CONDITIONAL USE RESOLUTION NO. CON2004-00021

WHEREAS, Charles L. Rude (Owner); pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), request a Conditional Use to permit a horse boarding, breeding, training stable and riding arena on 10 acres zoned "RR" Rural Residential described as:

> The West 340 feet of the South 1340 feet of the Southwest Quarter of Section 13, Township 28 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, except the South 40 feet thereof for road. Generally located at the northeast corner of 47th Street South and 143rd East.

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 5, 2004, consider said application; and

WHEREAS, the MAPC 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 Metropolitan Area Planning Commission that this application be approved to permit a horse boarding, breeding, training stable and riding arena on 10 acres zoned "RR" Rural Residential described as:

> The West 340 feet of the South 1340 feet of the Southwest Quarter of Section 13, Township 28 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, except the South 40 feet thereof for road. Generally located at the northeast corner of 47th Street South and 143rd East.

SUBJECT THE FOLLOWING CONDITIONS:

A. The site shall be developed and maintained in general conformance with the approved site plan. Proper drainage shall be provided to prevent the accumulation of rainfall or liquid wastes. In addition to those uses permitted in the "RR" Rural Residential district, the site shall be limited to the following uses: boarding, breeding and training of horses and riders and riding arena.

B. All applicable permits and licenses shall be obtained in a timely basis (e.g. on-site sewage and water wells, building permits, and zoning).

C. Disposal of collected fecal material and other solid organic waste shall be at a sanitary landfill, transfer station, fertilizer processing plant or by proper disposal on land used for agricultural purposes. Any solid waste, other than solid waste accumulated from the cleaning of the horse shelters, shall be stored in proper containers, and all solid waste shall be disposed of at least once or week or more frequently as may be required by the Health Officer.

D. The horse stable facility shall be maintained free of rodent harborage. Grain or protein feed shall be stored in tightly covered rodent-proof metal container or rodent-proof bins. Use shall be made of anticoagulant rodenticides and organophosphorus insecticides for control of rodents and flies. The horse stable shall be cleaned at least once each week, or more often if necessary, to prevent or control odors, fly breeding and rodent infestation.

E. Weeds and grass around the stable and corral areas shall be controlled by soil sterilants, herbicides or other effective methods and kept at a height that they do not provide a fire hazard or harbor vectors such as mosquitoes or vermin.

F. The stable building, fences and shelters shall be constructed of dimensioned building materials or other effective means so as to prevent horses from breaking out or causing a hazard to persons or property.

G. The maximum number of horses to be boarded at any one time is 22, plus any foals which may be stabled with the mare for a period of one year, at which point they would be stabled separately and count toward the specified limit of 22 horses. The limit of 22 horses includes the applicant's horses. In addition to the 22 horses that may be boarded on-site, an additional 20 horses may be permitted for equestrian events lasting up to three days, four times a year. Additional non-boarded horses may be permitted for equestrian events so long as the total number of horses on-site at any one time does not exceed 42.

H. All equestrian facilities shall be used only by the property owner, the owner's customers and their guests.

I. The buildings and structures associated with the horse stable shall be open to unannounced inspection by the Health Officer, or Sedgwick County Department of Code Enforcement personnel during reasonable hours to insure continued compliance with the requirements of this Conditional Use.

J. All covered riding arena related activities shall cease by 10:00 P.M., and any arena related outdoor lighting shall be turned off by 10:30 P.M. Outdoor riding and training activities shall not begin before sunrise and shall cease by 10:00 P.M.

K. The number of non-resident employees shall not exceed five persons.

L. No public address systems can be employed in a manner that permits the sound to be heard beyond the applicant's property boundaries.

M. Any violation of the conditions of approval of this Conditional Use may result in the Conditional Use permit null and void.

