



**Wichita-Sedgwick County
Metropolitan Area
Planning Department**

Kevin Tuan
Hillside Investments, LLC
2633 N. Garnett St.
Wichita, KS 67226

Nov. 17, 2023

RE: ZON2023-000050 and CON2023-00047 – Zone Change request in the City GO General Office to LC Limited Commercial to allow a Restaurant; and A Conditional Use request to allow a Mobile Food Unit, located on the west side of North Hillside Avenue and within 275 feet south of East 2nd Street North

Dear Applicant;

At its regular meeting on **November 7, 2023**, the Wichita City Council considered the above captioned requests. The action of the City Council was to **APPROVE** of the zone change from GO General Office to LC Limited Commercial and to **DENY** the Conditional Use request for the Mobile Food Unit in the City. Section V-D.11 of the Unified Zoning Code states that in the event that the governing body denies a request, a similar application shall not be refiled for one year from the latest advertised public hearing date (this would be the WCC hearing on November 7, 2023). A request for a more restrictive zoning classification shall not be filed for six months from the same date.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Brad Eatherly'.

Brad Eatherly
Current Plans
Senior Planner

CC: Brandon Johnson, Council Member District I
Tasha Hayes, CSR, District I
MABCD
Donella Aubuchon, 241 N. Hillside Ave., Wichita, KS 67214
Steve Aubuchon 14804 SW Prairie Creek Rd, Rose Hill, KS 67133



**Wichita-Sedgwick County
Metropolitan Area
Planning Department**

Kevin Tuan
Hillside Investments, LLC
2633 N. Garnett St.
Wichita, KS 67226

Sep. 29, 2023

RE: ZON2023-000050 and CON2023-00047 – Zone Change request in the City GO General Office to LC Limited Commercial to allow a Restaurant; and A Conditional Use request to allow a Mobile Food Unit, located on the west side of North Hillside Avenue and within 275 feet south of East 2nd Street North

Dear applicant,

At its regular meeting on **September 28, 2023**, the Wichita-Sedgwick County Metropolitan Area Planning Commission considered the above captioned request. The action of the MAPC was to recommend **APPROVAL** the request to change zoning from GO General Office to LC Limited Commercial and to recommend **DENIAL** the Conditional Use request for the Mobile Food Unit in the City.

Property owners opposed to the application may file with the City Clerk a signed, written protest of the **MAPC's** recommendation. (Unsigned e-mails are not considered to be legal protests.) To be effective, the protest must be filed by 5:00 p.m. on **October 12, 2023**. In order to be considered a "valid" petition, the signatures must reflect the correct and entire ownership of the property, the property must be at least partially located within 200 feet of the property for which the application was filed, and must be submitted to the City Clerk by **October 12, 2023, at 5:00 p.m.**

This application will be heard by the District Advisory Board (DAB) I on **Monday, October 2, 2023** beginning at 6:00 p.m. at the Atwater Neighborhood Resource Center (2755 East 19th Street North). For more information on this meeting, please contact Community Services Representative for District I, Tash Hayes at (316) 303-8016 or thhayes@wichita.gov. This application will be presented to the Wichita City Council on **Tuesday, November 7, 2023** beginning at 9:00 a.m.

This is a reminder that the zoning notification signs should now be removed from the property. If you have any questions concerning this application, please contact our office at 316-268-4421.

Sincerely,

Brad Eatherly
Current Plans
Senior Planner

CC: Brandon Johnson, Council Member District I
Tasha Hayes, CSR, District I
MABCD
Donella Aubuchon, 241 N. Hillside Ave., Wichita, KS 67214
Steve Aubuchon 14804 SW Prairie Creek Rd, Rose Hill, KS 67133

(Published in the Wichita Eagle, 11/24/23)

ORDINANCE NO. 52-285

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

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

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2023-00050

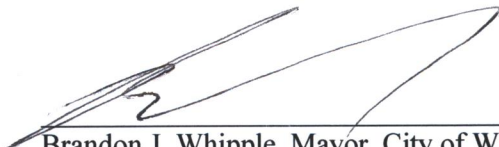
City zone change from GO General Office District to LC Limited Commercial District on property described as:

Lots 21 and 23, on Hillside Avenue, in Hopkin's and Elwood's Subdivision of Lot 1, in Block 1, in the Chautauqua Addition to Wichita, Sedgwick County, Kansas EXCEPT the East 10 feet thereof.

SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

Adopted this 21st day of Nov, 2023.

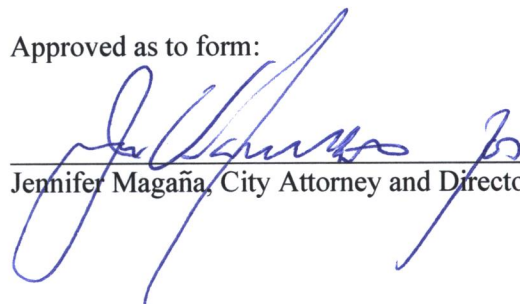

Brandon J. Whipple, Mayor, City of Wichita

ATTEST:


Jamie Buster, City Clerk
(SEAL)



Approved as to form:


Jennifer Magaña, City Attorney and Director of Law

McClatchy

The Beaufort Gazette
The Belleville News-Democrat
Bellingham Herald
Centre Daily Times
Sun Herald
Idaho Statesman
Bradenton Herald
The Charlotte Observer
The State
Ledger-Enquirer

Durham | The Herald-Sun
Fort Worth Star-Telegram
The Fresno Bee
The Island Packet
The Kansas City Star
Lexington Herald-Leader
The Telegraph - Macon
Merced Sun-Star
Miami Herald
El Nuevo Herald

The Modesto Bee
The Sun News - Myrtle Beach
Raleigh News & Observer
Rock Hill | The Herald
The Sacramento Bee
San Luis Obispo Tribune
Tacoma | The News Tribune
Tri-City Herald
The Wichita Eagle
The Olympian

AFFIDAVIT OF PUBLICATION

Account #	Order Number	Identification	Order PO	Amount	Cols	Depth
32522	493509	Print Legal Ad-IPL01493620 - IPL0149362	ORD#52-285	\$53.01	1	63 L

Attention: LaTosha Alvarez
CITY OF WICHITA/CLERKS OFFICE
455 N MAIN ST FL 13
WICHITA, KS 67202

JMBuster@wichita.gov

OCA 150004
(Published in the Wichita Eagle
November 24, 2023)
ORDINANCE NO. 52-285

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY

OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2023-00050

City zone change from GO General Office District to LC Limited Commercial District on property described as: Lots 21 and 23, on Hillside Avenue, in Hopkin's and Elwood's Subdivision of Lot 1, in Block 1, in the Chautauqua Addition to Wichita, Sedgwick County, Kansas EXCEPT the East 10 feet thereof.

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SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

Adopted this 21st day of November 2023.

Brandon J. Whipple, Mayor, City of Wichita

ATTEST:

Jamie Buster, City Clerk

(SEAL) Approved as to form:

Jennifer Magana, City Attorney and Director of Law

IPL0149362
Nov 24 2023

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

1 insertion(s) published on:

11/24/23

STATE OF KANSAS)

SS

County of Sedgwick)

Stefani Beard, of lawful age, being first duly sworn, depose 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 11/24/2023 to 11/24/2023.

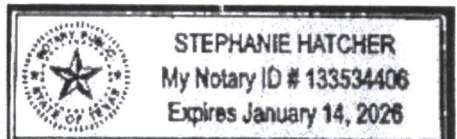
Stefani Beard

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

DATED: 11/24/2023

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!



STAFF REPORT
MAPC September 28, 2023
DAB I October 2, 2023

CASE NUMBER: ZON2023-00050 and CON2023-00047 (City)

APPLICANT/AGENT: Hillside Investment, LLC (owner)

REQUEST: LC Limited Commercial District with a Conditional Use request for Mobile Food Unit in the City

