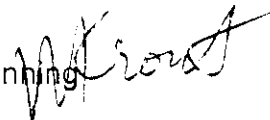


RECOMMENDATION FROM METROPOLITAN AREA PLANNING COMMISSION  
TO BOARD OF COUNTY COMMISSIONERS

**PROPOSED AGENDA ITEMS :** SCZ-0697 - Zone change from 'R-1' Suburban Residential to 'BB' Office District, located 1/4 mile west of Hydraulic in an area between 78th Street South and 79th Street South.

**PRESENTED BY:** Marvin S. Krout, Director of Planning



**PROPOSED AGENDA DATE:** October 25, 1995

**COMMISSION DISTRICT #2**

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MAPC Recommendation: Approve revised application, subject to platting (10-2).

Haysville PC Recommendation: Approve revised application, subject to platting (4-1).

Staff Recommendation: Deny

Background/Discussion: The applicant requests a zone change from the 'R-1' Suburban Residential District to the 'BB' Office District for 3 acres located ¼ mile west of Hydraulic between 78th Street and 79th Street South (1326 East 79th Street South). The subject property is located in the Haysville Zoning Area of Influence. The site currently contains three separate manufactured structures which are used by the National Publishers Group for office uses by writers, editors, and support staff to prepare a monthly magazine. The subject property is heavily wooded which provides screening to residences located north, west, and south of the application area.

The applicant proposes to construct a new structure to replace the existing structures on the site. Earlier this year, the applicant was informed by the County Department of Code Enforcement that the property was not zoned appropriately for office uses. The applicant filed for a Use Exception through the County Board of Zoning Appeals to permit expansion of a non-residential use in a residential district. Such Use Exceptions can be granted for legal nonconforming uses (such as uses in existence prior to County Zoning being established). However, after the request for a Use Exception was filed, staff later discovered that the existing office use was developed after County Zoning was established in the 3 mile ring around Haysville in 1961. Therefore, the existing office use is considered an illegal nonconforming use which is

not permitted by the underlying 'R-1' zoning and does not qualify for a Use Exception. Thus, the applicant has chosen to apply for 'BB' zoning and then construct the new building, rather than seek another location with the appropriate zoning to construct the proposed office building.

The applicant indicates that the new structure would be approximately 4,680 square feet in size. However, the proposed zoning district would allow a much larger building to be constructed on the site, as long as all building setbacks and on-site water and sewage disposal requirements are observed. The maximum building height in 'BB' zoning is forty-five (45) feet. The site does not have access to either Haysville water or sewer services and would require approval from the Wichita-Sedgwick County Health Department for any on-site water and sewage disposal.

The applicant proposes to rezone only the northern portion of the property owned by the National Publishers Group which extends south to 79th Street South. The southern portion is heavily wooded and the applicant indicates that there are no plans to develop it at this time. The property is unplatted and would need to be platted before a building permit could be issued. Any platting requirements would be determined by the City of Haysville since this area is also located within Haysville's Subdivision Jurisdiction. Any building permits would be issued by the County Department of Code Enforcement.

The subject property is surrounded by residential zoning in all directions. Single family homes are located to the north, south, and west, with a developing suburban residential subdivision located to the northeast. The property immediately adjacent to the east is zoned 'R' Rural Residential used for agricultural uses. The nearest nonresidential zoning is located at approximately ¼ mile to the east at the northwest corner of Hydraulic and 79th Street South (Hancock Addition zoned 'LC' Light Commercial).

The Haysville Planning Commission considered this request on September 14, 1995. After discussion, the Haysville Commission voted to approve the request for an area which would only enclose the proposed new building and parking areas, but would not include the existing mobile homes.

At the MAPC hearing on September 28, 1995, the applicant submitted a revised application area of approximately 263 ft. x 123 ft. in size (¾ acre). One area resident attended the MAPC public hearing in opposition to the request. The resident noted concerns that the proposed zoning was not appropriate in a residential area, that the office could move to another location already zoned for such a use, and that approval of the zoning request would set a precedent for other rezoning requests in the area.