Adopted this 5th DAY of August, 2004. This resolution shall become effective on the fifteenth day after the date last noted above unless the matter is forwarded to the Governing Body for final action under the provisions of Section V-D.6. When any one or more of the exceptions listed in Section V-D.6 exist, this resolution with its conditions of approval shall be considered a recommendation of the MAPC to the Governing Body which shall then have final authority to approve, approve with conditions or modifications, or deny the Conditional Use application.

METROPOLITAN AREA PLANNING COMMISSION

Ronald L. Marnell, Chair MAPC

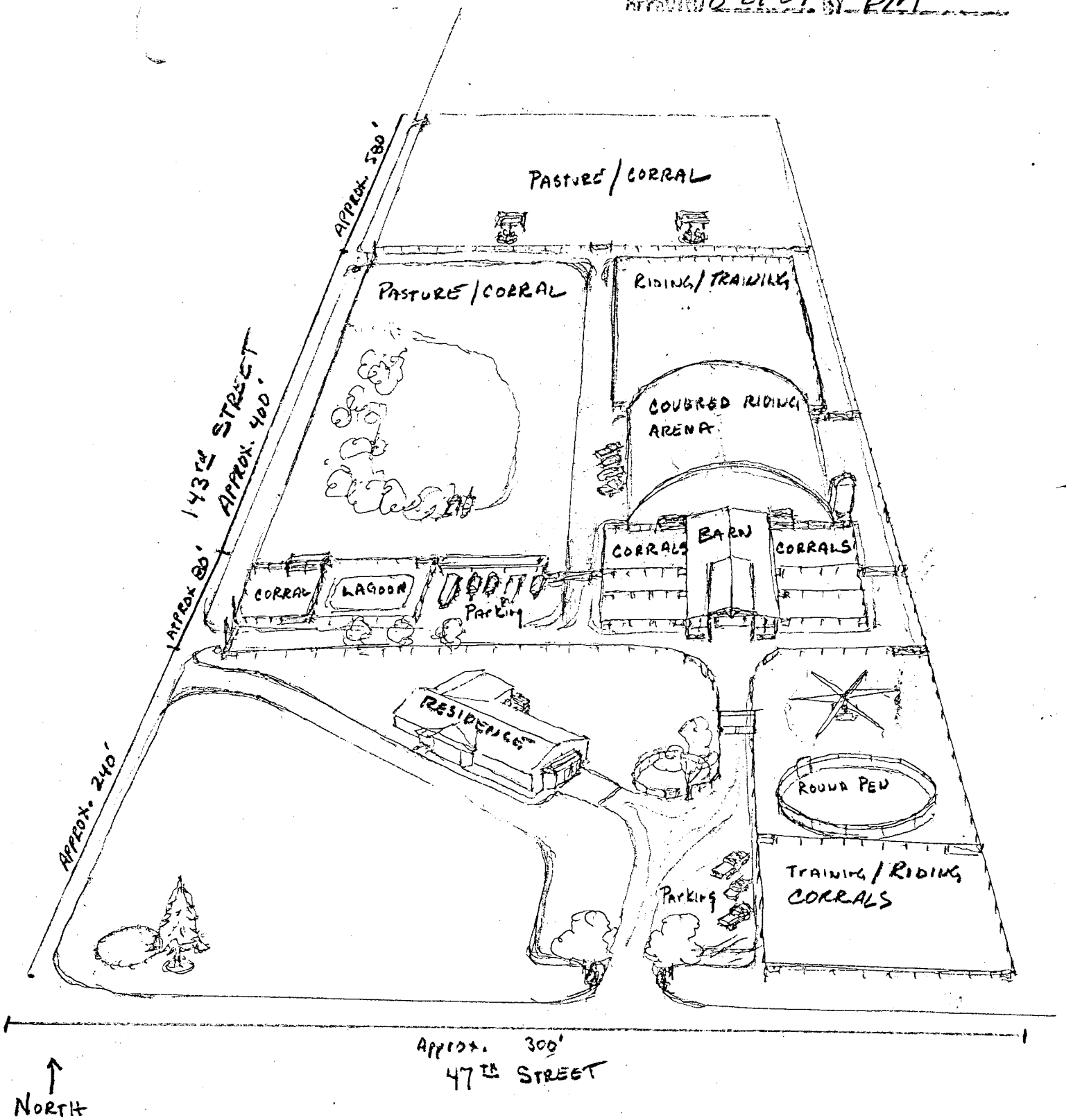
ATTEST:

John L. Schlegel, Secretary

CON 2004-21

SITE PLAN

APPROVED 8-21-04 BY PM



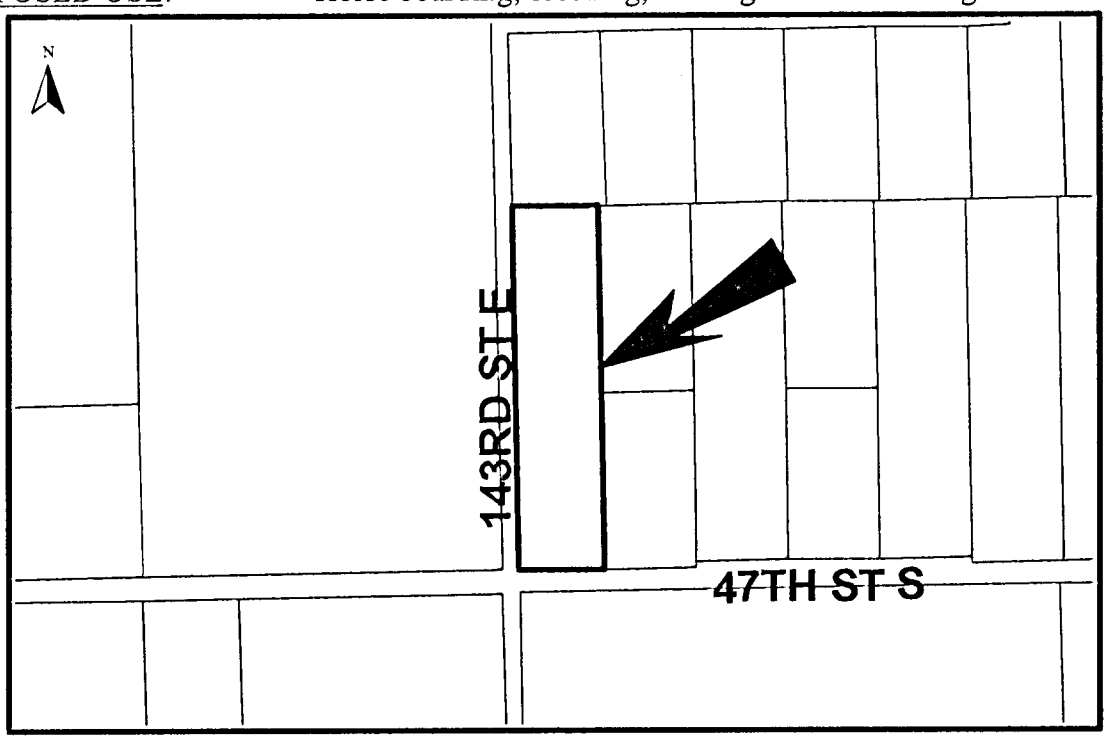
WICHITA–SEDGWICK COUNTY
W-SC
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 5

STAFF REPORT

MAPC 7-22-04
MAPC 8-5-04

CASE NUMBER:	CON2004-00021
APPLICANT/AGENT:	Charles L. Rude (applicant/agent)
REQUEST:	Conditional Use to permit a horse boarding, breeding, training stable and riding arena
CURRENT ZONING:	"RR" Rural Residential
SITE SIZE:	10 acres
LOCATION:	Northeast corner of 47th Street South and 143rd East.
PROPOSED USE:	Horse boarding, breeding, training stable and riding arena



BACKGROUND: The applicant is seeking a Conditional Use to permit a horse boarding, breeding, training stable and riding arena on 10 acres zoned "RR" Rural Residential located at the northeast corner of 47th Street South and 143rd East. The applicant has been operating Lone Pine Stables at this location since 1992, but wishes to expand the stable's infrastructure by adding a covered riding arena, and obtain a Conditional Use for his existing corrals, pastures, outdoor riding, training, and exercise areas to remove any cloud of nonconforming use status to his operation. The covered riding arena has been constructed and would have interior lighting only.