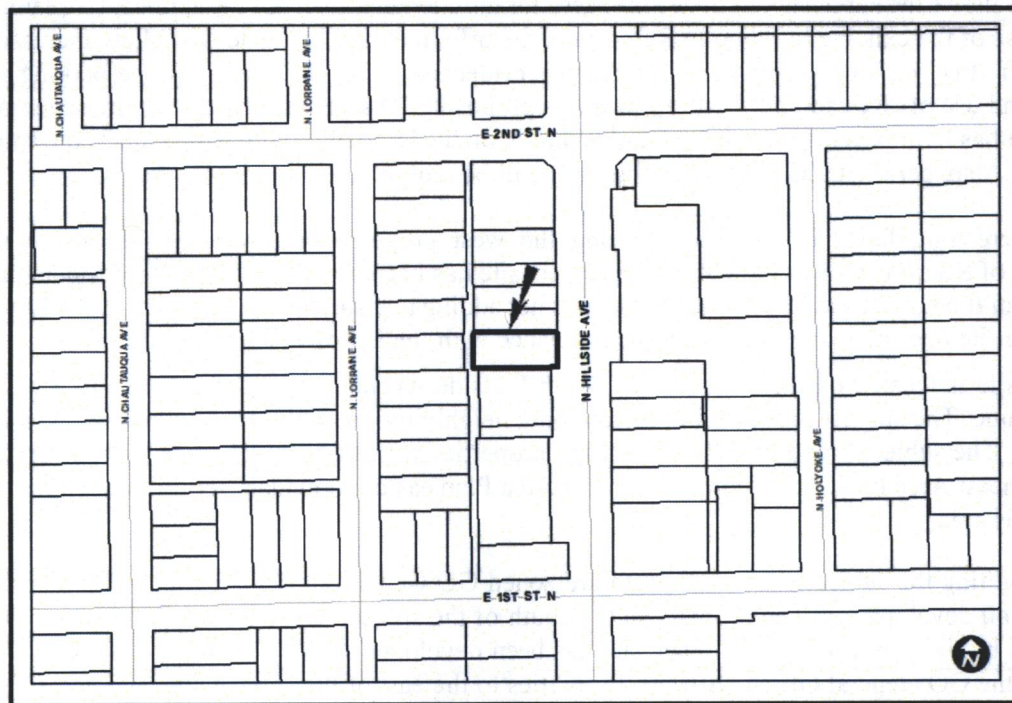
CURRENT ZONING: GO General Office District

SITE SIZE: 0.14 acres

LOCATION: Generally located on the west side of North Hillside Avenue and within 275 feet south of East 2nd Street North (233 North Hillside Avenue).

PROPOSED USE: Mobile Food Unit in the City

RECOMMENDATION: Approval with Conditions



BACKGROUND: The applicant is requesting two items:

- 1) a zone change from GO General Office District to LC Limited Commercial District; and
- 2) a Conditional Use to permit Mobile Food Unit in the City.

The subject site is a 0.14-acre property generally located on the west side of North Hillside Avenue and within 275 feet south of East 2nd Street North (233 North Hillside Avenue). The subject site is currently zoned GO General Office District. The LC Limited Commercial District permits Mobile Food Units in the City as a Conditional Use, subject to the Supplementary Use Regulations outlined in the Unified Zoning Code (UZY) Section III-D.6.00. The requested zone change from GO General Office District to LC Limited Commercial District would permit the applicant to request Conditional Use for the entirety of their property.

The applicant is also requesting a Conditional Use to permit a Mobile Food Unit in the City (food truck) as a principal use on the property in conjunction with the applicant's plans to utilize the existing building as a restaurant. Both the restaurant and the food truck will be considered principal uses on the property.

Section III-D.6.00 of the Unified Zoning Code (UZY) states the following: *Mobile Food Unit in the City, as defined by the Code, shall be allowed as an Accessory Use to a Public and Civic Use, as defined by the Code, in any zoning District; as an Accessory Use within the LC, OW, and IP Districts; as a Principal Use in the LC District with Conditional Use approval; and as an Accessory Use or Principal Use within the GC, CBD, LI, and GI Districts. The Zoning Administrator may authorize a Mobile Food Unit in the City only in conformance with the license requirements of Sec. 3.15 of the Code of the City of Wichita.*

If approved, the Conditional Use would permit the food truck to be placed on the property at all times, provided that the space on which the food truck is placed does not take up any required off-street parking spaces for the restaurant. The applicant's proposed site plan shows that the food truck will be positioned in the northeast corner of the subject site. While the City's records show the parking area to the south being in different ownership from the applicant, the applicant has provided information that he will have control of 25 percent of this lot. This lot is divided between the applicant and owners of properties to the north of the applicant's property. The lot has 24 spaces which allows the applicant to utilize six spaces for his clientele. Because the applicant is planning to change the current use of the existing building to Restaurant, the off-street parking code will likely increase the required number of off-street parking spaces from the current/former use. The UZY requires one parking stall per three seats for a land use of "Restaurant." The applicant is proposing 20 seats which will require seven parking stalls. The applicant has five spaces on his property, plus the six on the lot to the south, which meets the amount required per the UZY. Also, per the UZY, one accessible stall will be required.

