



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

October 3, 2023

Paul Kelsey
Kick "N" Development Corp.
719 N. 119th Street West, STE 108
Wichita, KS 67212

Phil Meyer
Baughman Company, P.A.
315 Ellis Street
Wichita, KS 67211

John Amrein
KPC Pipeline, LLC
14799 Woodend Rd.
Bonner Springs, KS 66012

RE: CON2023-00037– Conditional Use request in the City to permit Utility, Major on property zoned TF-3 Two-Family Residential; generally located on the east side of South 167th Street West and within one-quarter mile north of West US-54/400.

Dear applicant,

At its regular meeting on **October 3, 2023**, the Wichita City Council considered the above captioned request. The action of the City Council was to **APPROVE** of the request with the following conditions:

- 1) Development of the site shall be in conformance with the approved site plan.
- 2) The proposed fence shall be in conformance with the solid screening requirements of Section IV-B of the Unified Zoning Code.
- 3) Landscaping shall be provided in conformance with the Wichita Landscape Ordinance.
- 4) The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- 5) 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 the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

If you have any questions concerning this matter, please contact our office.

Sincerely,

A handwritten signature in blue ink, appearing to read "Philip Zevenbergen", with a stylized flourish extending to the right.

Philip Zevenbergen, AICP
Current Plans
Division Manager



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

August 25, 2023

Paul Kelsey
Kick "N" Development Corp.
719 N. 119th Street West, STE 108
Wichita, KS 67212

Phil Meyer
Baughman Company, P.A.
315 Ellis Street
Wichita, KS 67211

John Amrein
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RE: CON2023-00037– Conditional Use request in the City to permit Utility, Major on property zoned TF-3 Two-Family Residential; generally located on the east side of South 167th Street West and within one-quarter mile north of West US-54/400.

Dear applicant,

At its regular meeting on **August 24, 2023**, the Wichita - Sedgwick County Metropolitan Area Planning Commission considered the above captioned request. The action of the MAPC was to recommend **APPROVAL** of the request with the following conditions:

- 1) Development of the site shall be in conformance with the approved site plan.
- 2) The proposed fence shall be conformance to the solid screening requirements of Section IV-B of the Unified Zoning Code.
- 3) Landscaping shall be provided in conformance with the Wichita Landscape Ordinance.
- 4) The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- 5) 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 the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

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 September 7, 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 **September 7, 2023 at 5:00 p.m.**

This application will be presented to the Wichita City Council on **Tuesday, October 3, 2023**, beginning at 9:00 a.m.

If you have any questions concerning this matter, please contact our office.

Sincerely,

A handwritten signature in blue ink, appearing to read "Philip Zevenbergen", with a stylized flourish extending to the right.

Philip Zevenbergen, AICP
Current Plans
Division Manager

Oct. 16, 2023

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

RESOLUTION NO. 23-405

WHEREAS, Kick "N" Development Corp. (Owner), pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requests a Conditional Use to permit a Utility, Major on property zoned TF-3 Two-Family Residential District located on the east side of South 167th Street West and within one-quarter mile north of West US-54/400, legally described as:

That part of Reserve "A", Abilene Place Addition, Wichita, Sedgwick County, Kansas, as prepared by Baughman Company, P.A., CLS 58, surveyors in aforementioned county and state on May 24, 2023, more particularly described as follows: Beginning at the northwest corner of Reserve "A", in said Abilene Place; THENCE N89°19'04"E, coincident with the north boundary line of said Abilene Place, a distance of 252.45 feet, to the northwesterly line of a 100 foot Phillips 66 Pipeline right-of-way as described in DOC.#FLM/PG: 30051766 as filed with the Sedgwick County Register of Deeds; THENCE S60°57'04"W, coincident with the northerly line of said 100 foot right-of-way, a distance of 286.76 feet, to the west boundary line of said Abilene Place, said boundary line also being the east right-of-way line of 167th Street West; THENCE N00°44'02"W, coincident with said west boundary line, a distance of 136.25 feet, to the point of beginning. Subject to road rights-of-way of record. Subject property contains 17,197.72 sq. ft. or 0.395 acres.