The site may have nonconforming use rights to some intensity of horse boarding, breeding and training as the previous owner has submitted a letter indicating, in addition to their own horses, they boarded, raised and bred horses for others in the horse industry. Mrs. Ruth-Shawver states that her family began their horse operation in 1976. County Code Enforcement has not made an official interpretation regarding what level of nonconforming rights the applicant may have, as they prefer to await the results of this Conditional Use request. If this request were to be approved, a determination of the site's nonconforming rights would not be necessary.

Currently the site has a: home, round training pen, walker, stable, corrals/pastures of various sizes, pond, lagoon and parking areas. (See attached site plan.) The applicant has facilities to board 22 horses. On the busiest days eleven vehicles may come and go from the site, on a typical day the number of trips is smaller. Parking and driveways are graveled. Services provided by the applicant include: boarding, foundation training, beginner lessons and horse rental. The site has driveway connections to both section line roads. Currently stall cleanings are hauled to the very northeast corner of the applicant's property and composted. The owner indicates in a typical year most of the material is ultimately picked up by nearby property owners and used in their gardening.

Located directly west, across 143rd Street, from the applicant's property is the applicant's family's 240-acre farm, established in 1887. The land immediately to the east of the site is broken into a series of large lot residential tracts with the smallest being 5 acres in size. These smaller tracts are all developed with homes. The properties to the south and southwest are much larger agricultural tracts. Land to the north is divided into a series of large tracts, under a single ownership. All nearby land is either used for agricultural and/or home site purposes, and zoned "RR" Rural Residential. There currently is a cattle operation located north of the site, and there is, or has been, cattle raised on the property located to the south.

At the time this report was prepared, staff had received two phone calls expressing opposition to the request. They expressed concerns about any intensification in the business appearance of the applicant's property that would negatively impact their property. They also cited the existence of private covenants that prohibit commercial livestock operations. One caller expressed concern over odor, flies, and increased traffic. In response to the concerns, the applicant has hired someone to provide additional file control, and indicated he might be able to move the manure pile to another location, if necessary. With respect to a private covenant prohibiting a commercial livestock operation, it has no bearing on this Conditional Use request. Private land use covenants are expressly that, private agreements between the buyer and the seller of the land. Governments are not typically made a party to any covenants, therefore enforcement of the covenant restrictions would not be a County matter, but would be a private matter between the landowners who are a party to the restrictions. If the request is approved, but the covenants are upheld, presumably the applicant would be prohibited by the court from using the Conditional Use.

(Staff has not reviewed any covenants dealing with this request, and is not commenting on their enforceability or effectiveness, but is expressing a general principle regarding private covenants and public land use regulations. With these comments staff is also not intending to discourage property owners subject to any applicable covenants from enforcing the conditions contained in the covenants to the maximum extent possible.)

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH: "RR" Rural Residential; agriculture
SOUTH: "RR" Rural Residential; agriculture, farmstead
EAST: "RR" Rural Residential; large-lot residential
WEST: "RR" Rural Residential; agriculture

PUBLIC SERVICES: Public sewer service is not available; the site uses a lagoon. The site is located within Sedgwick County Rural Water District No. 3 boundaries. 143rd Street is an unpaved two-lane facility. 47th Street is a paved two-lane facility.