A six-foot screening fence is constructed along the west property line, which conforms to the screening requirements of Section IV-B of the UZY. The subject site has been developed with non-residential uses prior to the adoption of the Landscape Code. The applicant is not adding any structures or creating any additional parking. Therefore the site does not have to come into compliance with the Landscape Code at this time.

The subject site is located on the west side of North Hillside Avenue and has frontage and access from North Hillside Avenue. The subject property and surrounding neighborhood are located within the Established Central Area (ECA). The subject property and surrounding properties west of North Hillside Avenue are located in the Central Northeast Area Plan. The Central Northeast Area Plan eastern boundary terminates within North Hillside Avenue in this area.

Properties abutting the subject site to the north are zoned GO General Office District and are developed with a small strip mall development. The property to the south of the subject site is zoned GO General Office District, and is owned by the applicant as well. The site has been developed with a Commercial Parking Area, which is permitted in the GO General Office District. Properties to the east of the subject site, and across North Hillside Avenue, are zoned GO General Office District and B Multi-Family Residential District, and are developed with

a veterinary clinic and a medical office building. Properties to the west are zoned TF-3 Two-Family Residential District, and are developed with Single-Family Residences.

CASE HISTORY: In 1887, the subject site was platted as Lots 21 and 23 of Hopkins' and Elwood's Subdivision of the Chautauqua Addition to the City of Wichita, Kansas. There have been no other zoning actions on this site.

ADJACENT ZONING AND LAND USE:

NORTH:	GO	Strip Mall
SOUTH:	GO and LI	Commercial Parking Area and Strip Mall
EAST:	GO and B	Limited Animal Care and Medical Office
WEST:	TF-3	Single-Family Residences

PUBLIC SERVICES: North Hillside Avenue is a paved five-lane arterial street, developed with a center-turning lane. Sidewalks are located on the east and west sides of North Hillside Avenue. Wichita Transit serves the site and has a stop at East Douglas Avenue and North Hillside Avenue. City water is located in the North Hillside Avenue right-of-way. The City's stormwater infrastructure is located north of the property in East 2nd Street North. City sewer is located in the rear of the property running parallel to the west property line.

CONFORMANCE TO PLANS/POLICIES: The requested Conditional Use is found to be in conformance with the following adopted plans:

Community Investments Plan: The request is in conformance with the Community Investments Plan. The Community Investments Plan (the Wichita-Sedgwick County Comprehensive Plan) recommends the subject site as appropriate for "New Residential, which is appropriate for commercial uses based upon market-driven location factors. The property historically has been zoned commercially and is located along an arterial street. The request is in conformance with the Land Use Compatibility Locational Guidelines of the Comprehensive Plan. These guidelines recommend encouraging infill development that maximizes public investment in existing and planned infrastructure and services. Additionally, it recommends that neighborhood-serving retail and office uses and high-density residential uses can be appropriate along arterial streets on small infill sites near residential uses if the scale of the development is appropriate for its context. Higher intensity development should be developed with screening, buffering, and site design features sufficient to mitigate adverse impacts. Commercial uses have been developed along-side low-density residential since the 1970s. There is an existing screening fence along the west property line separating the proposed use from the rear yard of a single-family dwelling. Staff does not anticipate a zone change to LC and the uses permitted in LC to have significant adverse impacts to surrounding properties.

Wichita: Places for People Plan: *The Wichita: Places for People Plan* provides recommendations for urban infill development in the Established Central Area (ECA). In general, the ECA is envisioned as "a place for people - a place that provides for the movement of people - on foot, on bike, and through transit - in balance with automobiles." Ensuring development follows a nodal pattern "which creates a critical mass of activity at the center and transitions in scale and intensity" is key to realizing this vision.