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 August 24, 2023, consider said application; and

WHEREAS, the Wichita City Council 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 Wichita City Council that this application be approved to allow a Conditional Use to permit a Utility, Major on property zoned TF-3 Two-Family Residential District located on the east side of South 167th Street West and within one-quarter mile north of West US-54/400, legally described as:

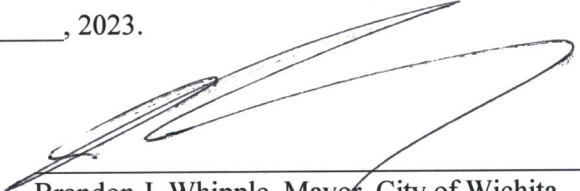
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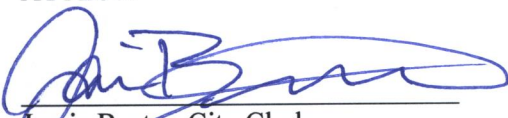
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- 5) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This Resolution shall take effect and be in force from and after its adoption by the Wichita City Council.

Adopted on this 3rd day of Oct., 2023.

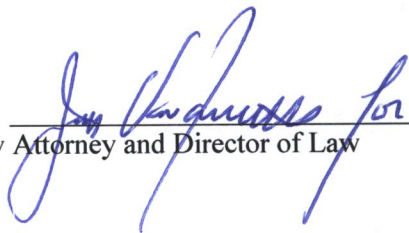

Brandon J. Whipple, Mayor, City of Wichita

ATTEST:


Jamie Buster, City Clerk

(SEAL)



Approved as to form: 
Jennifer Magaña, City Attorney and Director of Law



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
32522	474845	Print Legal Ad-IPL01423590 - IPL0142359		\$121.14	2	72 L

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

JMBuster@wichita.gov

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, RESOLUTION NO. 23-405

WHEREAS, Kick "N" Development Corp. (Owner), pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requests a Conditional Use to permit a Utility, Major on property zoned TF-3 Two-Family Residential District located on the east side of South 167th Street West and within one-quarter mile north of West US-54/400, legally described as:

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Subject to the following conditions:

Development of the site shall be in conformance with the approved site plan. The proposed fence shall be in conformance to the solid screening requirements of Section IV-B of the Unified Zoning Code.

Landscaping shall be provided in conformance with the Wichita Landscape Ordinance.

The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.

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This Resolution shall take effect and be in force from and after its adoption by the Wichita City Council.

Adopted on this 3rd day of October 2023.

Brandon J. Whipple, Mayor, City of Wichita

ATTEST:

Jamie Buster, City Clerk

(SEAL) Approved as to form:

Jennifer Magan, City Attorney and Director of Law

IPL0142359

Oct 6 2023

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

1 insertion(s) published on:

10/06/23

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 10/06/2023 to 10/06/2023.

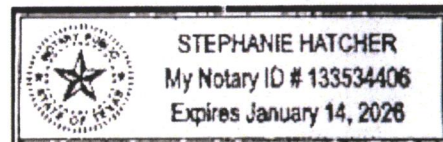
Stefani Beard

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

DATED: 10/16/2023

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!

BACKGROUND: The contract purchaser is requesting a Conditional Use to allow the construction of a gas regulator facility on property zoned TF-3 Two-Family Residential District. The subject site is 0.395 acres in size and is generally located on the east side of South 167th Street West and within one-quarter mile north of West US-54/400. This request is being heard concurrently with a request to vacate (VAC2023-00027) a portion of platted access control along South 167th Street West to permit a 20-foot utility access drive. The request to vacate the access control is contingent upon approval of the Conditional Use request.

A gas regulator facility is classified by the Unified Zoning Code (UZC) as a Utility, Major land use. A Utility, Major requires a Conditional Use in all zoning districts. A Utility, Major means generating plants; electrical switching facilities and primary substations; water and wastewater treatment plants; water tanks; renewable energy systems, and radio, television, and microwave transmission towers; and similar facilities that provide the general public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection or other similar service.

