R-H-96-1991

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Published in The Daily Reporter on April 11, 1991

RESOLUTION NO. 96-1991

A RESOLUTION AUTHORIZING A CONDITIONAL USE PERMIT TO ESTABLISH A BOARDING KENNEL FOR DOGS AND A BOARDING STABLE FOR HORSES IN THE "R" RURAL RESIDENTIAL DISTRICT ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED IN SECTION 17.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, a conditional use permit to establish a boarding kennel for dogs and a boarding stable for horses on property zoned "R" Rural Residential District is hereby approved on lands legally described below:

Case No. CU-341
Conditional Use Permit Request for commercial operation of a boarding stable and kennel on property zoned the "R" Rural Residential District

A tract in the Northeast Quarter of Section 29, Township 28 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at a point 526 feet east of the northwest corner of said Quarter; thence east 685 feet; thence south 571 feet; thence west 685 feet; thence north 571 feet to the point of beginning. Generally located on the south side of 55th Street South, approximately 3/5-mile east of Rock Road (8921 E. 55th St. S., Derby, Kansas).

SUBJECT TO THE FOLLOWING CONDITIONS:

A. The applicant shall dedicate, by separate instrument, the 50 feet of half-street right-of-way required for 55th Street South adjacent to this property. Pursuant to Section 4-601(H) of the Subdivision Regulations, the applicant shall dedicate this street right-of-way prior to receiving the certificate of occupancy from the Sedgwick County Zoning Administrator.

B. The owner or occupant of the application area shall comply with the rules and requirements of the Wichita-Sedgwick County Department of Community Health relative to on-site sewerage and water wells.

C. Pursuant to Section 4(A)(9)(j)(2) of Sedgwick County's Zoning Resolution, outdoor exercise runs, holding pens or other open-air type enclosures located within 600 feet of a property line shall be screened in accordance with the definition of "kennel screening".

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4/9/91

D. The kennel operator shall have on file proof of rabies vaccination by a licensed veterinarian and proof of identification and ownership for all dogs 5 months and older.

E. If the dogs are confined to indoor runs, the runs shall not be smaller than 4 feet by 8 feet to accommodate a single dog. If more than one dog is to be kept in the run, the length of the run shall be increased by 2 feet for each additional dog. Attention shall be paid to the lighting, ventilation, drainage and interior surface material of the indoor run.

F. Artificial lighting shall be provided in the indoor dog runs for a minimum of 8 hours per day with a minimum of 25-foot candle illumination. Lighting shall be a minimum of 30 inches above the floor and uniformly distributed.

G. Cleaning of the dog kennel facility shall be performed as often as necessary to maintain sanitary conditions. A suitable method of eliminating excess water from animal housing facilities shall be provided. Interior surface materials shall be constructed of non-porous materials that are impervious to moisture. The indoor kennel shall have fresh air ventilation providing a complete air change at a minimum of 5- to 6-minute intervals. Exhaust fans and vents or air conditioning shall be provided when the ambient temperature is 85 degrees Fahrenheit or higher.

H. Sufficient quantities of food and water shall be provided to keep the dogs in good physical condition. The dogs shall be fed at least once daily and provided clean water at all times. Food and water containers shall be located to minimize contamination and shall be cleaned as often as necessary to maintain sanitary conditions.

I. All waste materials shall be disposed of in such a manner as to minimize odors and disease hazards. The kennel shall be maintained in a sanitary manner as required by Sedgwick County's Sanitation Code #5.

J. Dogs confined in the dog boarding kennel shall be maintained in good physical condition, free of infectious diseases and parasites.

K. Use of this property for the dog boarding kennel and horse stable uses shall be in accordance with the revised site plan which placed the kennel on the east side of the barn in order to provide a 50-foot setback from the south property line as approved for this case.

L. One double-faced, non-lighted sign up to 16 square feet in surface area is authorized on the application area adjacent to 55th Street South. A sign permit shall be obtained from Sedgwick County's Department of Code Enforcement prior to installation of the sign. The sign shall not be located within street right-of-way for 55th Street South.

