CONDITIONAL USE RESOLUTION NO. CON2004-00010

WHEREAS, Kenneth L. Lockwood, Susan A. Lockwood (Owner/Applicants) pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), request a Conditional Use for community assembly on 3.2 acres zoned "RR" Rural Residential described as:

> Part of the North Half of the Southeast Quarter of the Northeast Quarter of Section 15, Township 27 South, Range 4 West of the 6th P.M., Sedgwick County Kansas, described as follows: Beginning at the Northeast Corner of the North Half of the Southeast Quarter, common to the Southeast corner of the Northeast Quarter; thence South 00 degrees 01'23" East on an assumed bearing along the east line of said North half of said Southeast Quarter 608.37 feet; thence South 90 degrees 00' West 1278.90 feet; thence North 0 degrees 36'05" East, 714.42 feet; thence North 90 degrees 00 East 1271.16 feet on the east line of said Northeast Quarter; thence South 0 degrees 00' West along the East line of said Northeast Quarter, 106.02 feet to the point of beginning, except the east 40 feet for road. Generally located midway between 13th Street North and 4th Street North, on the west side of 343rd Street West.

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 March 25, 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 Conditional Use for community assembly on 3.2 acres zoned "RR" Rural Residential described as:

> Part of the North Half of the Southeast Quarter of the Northeast Quarter of Section 15, Township 27 South, Range 4 West of the 6th P.M., Sedgwick County Kansas, described as follows: Beginning at the Northeast Corner of the North Half of the Southeast Quarter, common to the Southeast corner of the Northeast Quarter; thence South 00 degrees 01'23" East on an assumed bearing along the east line of said North half of said Southeast Quarter 608.37 feet; thence South 90 degrees 00' West 1278.90 feet; thence North 0 degrees 36'05" East, 714.42 feet; thence North 90 degrees 00 East 1271.16 feet on the east line of said Northeast Quarter; thence South 0 degrees 00' West along the East line of said Northeast Quarter, 106.02 feet to the point of beginning, except the east 40 feet for road. Generally located midway between 13th Street North and 4th Street North, on the west side of 343rd Street West.

subject to the following conditions:

1. The property shall be developed and maintained in accordance with a revised site plan approved by the Planning Director, showing screening, lighting, landscaping, parking, setbacks, easements and all buildings in conformance with the UZC.
2. All outdoor facilities will be located a required 200 feet from any neighboring residences and 50-foot from adjoining properties.
3. Cleaning of the facility shall be performed as often as necessary to maintain sanitary conditions, in such a manner as to minimize odors and disease hazard. A "suitable method" of eliminating excess water and feces from the facilities shall be provided as determined by Sedgwick County Code Enforcement. The facility shall be maintained in a sanitary manner as required by applicable codes (e.g. Chapter 14 of the Sedgwick County Code).
4. The applicant shall obtain all applicable permits including, but not limited to building, health and zoning. The applicant shall keep his registration with the US Department of Interior, Fish and Wildlife Service and the Kansas Department of Wildlife and Parks current and on site at all times.
5. No refreshment stands or food and beverage sales. Alcoholic beverages are prohibited
6. No gift shops.
7. No sound projecting devices or loudspeakers shall be used so as to be heard beyond the property line.
8. All lights shall be shielded to direct light away from the adjoining properties. No string type lighting permitted.
9. All driveways, parking, loading and vehicle circulation areas shall be surfaced with asphalt, asphalt millings, crushed gravel, or an all weather surface as recommended and approved by the Sedgwick County Fire Department.
10. On site operations shall be limited between 10:00 am and 9:00 pm. The maximum number of people allowed on site for educational programs is 35.
11. The applicant shall receive any required approval from the appropriate county and state agencies for any on site drinking water.
12. The raptor center shall comply with all the necessary fire prevention procedures and equipment as required by the Sedgwick County Fire Department.
13. One sign allowed; a maximum of 18- square feet in size.
14. A minimum of two chemical portable toilets shall be provided, one for females and one for males. The applicant must provide proof of an ongoing maintenance contract for the removal of the waste from the site to the Sedgwick County Health Department. The disposal of solid waste shall be in accordance with Sedgwick County's Sanitation Codes.
15. The facility shall be open to the unannounced inspection by Sedgwick County of Code Enforcement personnel during reasonable daylight hours to insure continued compliance with the above requirements.
16. The number of full time employees will not exceed two, including the applicants.
17. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