The *Places for People Plan* designates the intersection of North Hillside Avenue and East Central Avenue as a Regional Center. These are defined as large commercial or mixed-use centers in excess of 200,000 square feet of development on 12 to 24 (or larger) congruent blocks. The subject site is located within the edge zone of this regional hub. A restaurant and a food truck placed on the subject site will not impair the goals stated within the plan. These uses also help attract and promote people to come and linger in an area, which could attract additional uses and services.

Central Northeast Area Plan, 2005 Update: The proposed request conforms to the *Central Northeast Area Plan*. The *Central Northeast Area Plan, 2005 Update* outlines goals and strategies for revitalizing neighborhoods in Central Northeast Wichita. Priorities outlined in the *Central Northeast Area Plan* include those which--

1. Encourage "more neighborhood-serving retail and personal services" in the area;
2. And "retain existing businesses, and create new businesses and employment opportunities that will benefit area residents."

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**, subject to the following conditions:

1. Operation of the Mobile Food Unit in the City shall adhere to the license requirement of Section 3.15 of the Wichita City Code.
2. Development of the site shall be in general conformance with the approved site plan.
3. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing of other remedies set forth in the UZC, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. **The zoning, uses, and character of the neighborhood**: Properties abutting the subject site to the north are zoned GO General Office District, and are developed with a small strip mall. Property to the south of the subject site is zoned GO General Office District and LC Limited Commercial District and is developed with a commercial parking area and a small strip mall. Properties to the east, across North Hillside Avenue, are zoned GO General Office District and B Multi-Family Residential District and are developed with a veterinarian clinic and a medical office. West of the site, properties are zoned TF-3 Two-Family Residential District and are developed with single-family residences.
2. **The suitability of the subject property for the uses to which it has been restricted**: The subject property is zoned GO General Office District and is suitable for uses to which it has been restricted. The site could be utilized for a variety of office, civic, and residential uses.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property**: If approved, the Conditional Use would permit as uses permitted by-right in the LC Limited Commercial District in addition to the Mobile Food Unit in the City as a principal use. The placement of the food truck will not occupy any required off-street parking and is placed such that the building buffers and it from the abutting residential properties west of the site. Properties within 500 feet south are zoned LC Limited Commercial District, which also abut residential property to the west. Therefore, the requested zoning district would not bring new uses to the area.
4. **Length of time subject property has remained vacant as zoned**: The former dental clinic building on-site was constructed in 1978. It is unknown how long the building has remained vacant as zoned.
5. **Relative gain to the public health, safety, and welfare as compared to the loss in value or the hardship imposed upon the applicant**: Approval of this request could provide an economic gain to the applicant, which is generally considered a gain to the public welfare. If approved, it is not anticipated to have significant detrimental negative impacts on nearby residential properties. Denial may represent economic loss to the applicant.
6. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies**: The requested Conditional Use is in conformance with the *Community Investments Plan*, the *Wichita: Places for People Plan*, or the *Northeast Central Area Plan* as discussed in the staff report.

7. **Impact of the proposed development on community facilities:** Community facilities are not expected to be noticeably impacted by this approval. All municipal services are available to the site.
8. **Opposition or support of neighborhood residents:** At the time the staff report was prepared, staff has received one phone call from the public voicing opposition on the requested Conditional Use. The citizen was not in favor of having a food truck at the proposed location. The citizen was concerned about parking.

Attachments:

1. Aerial Map
2. Zoning Map
3. 2035 Future Growth Concept Map
4. Site Plan
5. Site Photos

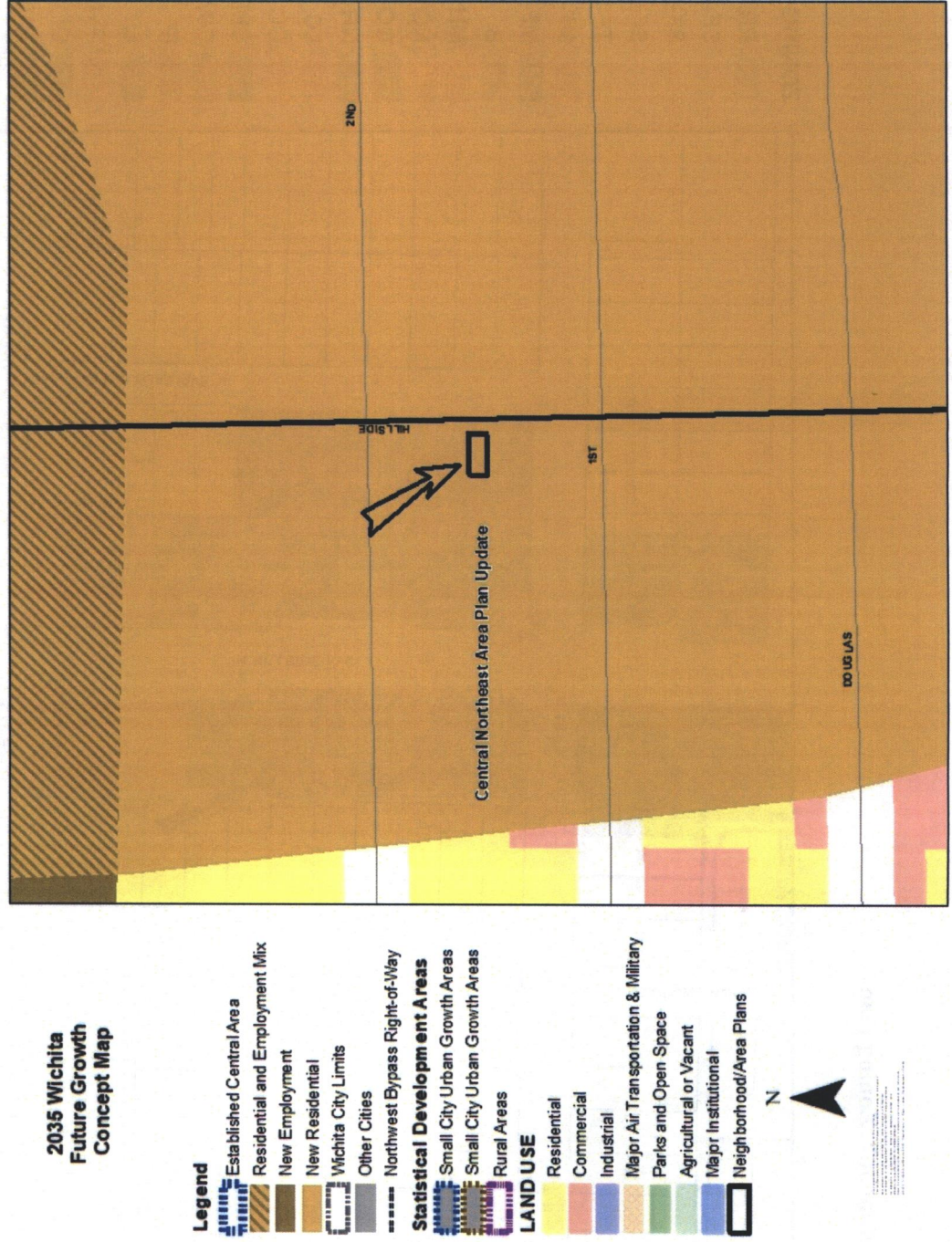
Attachment 1. Aerial map



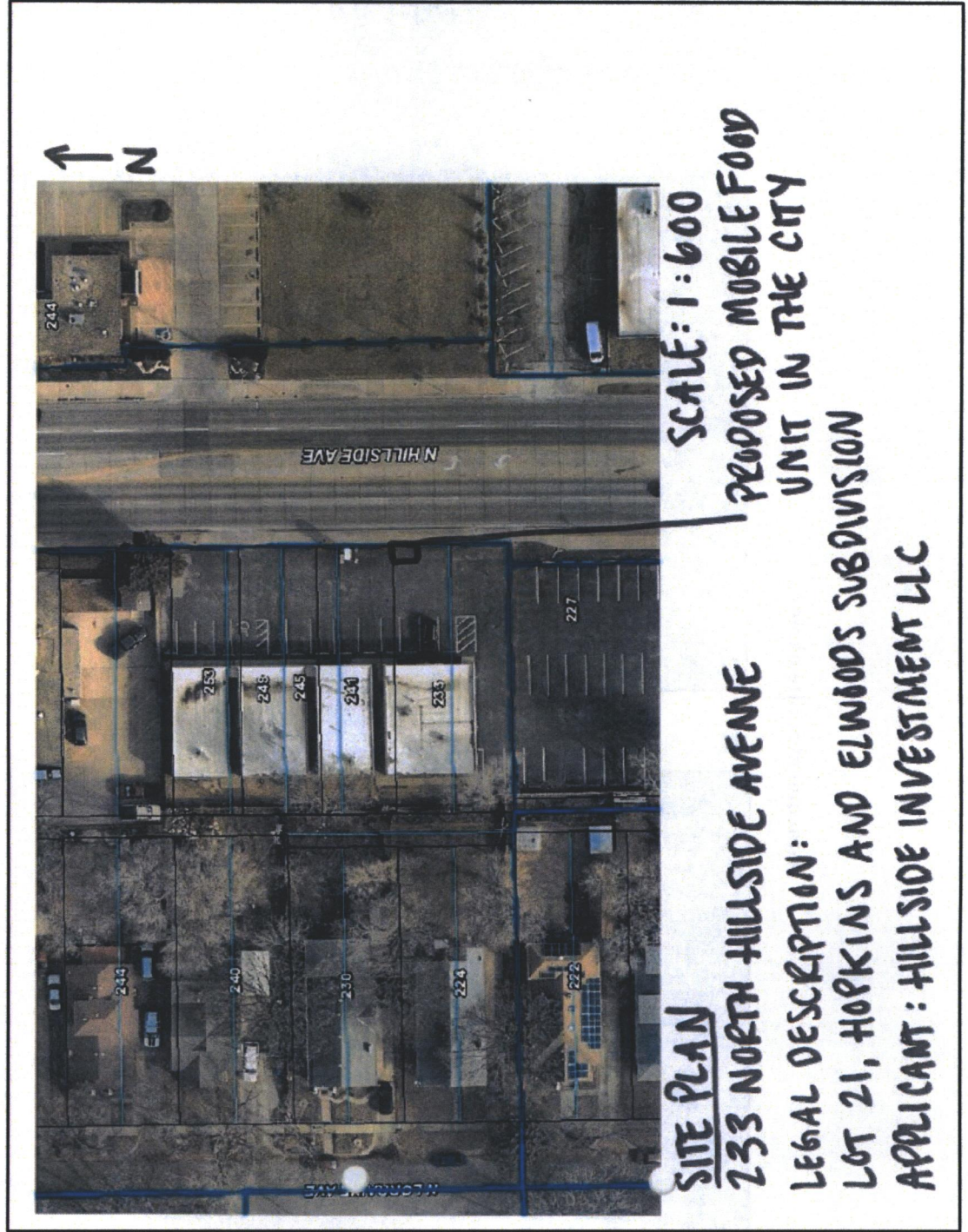
Attachment 2. Zoning map