After discussion, the MAPC noted concern that the request is a "spot zoning". However, the MAPC voted to recommend approval of the revised zone change application because of the small size of the property, the considerable tree buffers, and the positive recommendation of the Haysville Planning Commission.

- Recommended Action:
1. Adopt the findings of fact of the Metropolitan Area Planning Commission and approve the zone change subject to the condition of platting; adopt a resolution establishing the zone change and instruct the Planning Department to withhold publication until the plat has been recorded with the Register of Deeds; or
  2. Return to the Planning Commission for reconsideration.

(An override of the Planning Commission's recommendation requires a 2/3rd majority vote of the membership of the governing body on first hearing).

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Applicants: National Publishers Group, Inc. 1326 E. 79th South, Wichita, KS 67233  
J. Francis Hesse, 200 W. Douglas 9th Floor, Wichita, KS 67202

Protestors: Brad Anderson, 1500 E. 78th South, Wichita, KS 67233

RESOLUTION NO. 239-1995

A RESOLUTION CHANGING THE ZONING CLASSIFICATION FOR CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED IN SECTION 7.C OF THE ZONING REGULATIONS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, DECEMBER 12, 1984, AND SUBSEQUENTLY AMENDED.

BE IT RESOLVED BY THE GOVERNING BODY OF SEDGWICK COUNTY, KANSAS.

**SECTION I.** That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section 17.C of the Zoning Regulations, the zoning district of the lands legally described below are hereby changed as follows:

Case No. SCZ-0697

Zone change request from 'R-1' Suburban Residential District to the 'BB' Office District, described as:

Part of the Southwest Quarter of the Southeast Quarter of Section 4, Township 29S, Range 1 East of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at a point 100 feet south and 100 feet west of the NE corner of the S/2 E/2 E/2 SW/4 SE/4 of said section; Thence south parallel with the east line of section, 263 feet; Thence west parallel with the south line of said section, 123 feet; Thence north parallel with east line of said section, 263 feet; Thence east parallel with the south line of said section, 123 feet to the point of beginning, generally located 1/4 mile west of Hydraulic in an area between 78th Street South and 79th Street South.

**SECTION II.** That upon the taking effect of this Resolution, the notation of such zone change shall be entered in the official zoning atlas on file in the Office of the County Zoning Administrator and in the Office of the Wichita-Sedgwick County Metropolitan Area Planning Department.

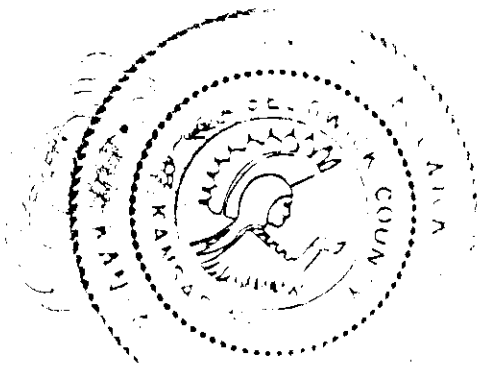
**SECTION III.** That this Resolution shall take effect and be in force from and after its adoption and publication in the official county paper.

Commissioners present and voting were:

PAUL W. HANCOCK  
THOMAS G. WINTERS  
MELODY C. MILLER  
MARK F. SCHROEDER  
BETSY GWIN

Aye  
Aye  
Aye  
Aye  
Aye

DATED this 25<sup>th</sup> day of October, 1995.



BOARD OF COUNTY COMMISSIONERS OF  
SEDGWICK COUNTY, KANSAS

Mark F. Schroeder  
MARK F. SCHROEDER, Chairman

Thomas G. Winters  
THOMAS G. WINTERS, Chairman Pro Tem

ATTEST:

Susan Crockett-Spoon  
SUSAN CROCKETT-SPOON  
County Clerk

Betsy Gwin  
BETSY GWIN, Commissioner

APPROVED AS TO FORM ONLY:

Paul W. Hancock  
PAUL W. HANCOCK, Commissioner

David E. Grom  
County Counselor/Assistant

Melody C. Miller  
MELODY C. MILLER, Commissioner