Adopted this 25th DAY of MARCH, 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

EAGLE VALLEY RAPTOR CENTER

927 NORTH 343 STR. WEST
CHENEY, KS. 67025

316-542-5013 (OFFICE/FAX)
316-393-0710 (MOBILE)

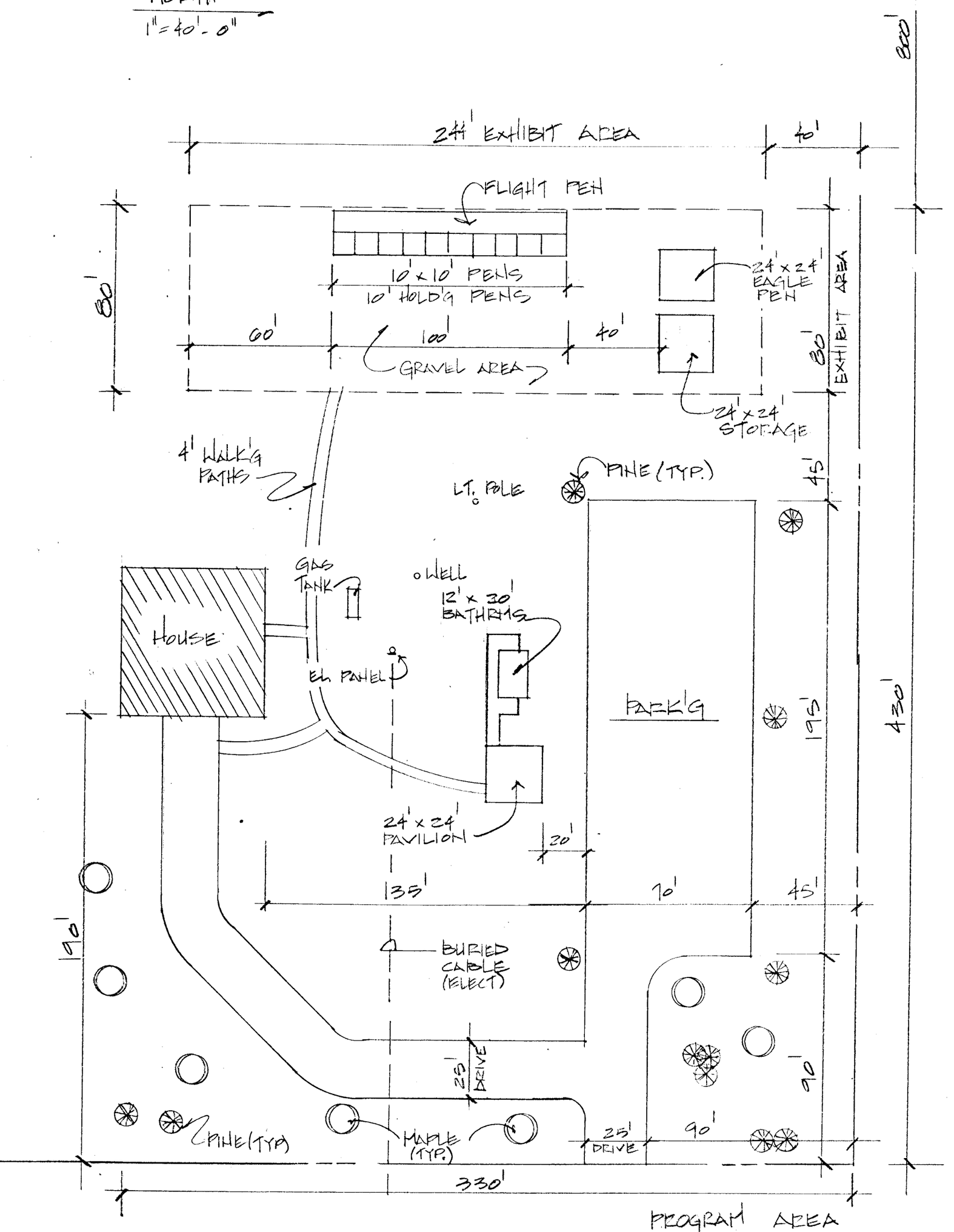
RAPTORCARE@AOL.COM
KEN LOCKWOOD, DIR.

