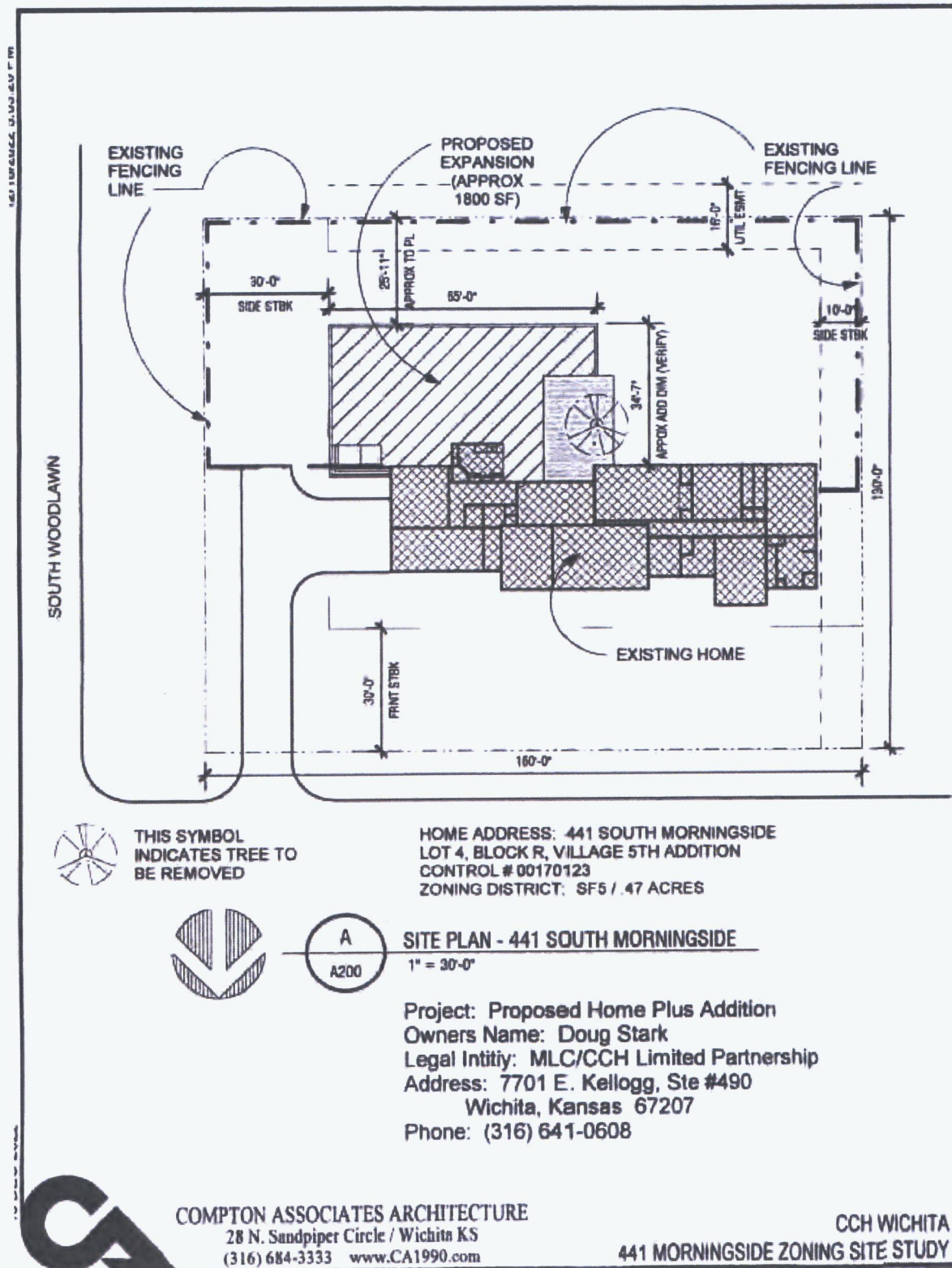
APPLICATION FOR VARIANCE

- a. As we care for Residents in this home who do not drive, we will only need two parking spots for the Care Staff. The long and wide driveway will accommodate four parking spots.
- b. The granting of this variance will not adversely affect anything in relation to the owners of adjacent properties as daily there will now just be two CareGiver's cars instead of one currently, and both will park in the driveway.
- c. If I am not granted the variance and am forced to comply with the Code, then I will need to expand the parking either in the front yard, or the back yard which either way will be very unsightly for a neighborhood residential feel, and if placed in the back yard will greatly reduce much of the back yard that the Residents that live there enjoy during nice weather.
- d. Regarding (d.), if the variance is granted, I cannot see in any way how it could or would adversely affect any of the mentioned concerns. As this Home Plus has been caring for Residents for almost three decades, no one will be able to tell any difference in the home from how it operates now.
- e. Assuming that the spirit and intent of the Code is to ensure all properties are treated fairly with the same rules applied to all, because this group home care only for the elderly that do not own cars or are allowed to drive there simply is no reason or need to put in a parking lot for 10 or 12 cars. I understand that other types of group homes may be inhabited by people that drive, that is not the case for us. And in an effort to be far less disruptive for the property as a whole I have to believe that the spirit and intent of the Code is for harmonious development instead of meeting a minimum standard.

A handwritten signature in black ink, appearing to be "M. Smith", written over a horizontal line.