The proposed gas regulator would be located on a triangular piece of land within Reserve A of the Abilene Place Addition. The southern portion of this the subject site is bounded by a 100-foot Phillips 66 pipeline easement that encompasses the remainder of Reserve A. The applicant intends to confine the gas regulator site within an easement to satisfy the requirements of the plat's text for Reserve A, which states "Reserve A is hereby reserved for open space, landscaping, drainage purposes, berms, walking paths, sidewalks, entry monuments, signage, parking, swimming pools and related appurtenances, waterlines and related appurtenances as confined to easements, pipelines and related appurtenances as confined to easements, and utilities as confined to easements."

Properties to the east and south are zoned TF-3 Two-Family Residential District and are platted for residential lots. Property to the north is zoned SF-5 Single-Family Residential District and developed with a school campus. Property to the west is zoned R-1 Single-Family Residential District (City of Goddard) and is undeveloped.

Section IV-B of the UZC requires solid screening on all properties for all uses except single-family or duplex when such uses are established on property, within, abutting, or across the street or alley from residential zoning districts. Though the proposed use is on land zoned TF-3, it is a use that requires solid screening because the property abuts land zoned SF-5 to the north and TF-3 to the east and south. The site plan provided indicates that the property will be enclosed by a fence, but the proposed fence is not solid screening.

The Wichita Landscape Ordinance requires a landscaped street yard and a landscape buffer for non-residential developments when they are adjacent to residential zoning district. Utilities are not exempt from the Landscape Ordinance. Based on the requirements of the ordinance, the seven proposed trees along the west side of the proposed fence satisfies the landscaped street yard requirement. However, in addition to the landscaped street yard, landscape buffers are required along the side property lines as well. This requires one shade tree (or two ornamental trees) per 40 linear feet of property line. This requires a minimum of six shade trees (or equivalent ornamental trees) along the north boundary and a minimum of seven shade trees (or equivalent ornamental trees) along the diagonal southeasterly property line. A landscape plan will be required to be reviewed during the process to receive a building permit.

CASE HISTORY: In 2020, the property was rezoned (ZON2020-00041) from LC Limited Commercial District and SF-5 Single-Family Residential District to TF-3 Two-Family Residential District. In 2021, the property was platted as Reserve A in the Abilene Place Addition.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	School
SOUTH:	TF-3	Pipeline, Residential Lots
EAST:	TF-3	Pipeline, Residential Lots
WEST:	R-1 (Goddard)	Agricultural land

PUBLIC SERVICES: If approved, VAC2023-00027 would permit access onto South 167th Street West, which is a paved, two-lane arterial with open ditches. At this location, there is a right-turn lane for a private drive onto the school property to the north. The access point to the proposed utility would be from this right-turn lane. Wichita water and sanitary sewer services serve the area. Wichita Transit does not provide regular bus service in this area.

CONFORMANCE TO PLANS/POLICIES: The requested Conditional Use change is in conformance with the *Community Investments Plan*. The *Community Investments Plan* (the Wichita-Sedgwick County Comprehensive Plan). The subject site is located in the Wichita urban growth area and is identified as an area of New Employment. The gas regulator will support new growth in the area.

RECOMMENDATION: Based upon information available prior to the public hearing, planning staff recommends that the requested Conditional Use to permit Utility, Major be **APPROVED** with the following condition:

- 1) Development of the site shall be in conformance with the approved site plan.
- 2) The proposed fence shall be in conformance to the solid screening requirements of Section IV-B of the Unified Zoning Code.
- 3) Landscaping shall be provided in conformance with the Wichita Landscape Ordinance.
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This recommendation is based on the following findings:

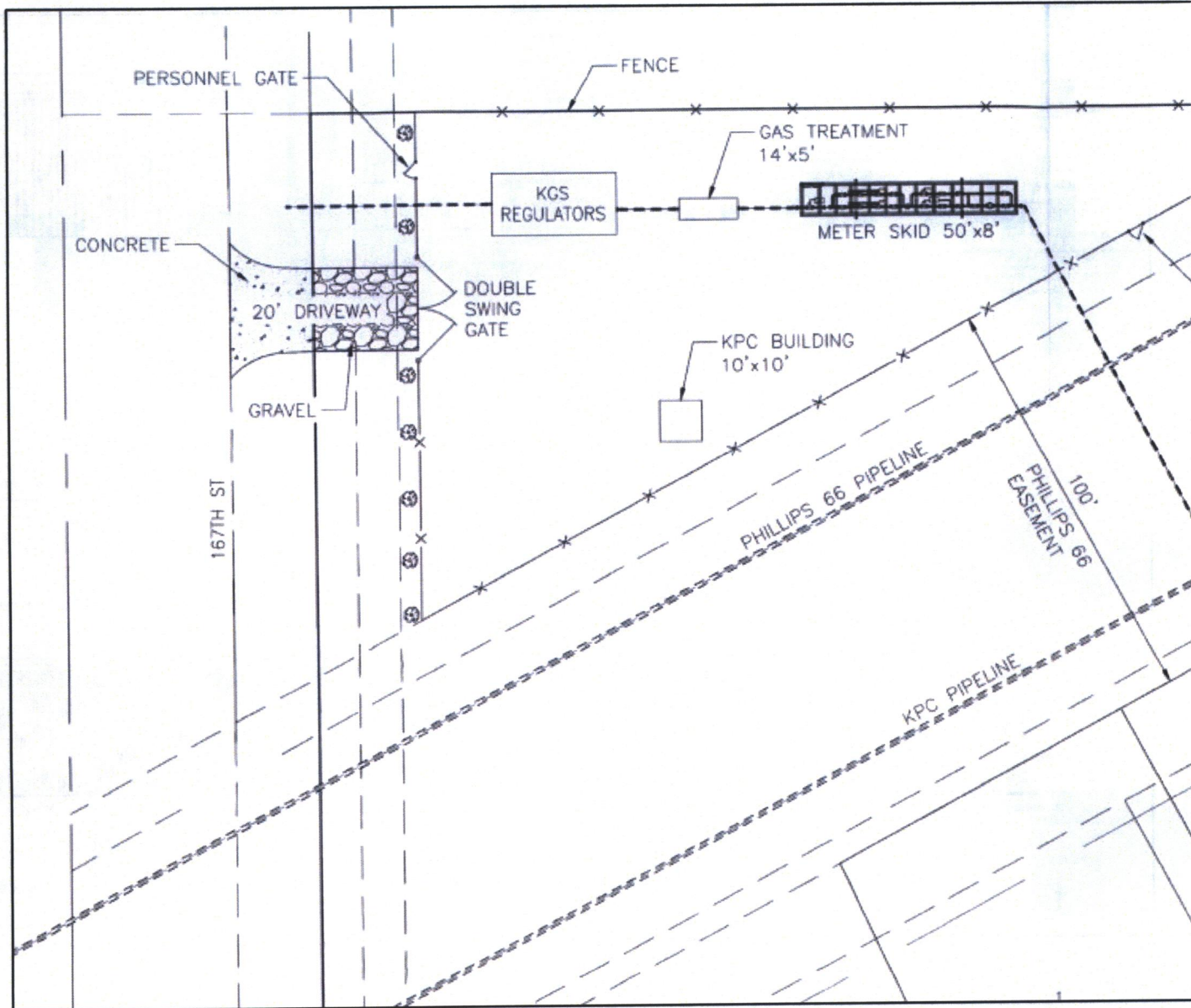
1. The zoning, uses and character of the neighborhood: Properties to the east and south are zoned TF-3 Two-Family Residential District and are platted for residential lots. Property to the north is zoned SF-5 Single-Family Residential District and developed with a school campus. Property to the west is zoned R-1 Single-Family Residential District (City of Goddard) and is undeveloped.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned TF-3 Two-Family Residential District and is platted as a portion of Reserve A in the Abilene Place Addition. The site is not suitable for residential development even though it meets minimum development standards because it would need direct access from an arterial street.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Removal of the restrictions is not anticipated to have any significant detrimental impacts on surrounding properties as the utility is separated from the residential lots to the south by a preexisting 100-foot pipeline easement.
4. Length of time subject property has remained vacant as zoned: The subject site has never been developed.