M. The horse stable facility authorized by this resolution shall be maintained free of rodent harborage, including but not limited to improperly stored materials, enclosed partition walls and wooden floors closer than 12 inches to the ground. Grain or protein feed shall be stored in tightly covered rodent-proof metal containers or rodent-proof bins. Use shall be made of rodenticides and insecticides for control of rodents and flies. The horse stable facility shall be cleaned at least once each week, or more often if necessary, to prevent or control odors, fly breeding and rodent infestation.

N. Use shall be made of Health Department approved soil sterilants and herbicides or other effective means for the control of weeds and grass around the horse stable and associated corral areas that are authorized by this resolution.

O. The horse stable authorized by this resolution and any associated board fences or wooden horse shelters shall be protected from deterioration by painting. Painting is not required for redwood, cedar or chemically- and pressure-treated lumber. The stable building, fences and shelters shall be constructed of dimensioned building materials.

P. The buildings and structures used for the dog kennel and horse stable shall be open to unannounced inspection by Sedgwick County Department of Code Enforcement personnel during reasonable daylight business hours to insure continued compliance with the above requirements. Any violation of these conditions shall declare the conditional use permit null and void.

Q. The number of dogs authorized to be boarded by virtue of this resolution shall not exceed 24 at any one time. Dogs shall be contained in an enclosed structure between the hours of 10:00 p.m. and 6:00 a.m.

SECTION II. That upon the taking effect of this Resolution, the notation of such conditional use permit 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:

BETSY GWIN	Aye
PAUL W. HANCOCK	Aye
BERNARD A. HENTZEN	Aye
BILLY Q. McCRAY	Aye
MARK F. SCHROEDER	Aye

DATED this 3d day of April, 1991.

ATTEST:

DON WRIGHT, County Clerk

BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS

BILLY Q. McCRAY, Chairman

BETSY GWIN, Chairman Pro Tem

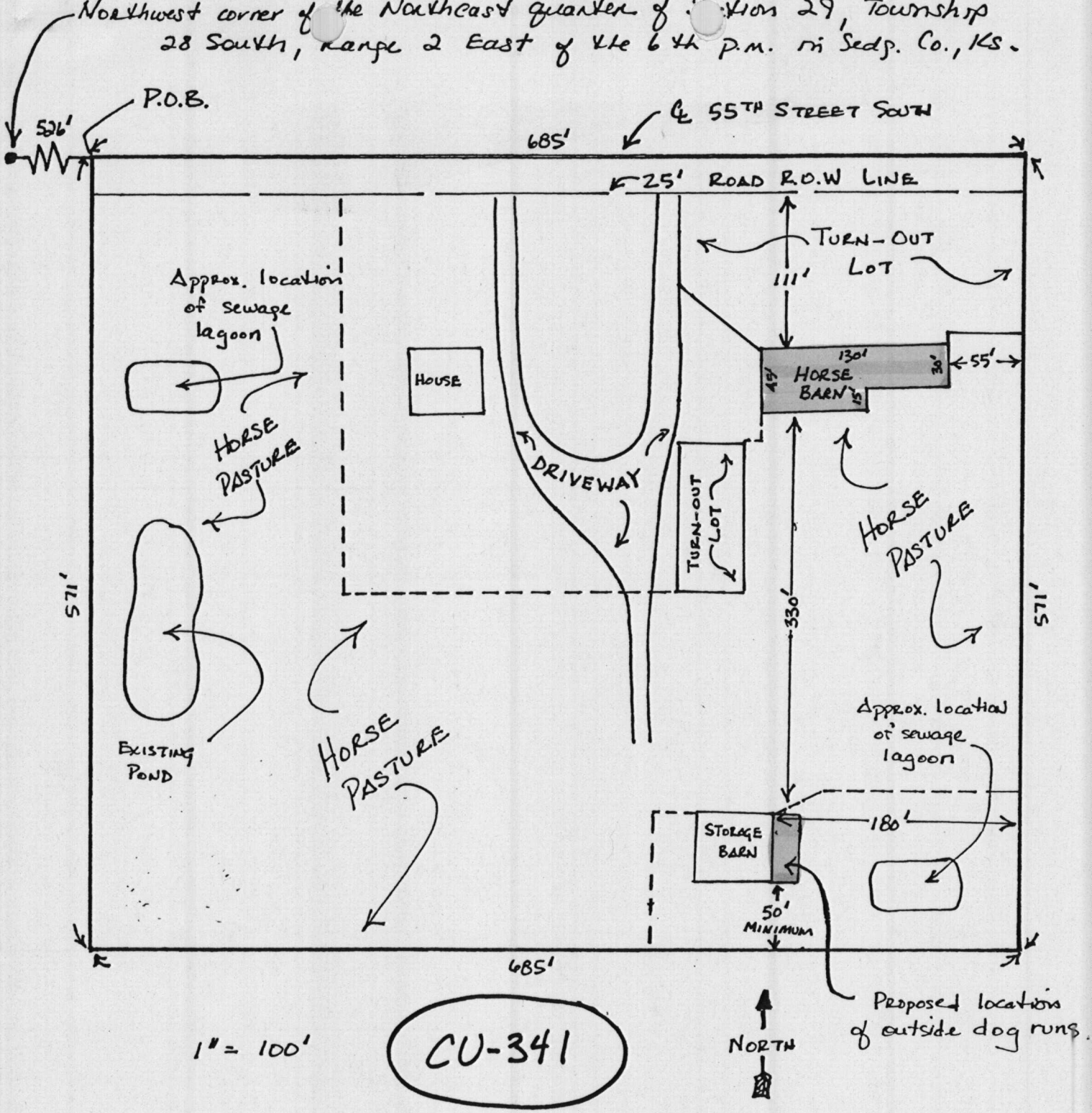
PAUL W. HANCOCK, Commissioner

APPROVED AS TO FORM ONLY:

County Counselor/Assistant

BERNARD A. HENTZEN, Commissioner

MARK F. SCHROEDER, Commissioner



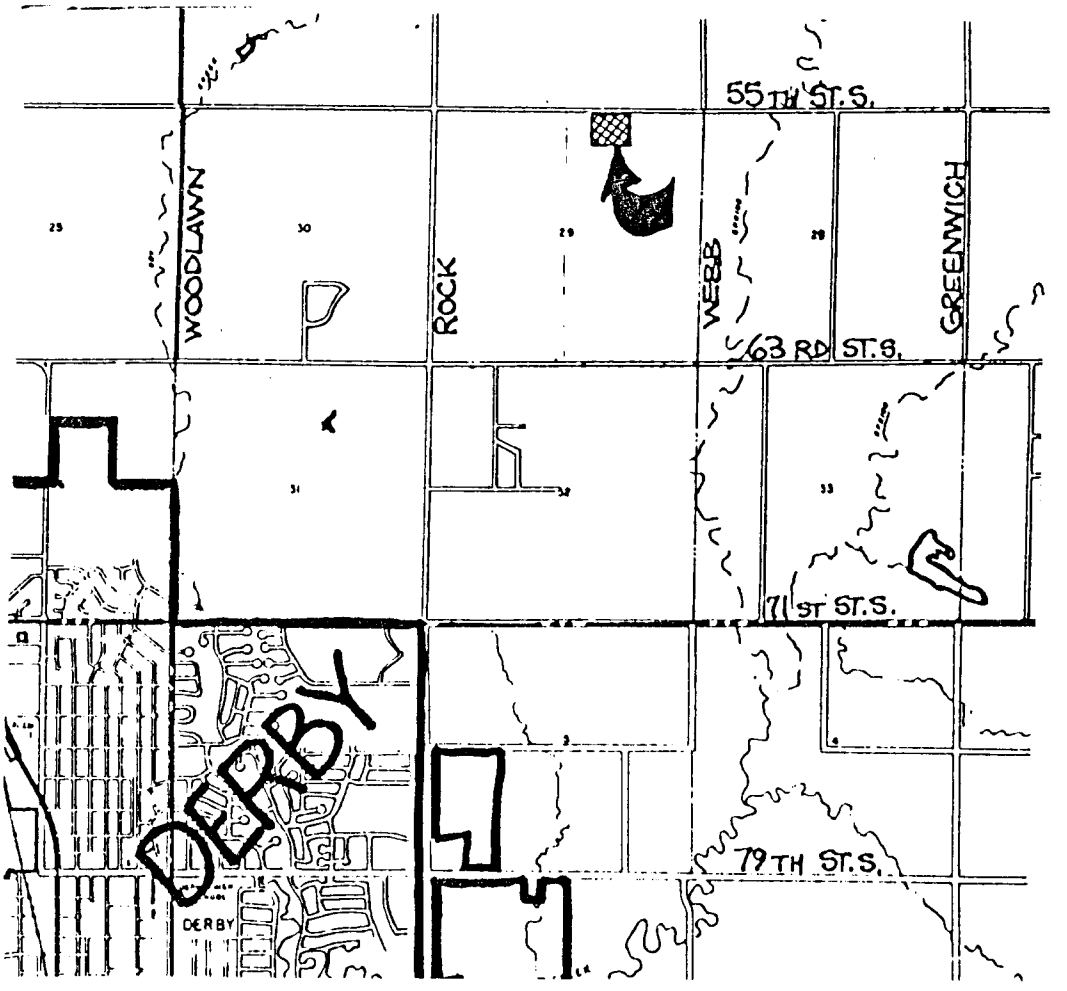
A TRACT IN THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 28 SOUTH, RANGE 2 EAST OF THE 6TH P.M. IN SEDGWICK COUNTY, KANSAS, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE NORTH LINE OF SAID QUARTER SECTION, 526 FEET EAST OF THE NORTHWEST CORNER OF SAID QUARTER, THENCE EAST 685 FEET; THENCE SOUTH PARALLEL WITH THE WEST LINE OF SAID QUARTER 571 FEET; THENCE WEST 685 FEET; THENCE NORTH 571 FEET TO THE POINT OF BEGINNING.