CONFORMANCE TO PLANS/POLICIES: The "Sedgwick County Development Guide" map depicts the site as appropriate for "rural" uses. The "rural" category denotes land that is located beyond the 2030 urban service boundary for Wichita, and it is also beyond the growth areas for any of the smaller communities located within Sedgwick County. The rural designation is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provision for future water and sewer services.

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

A. The site shall be developed and maintained in general conformance with the approved site plan. In addition to those uses permitted in the "RR" Rural Residential district, the site shall be limited to the following uses: boarding, breeding and training of horses and riders and riding arena.

B. All applicable permits and licenses shall be obtained in a timely basis (e.g. on-site sewage and water wells, building permits, zoning and animal waste handling and disposal).

C. Animal wastes from areas where the animals have been confined shall be gathered as needed and as weather permits to prevent flies and odor. The gathered waste shall be disposed of in a manner acceptable to Sedgwick County Code Enforcement.

D. The horse stable facility 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 container or rodent-proof bins. Use shall be made of rodenticide and insecticides for control of rodents and flies. The horse stable shall be cleaned at least once each week, or more often if necessary, to prevent or control odors, fly breeding and rodent infestation.

E. Weeds and grass around the stable and corral areas shall be controlled and kept at a height that they do not provide a fire hazard or harbor vectors such as mosquitoes or vermin.

F. The horse stable and any associated board fences or wooden horse shelters shall be protected from deterioration by an appropriate water proofing method. The stable building, fences and shelters shall be constructed of dimensioned building materials. Pipe fencing is permitted and shall be maintained in good repair.

G. The maximum number of horses to be boarded at any one time is 22, plus any foals which may be stabled with the mare for a period of one year, at which point they would be stabled separately and count toward the specified limit of 22 horses. The limit of 22 horses includes the applicant's horses. In addition to the 22 horses that may be boarded on-site, an additional 20 horses may be permitted for equestrian events lasting up to three days, four times a year. Additional non-boarded horses may be permitted for equestrian events so long as the total number of horses on-site at any one time does not exceed 42.

H. All equestrian facilities shall be used only by the property owner, the owner's customers and their guests.

I. The buildings and structures associated with the horse stable shall be open to unannounced inspection by Sedgwick County Department of Code Enforcement and Health Department personnel during reasonable hours to insure continued compliance with the requirements of this Conditional Use.

J. All covered riding arena related activities shall cease by 10:00 P.M., and any arena related outdoor lighting shall be turned off by 10:30 P.M. Outdoor riding and training activities shall not begin before sunrise and shall cease by 10:00 P.M.

K. The number of non-resident employees shall not exceed five persons.

L. No public address systems can be employed in a manner that permits the sound to be heard beyond the applicant's property boundaries.

N. Any violation of the conditions of approval of this Conditional Use shall declare the Conditional Use permit null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All surrounding properties are zoned "RR" Rural Residential, and used for agricultural or large-lot residential purposes. This area is rural in character with farming and cattle operations and scattered large-lot residences. Significant portions of the land area in this portion of the County are used for agricultural activities, such as pasture, hay, wheat or cattle.

2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "RR" Rural Residential, and could be used as currently zoned. The site may have nonconforming use rights to operate some level of horse breeding, training and stable activities.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The stable exists today and the nearby properties appear to be well maintained and do not appear suffer any ill effects from this operation. Also, the conditions placed on the development by the Conditional Use and various code requirements further minimize negative impacts.

4. 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 request will eliminate a nonconforming use. Denial would maintain the nonconforming use status and probably limit the applicant's ability to grow his business.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "Sedgwick County Development Guide" map depicts this site as appropriate for "rural" uses. The rural designation is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provision for future water and sewer services. Equestrian activities and agricultural sales and service uses are appropriate for rural areas and would be consistent with the Plan's recommendations

6. Impact of the proposed development on community facilities: Given the fact that the use already exists, minimal, if any negative impacts would occur if this request were approved. Traffic may increase to some degree, but any increases should be able to be met by existing improvements or proposed conditions of approval.