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 the application will provide for expansion of utilities in the area, which benefits the community. Denial of the request could represent a loss in the use of this portion of the applicant's property and may represent economic loss to the applicant.
6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The proposed application is in conformance to the *Community Investments Plan* as discussed in the report.
7. Impact of the proposed development on community facilities: The proposed use is not anticipated to have any negative impacts on community facilities.
8. Opposition or support of neighborhood residents: At the time the staff report was prepared, staff has not received any public comment on the requested Conditional Use.

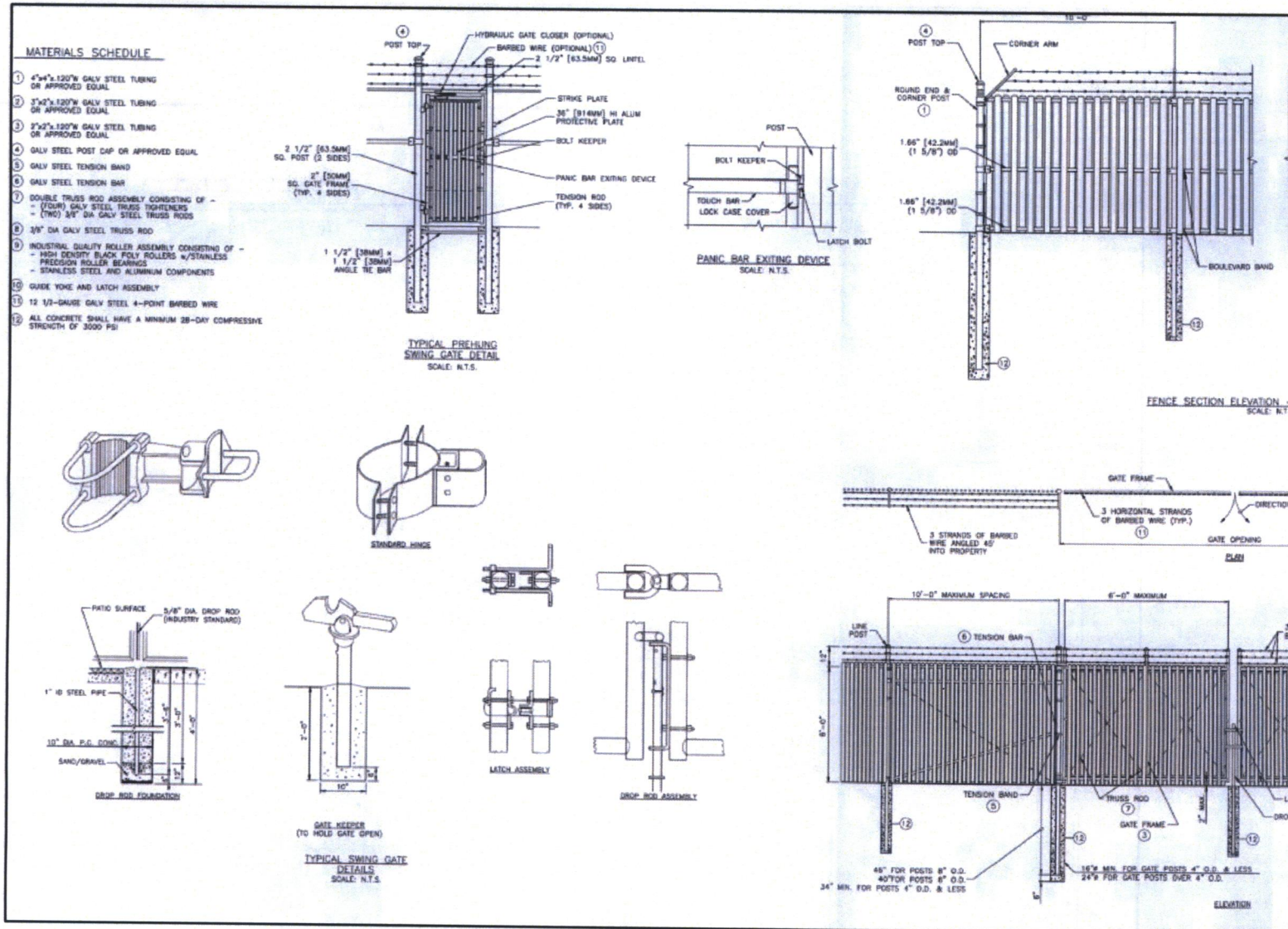
Staff Report Attachments:

1. Site Plan
2. Fence Exhibit
3. Aerial Map
4. Zoning Map
5. Land Use Map
6. Site Pictures

Site Plan



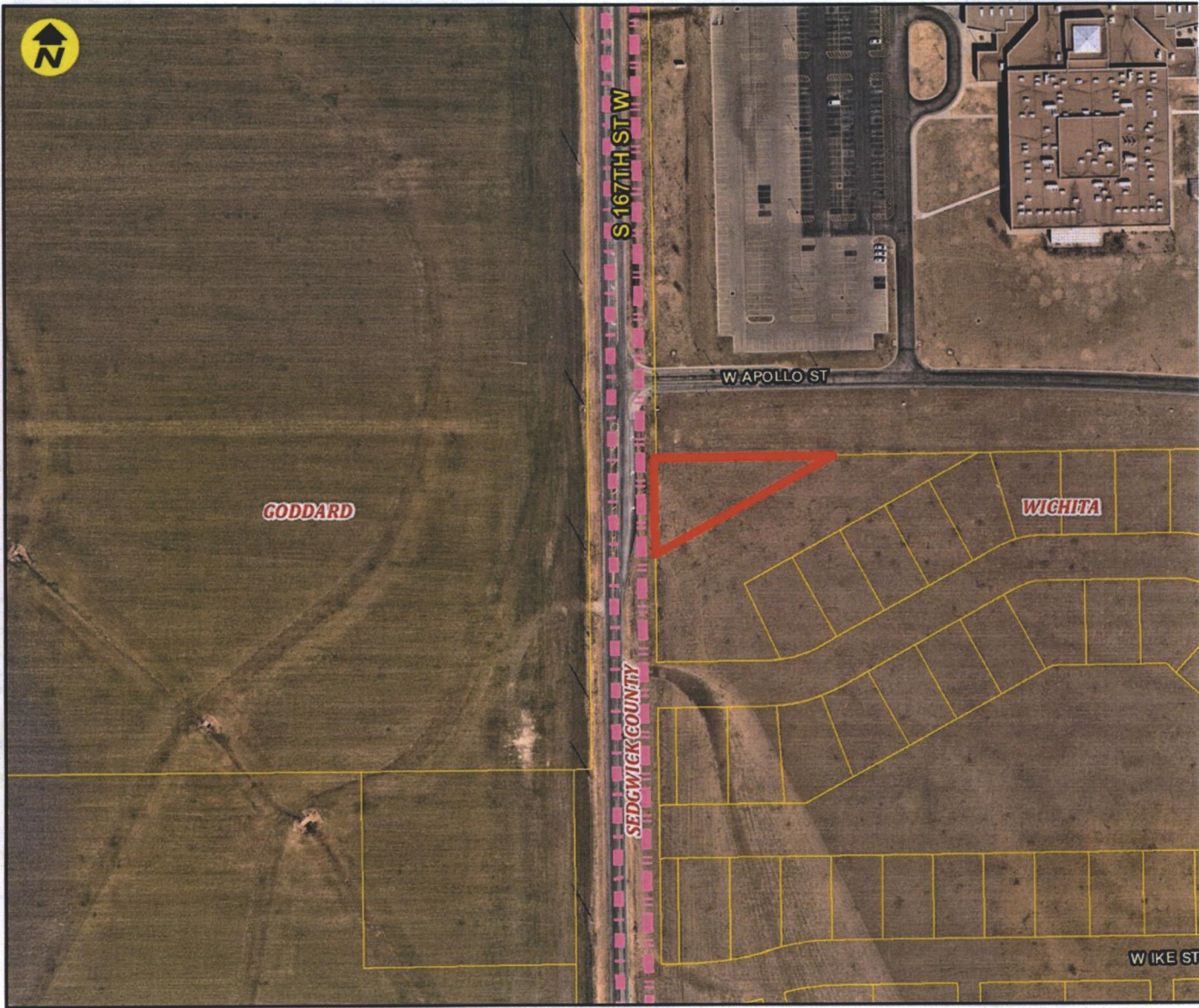
Fence Exhibit



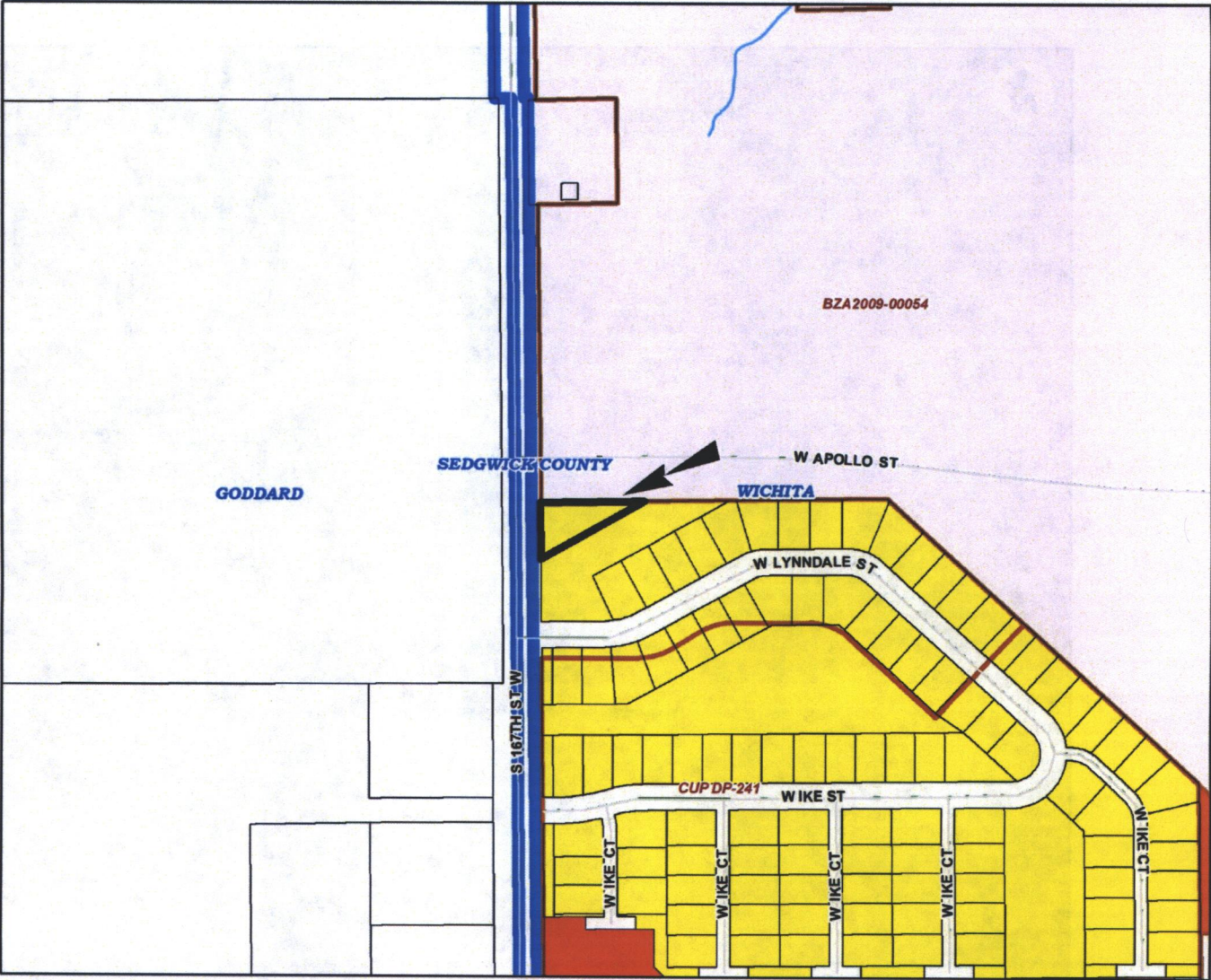