SITE PLAN

APPROVED [signature] BY: [illegible] 15, 2009

CONZ009-10

NORTH
1" = 40'-0"



343RD STR. WEST

PROGRAM AREA
330' x 430' = 141,900 S.F.
= 3.25 ACRES

WICHITA–SEDGWICK COUNTY
W-SC
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 8

STAFF REPORT

MAPC March 25, 2004

CASE NUMBER: CON2004-00010

APPLICANT/OWNER: Ken & Susan Lockwood

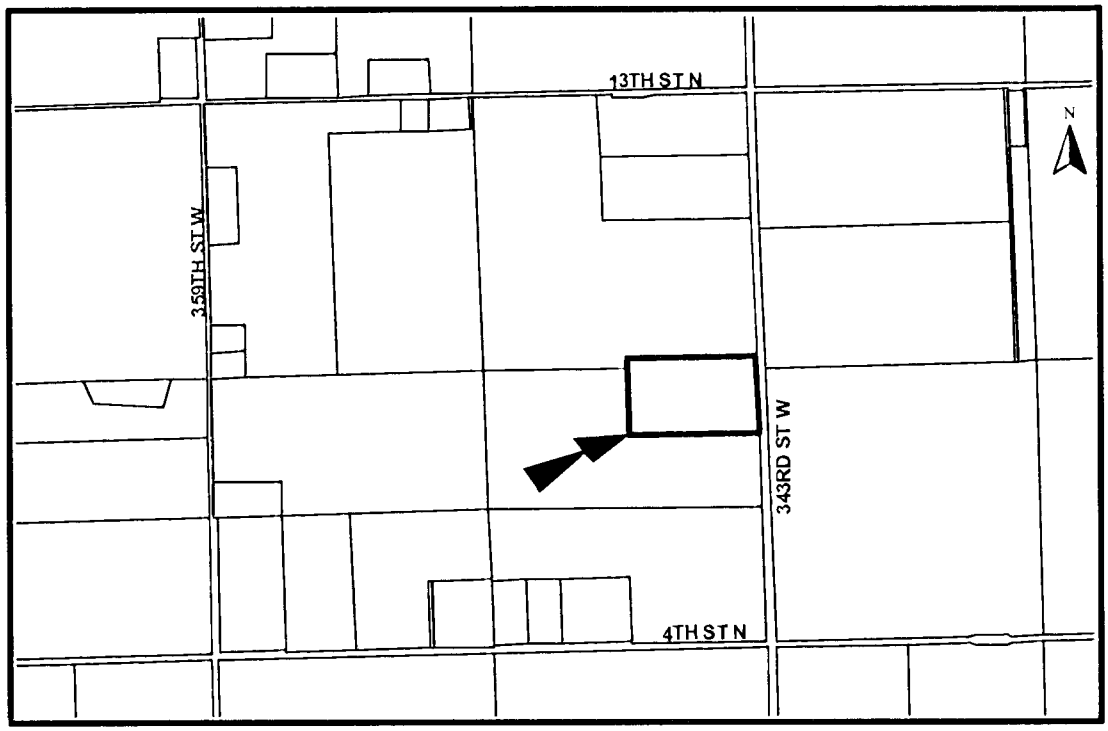
REQUEST: Conditional Use for community assembly

CURRENT ZONING: "RR" Rural Residential

SITE SIZE: 3.2-acres

LOCATION: Midway between 13th Street North & 4th Street North, on the west side of 343rd Street West