• 7701 E. Kellogg
• Suite 490
• Wichita, KS 67207

BETTER CARE LIVES HERE
ComfortCareHomesWichita.com







Looking southwest at site



Looking southwest at driveway



Looking east away from site



Looking southwest away from site

BZA2022-00057

January 19, 2023

Page 12



Looking northwest away from site

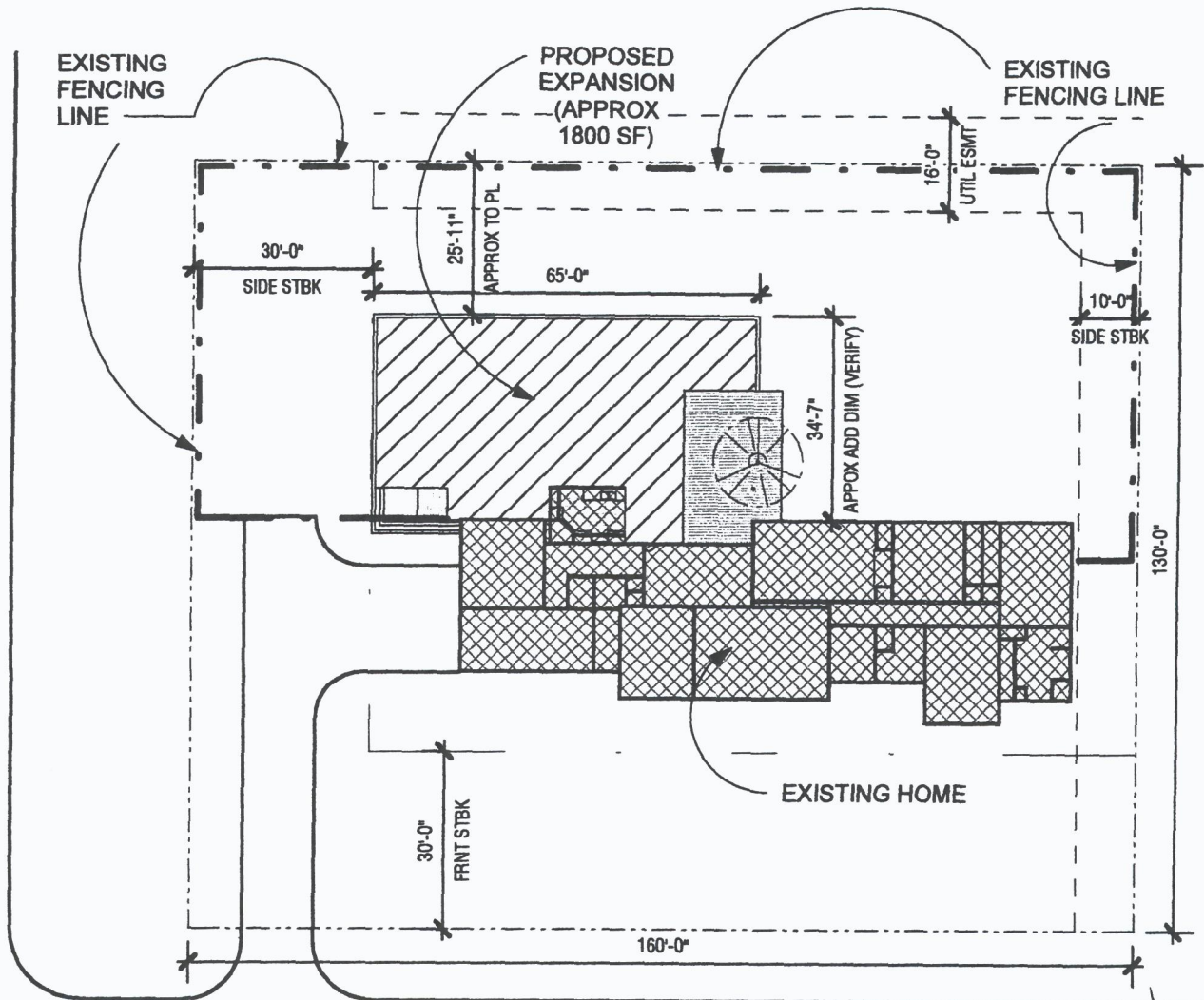


Looking north away from site



12/18/2022 5:03:20 PM

SOUTH WOODLAWN



THIS SYMBOL
INDICATES TREE TO
BE REMOVED



HOME ADDRESS: 441 SOUTH MORNINGSIDE
LOT 4, BLOCK R, VILLAGE 5TH ADDITION
CONTROL # 00170123
ZONING DISTRICT: SF5 / .47 ACRES

SITE PLAN - 441 SOUTH MORNINGSIDE
1" = 30'-0"

Project: Proposed Home Plus Addition
Owners Name: Doug Stark
Legal Intitiy: MLC/CCH Limited Partnership
Address: 7701 E. Kellogg, Ste #490
Wichita, Kansas 67207
Phone: (316) 641-0608

SITE PLAN

APPROVED 3/9/23 BY [Signature]
6242022-57

18 DEC 2022



COMPTON ASSOCIATES ARCHITECTURE
28 N. Sandpiper Circle / Wichita KS
(316) 684-3333 www.CA1990.com

CCH WICHITA
441 MORNINGSIDE ZONING SITE STUDY