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 6
DPC 2/21/91
MAPC 2/28/91

STAFF REPORT

CASE NUMBER:	CU-341
OWNER/APPLICANT/AGENT:	Jean & Fred Liebau, Jr. (owner/applicant) Ellen Lamont (contract purchaser) Everett C. Fettis (agent)
REQUEST:	Conditional use permit to establish a boarding kennel for dogs and a boarding stable for horses.
CURRENT ZONING:	"R" Rural Residential District
SITE SIZE:	9 acres (685 ft. x 571 ft.)
LOCATION:	South side of 55th St. South, 3/5-mi. east of Rock Road.
PROPOSED USE:	Boarding kennel for dogs and boarding stable for horses.



BACKGROUND: The applicants and contract purchaser are requesting a conditional use permit for operation of a dog boarding kennel and horse stable in the "R" Rural Residential District. The application area measures approximately 9 acres and has 685 feet of frontage to 55th Street South. The site is presently developed with a single-family dwelling, a horse barn with corrals and a storage barn with 12 attached dog kennels. All of these facilities are depicted on the attached site plan. Also attached is a two-page narrative prepared by the contract purchaser which describes her intended use of the property. Basically, she plans to utilize a 12-dog kennel that already exists on the property and also board ten horses within an existing horse barn. Two of the ten horses to be boarded are owned by the contract purchaser.

The County Zoning Resolution defines a boarding/breeding/training kennel as "premises housing five (5) or more adult dogs, three (3) or more of which are owned by someone other than the property resident and premises housing over ten (10) adult dogs." Section 4(A) (9)(j) of the County Zoning Resolution provides for dog boarding/breeding/training kennels as conditional uses in the "R" zoning district.

Section 4(A)(9)(i) of the County Zoning Resolution provides for a "horse riding academy or rodeo arena for public entertainment or commercial purposes not including those developed for training purposes" as a conditional use in the "R" district. In Section 3 of the Resolution, the use of property for kennels and stables when carried on as a business activity is specifically prohibited as a home occupation [Section 3(E)(4)]. Based on these provisions of the Zoning Text, the Sedgwick County Zoning Administrator has determined that a conditional use permit for the horse boarding stable is necessary.