PROPOSED USE: Birds of prey rehabilitation and educational facility



BACKGROUND: The applicants are requesting a Conditional Use to permit a nonprofit birds of prey rehabilitation and educational facility on 3.25-acres of their 20-acre tract. The subject site is located midway between 13th Street North and 4th Street North, on the west side of 343rd Street West. The subject site is in an unincorporated far western portion of Sedgwick County and is zoned "RR" Rural Residential. As defined in the UZC "an establishment that provides meeting recreation, educational, cultural or social facilities for a membership or non-profit association..." is a community assembly. The proposed use (raptor center) is a nonprofit educational use and as such is considered a "community assembly". The "RR" zoning district permits "community assembly" with the approval of a Conditional Use.

The proposed raptor center rehabilitates injured or orphaned birds of prey for release back into the wild. If a veterinarian finds a bird not fit for release, the raptor center may keep the bird for educational programs, as permitted and regulated by the US Department of Interior, Fish and Wildlife Service and the Kansas Department of Wildlife and Parks. The raptor center also has the option of placing a bird in another center for rehabilitation or as a permitted "house" bird. The applicants' raptor center is currently recognized by both of these government agencies under the status of a nonprofit rehabilitation and educational facility for injured and orphaned birds of prey. The applicants' have stated that the raptor center does not receive any federal or state funds.

Currently the applicants have permits for seven owls, two hawks, one golden eagle and one bald eagle. The applicants are required to do 12 educational programs a year with these permitted "house" birds. These programs can be either off site or on site. The applicants have stated that the peak times for on site educational programs would be in the spring and autumn, with schools being the chief client. The summer combination of the birds' molting and the heat, makes the season generally to stressful for the birds. Winter's prolong cold period is the time for off site educational programs, where indoor facilities are available; school gyms or a facility like Century II, during the Lawn and Garden Show. The applicant has stated (see exhibit 1, second page, second paragraph) that in the last four years they have averaged 40 programs a year, which if they were all on site, equals less than one program a week on site.

The applicants have provided staff with letters supporting the applicants' programs from the Wichita, Andale, Rose Hill, Goddard and Garden Plain public school districts. Members of the Wichita State University and Friends University Biology Departments, the Kansas State University School of Veterinary Medicine and the faculty at Cowley County Community College have also written letters supporting the applicants' programs and care of the birds.

The applicants have provided a site plan, which shows existing and proposed development. Existing development include the applicant's house (built 2003), 10 holding pens for non-releasable birds, two eagle holding pens and a flight/exercise pen. The

applicants propose constructing a parking area, men's and women's bathrooms and a pavilion. The site plan shows existing and proposed landscaping. The applicants have applied for a forest stewardship management plan with the Kansas Forest Service, which will assist them in more landscape plantings to conserve their 20-acre tract. These plantings and the existing clusters of trees on the applicants' tract will provide screening of the raptor center.

The site, with the exception of the existing residence and structures, is a field with a creek running along the length of the west side of the site. There are some groupings of trees along the creek and scattered infrequently on the subject site. The site has direct access onto 343rd Street West.

The character of the surrounding area is primarily agricultural and scattered large tract single-family residence. There are at least 14 single-family residences located northeast, northwest, west, south and southwest of the proposed site. The closest residences are approximately 2,000-feet north (built 1910) of the subject site and another residence (manufactured house) approximately 1,000-feet south of the subject site. All of the property surrounding the subject property is zoned "RR" Rural Residential.

CASE HISTORY: The site is an unplatted tract.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR" Rural Residential	Agricultural, 7 large tract single family residences
SOUTH:	"RR" Rural Residential	Agriculture, 4 large tract single family residences
EAST:	"RR" Rural Residential	Agricultural, 1 large tract single family residences
WEST:	"RR" Rural Residential	Agricultural, 2 large tract single family residences

PUBLIC SERVICES: The subject property has direct access onto 343rd Street West, a two-lane paved Sedgwick County highway. No traffic volume information is available for this road. The subject property is outside any Rural Water service area and public sewer service is not available to serve the site.