CON2023-00037

Metropolitan Area Planning Commission

Aerial Map



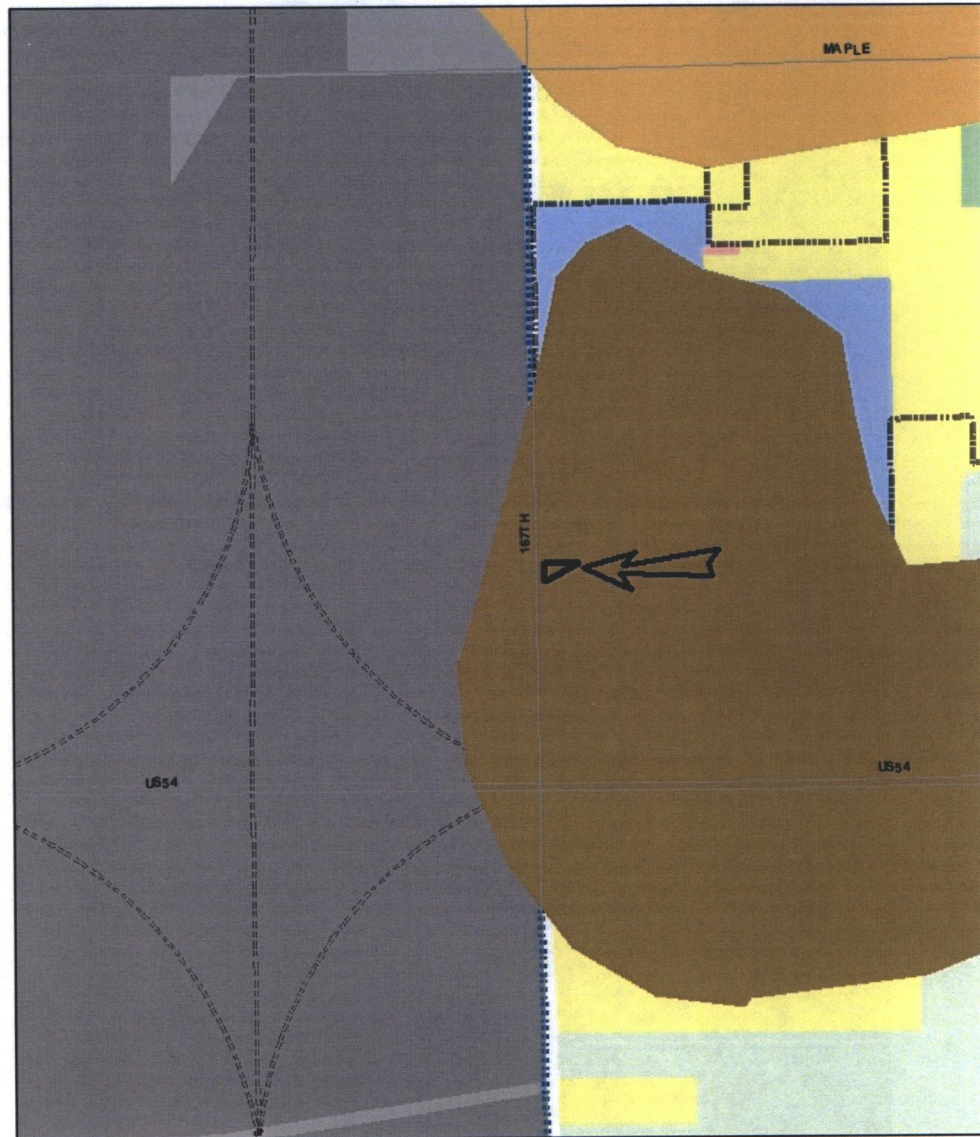
Zoning Map



Land Use Map



Wichita Future Growth Concept Map
Metropolitan Area Planning Commission
2023-2035
Map Scale: 1 inch = 1 mile
Map Date: 10/20/2023
Map Author: M.A.P.C. Staff



Looking east at site



Looking south away from site



Looking north away from site