Inasmuch as the proposed horse boarding stable and dog boarding kennel are in character with the agricultural uses that are contiguous to the application area and are compatible with the other land uses permitted in the "R" zoning district, staff supports this request for a conditional use permit.

CASE HISTORY: None.

ADJACENT ZONING AND LAND USE:

NORTH	"R"	Undeveloped (agricultural use)
SOUTH	"R"	Undeveloped (agricultural use)
EAST	"R"	Undeveloped (agricultural use)
WEST	"R"	Undeveloped (agricultural use)

PUBLIC SERVICES: This property is not served with either sanitary sewer or municipal water. Adjacent 55th Street South is an unpaved, two-lane section line road. Only 25 feet of half-street right-of-way exists for this street, whereas 50 feet is required.

CONFORMANCE TO PLANS/POLICIES: The Land Use Element of the Comprehensive Plan depicts this general area of Sedgwick County for agricultural land uses. This property is within the "Zoning Area of Influence" for the City of Derby.

RECOMMENDATION: Approve the conditional use request subject to the following conditions:

A. The applicant shall dedicate, by separate instrument, the 50 feet of half-street right-of-way required for 55th Street South adjacent to this property. Pursuant to Section 4-601(H) of the Subdivision Regulations, the applicant shall dedicate this street right-of-way prior to receiving the certificate of occupancy from the Sedgwick County Zoning Administrator.

B. The owner or occupant of the application area shall comply with the rules and requirements of the Wichita-Sedgwick County Department of Community Health relative to on-site sewerage and water wells.

C. Pursuant to Section 4(A)(9)(j)(2) of Sedgwick County's Zoning Resolution, outdoor exercise runs, holding pens or other open-air type enclosures located within 600 feet of a property line shall be screened in accordance with the definition of "kennel screening".

D. Inasmuch as Section 4(A)(9)(j)(2) of the County Zoning Resolution requires "outside runs, holding pens or other open-air type enclosures and shelters" associated with the dog boarding kennel to be no closer than 50 feet from adjoining property lines, and given the fact that existing open-air kennel facilities proposed to be utilized by the applicant are 45 feet from the south line of the applicant's ownership, approval of this conditional use permit case is subject to the applicant obtaining a variance of the 50-foot minimum setback requirement from the Board of Zoning Appeals. The resolution authorizing this conditional use shall not be published until the required variance has been granted.

E. The kennel operator shall have on file proof of rabies vaccination by a licensed veterinarian and proof of identification and ownership for all dogs 5 months and older.

F. If the dogs are confined to indoor runs, the runs shall not be smaller than 4 feet by 8 feet to accommodate a single dog. If more than one dog is to be kept in the run, the length of the run shall be increased by 2 feet for each additional dog. Attention shall be paid to the lighting, ventilation, drainage and interior surface material of the indoor run.

G. Artificial lighting shall be provided in the indoor dog runs for a minimum of 8 hours per day with a minimum of 25-foot candle illumination. Lighting shall be a minimum of 30 inches above the floor and uniformly distributed.

H. Cleaning of the dog kennel facility shall be performed as often as necessary to maintain sanitary conditions. A suitable method of eliminating excess water from animal housing facilities shall be provided. Interior surface materials shall be constructed of non-porous materials that are impervious to moisture. The indoor kennel shall have fresh air ventilation providing a complete air change at a minimum of 5- to 6-minute intervals. Exhaust fans and vents or air conditioning shall be provided when the ambient temperature is 85 degrees Farenheit or higher.

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K. Dogs confined in the dog boarding kennel shall be maintained in good physical condition, free of infectious diseases and parasites.

L. Use of this property for the dog boarding kennel and horse stable uses shall be in accordance with the site plan approved for this case.

M. One double-faced, non-lighted sign up to 16 square feet in surface area is authorized on the application area adjacent to 55th Street South. A sign permit shall be obtained from Sedgwick County's Department of Code Enforcement prior to installation of the sign. The sign shall not be located within street right-of-way for 55th Street South.

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