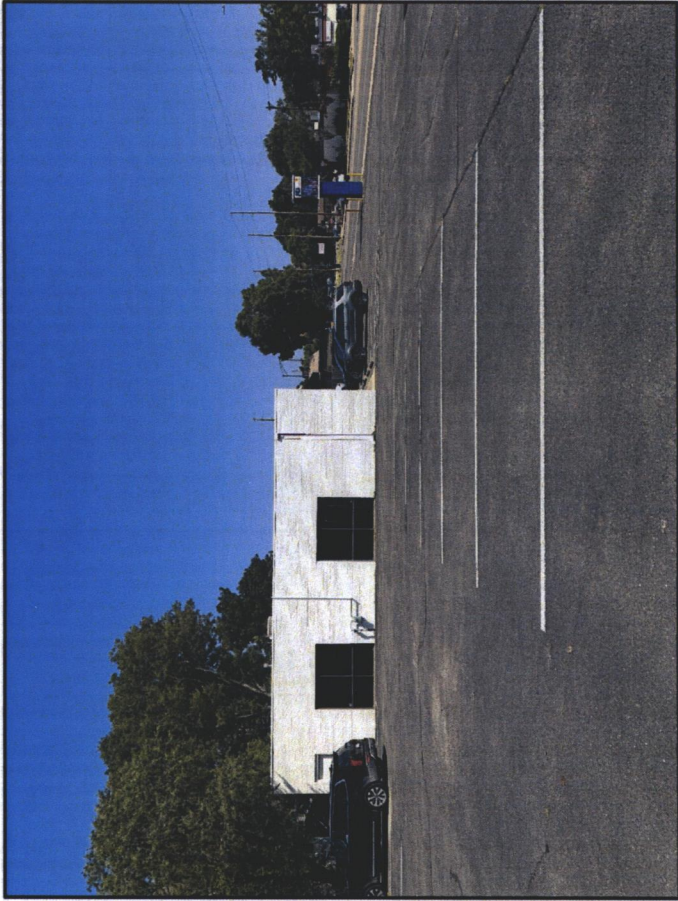
Attachment 3. Future Growth Concept Map



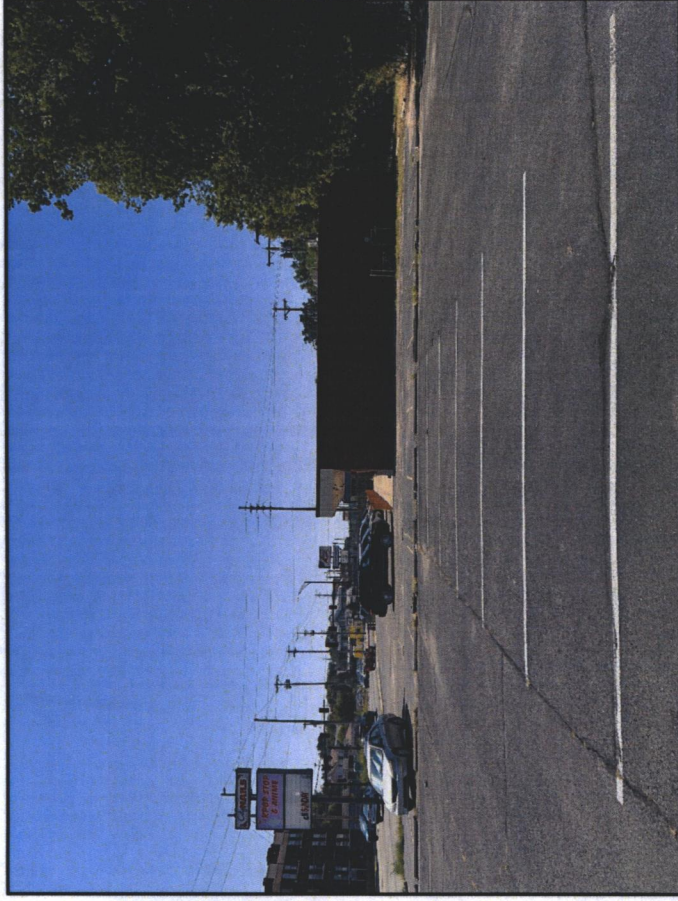
Attachment 4. Site Plan



Attachment 5. Site photos



Subject site (facing north).



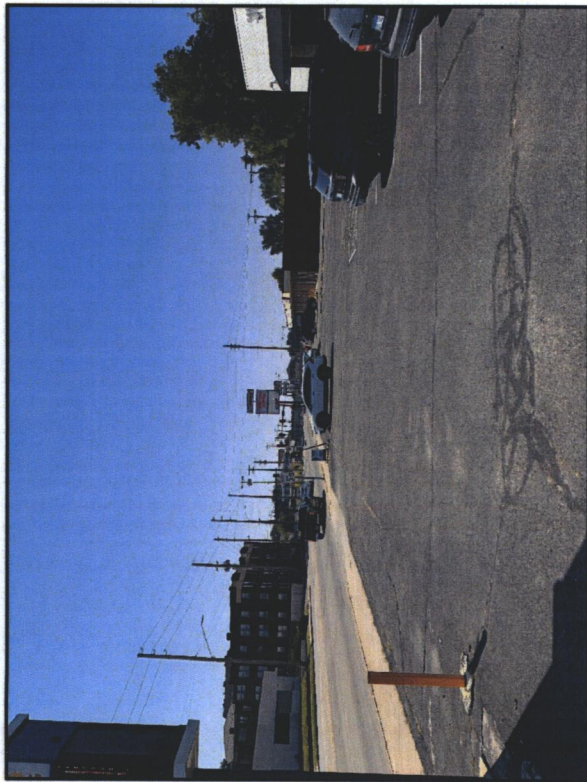
Looking south from site (owner controlled parking lot in foreground)



East of the subject site.



Subject Site looking west.



Looking south into subject site (proposed location of food truck on left)