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan identifies this property as being outside the 2030 growth area. The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Rural" development. The "Rural" category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services. The Wichita-Sedgwick County Unified Zoning Code (UZC) lists "community assembly" as a Conditional Use in the "RR" zoning district.

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

(1) The property shall be developed and maintained in accordance with a revised site plan approved by the Planning Director, showing screening, lighting, landscaping, parking, setbacks, easements and all buildings in conformance with the UZC.

(2) All outdoor facilities will be located a required 200 feet from any neighboring residences and 50-foot from adjoining properties.

(3) Cleaning of the facility shall be performed as often as necessary to maintain sanitary conditions, in such a manner as to minimize odors and disease hazard. A "suitable method" of eliminating excess water and feces from the facilities shall be provided as determined by Sedgwick County Code Enforcement. The facility shall be maintained in a sanitary manner as required by applicable codes (e.g. Chapter 14 of the Sedgwick County Code).

(4) The applicant shall obtain all applicable permits including, but not limited to building, health and zoning. The applicant shall keep his registration with the US Department of Interior, Fish and Wildlife Service and the Kansas Department of Wildlife and Parks current and on site at all times.

(5) No refreshment stands or food and beverage sales. Alcoholic beverages are prohibited

(6) No gift shops.

(7) No sound projecting devices or loudspeakers shall be used so as to be heard beyond the property line.

(8) All lights shall be shielded to direct light away from the adjoining properties. No string type lighting permitted.

(9) All driveways, parking, loading and vehicle circulation areas shall be surfaced with asphalt, asphalt millings, crushed gravel, or an all weather surface as recommended and approved by the Sedgwick County Fire Department.

(10) On site operations shall be limited to daylight hours between 10:00 am and 3:00 pm, Monday through Saturday, during the peak months. Two on site educational programs per day in April, May, September, October and November are permitted; these are the peak months. One on site educational program per day in January, February, March, June, July, August and December is permitted; these are not peak months and the programs can given during the daylight hours, Monday through Saturday. The maximum number of people allowed on site for educational programs is 35.

(11) The applicant shall receive any required approval from the appropriate county and state agencies for any on site drinking water.

(12) The raptor center shall comply with all the necessary fire prevention procedures and equipment as required by the Sedgwick County Fire

Department.

(13) One sign allowed; a maximum of 18- square feet in size.

(14) A minimum of two chemical portable toilets shall be provided, one for females and one for males. The applicant must provide proof of an ongoing maintenance contract for the removal of the waste from the site to the Sedgwick County Health Department. The disposal of solid waste shall be in accordance with Sedgwick County's Sanitation Codes.

(15) The facility shall be open to the unannounced inspection by Sedgwick County of Code Enforcement personnel during reasonable daylight hours to insure continued compliance with the above requirements.

(16) The number of full time employees will not exceed two, including the applicants.

(17) If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The zoning of all properties surrounding the subject property is "RR" Rural Residential. Uses and the character of the surrounding area are primarily agricultural with established large tract single-family residences 1,000 to 2,000-feet away from the proposed non-profit birds of prey rehabilitation and educational facility. There have been three single-family residences built, since 2001, in the area, including the applicants' residence.

2. The suitability of the subject property for the uses to which it has been restricted: The "RR" Rural Residential zoning district restricts uses permitted by right on the subject property to residential, agricultural, and related uses, and the subject property could continue to be used for agriculture or for residential use. The proposed development of the non-profit birds of prey rehabilitation and educational facility, "community assembly", on the subject property may be permitted by a Conditional Use.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The conditions of the Conditional Use in combination with the types of clients that use the nonprofit birds of prey rehabilitation and educational facility will minimize the on site impact of the center's activities on the adjacent properties. Typical clients include the public school districts in the area, universities and colleges in the state, scouts, churches, or other similar groups. Traffic generated by the educational programs being done on site along 343rd Street West will be minimal. Most clients will be arriving on site in groups using buses, vans, light trucks or cars. The seasonal considerations for the birds, i.e. how they change with the seasons, also limits the timing and number of on site programs. Also, the majority of on site activity will be during the weekdays, at times when most neighbors will be at work or

in school.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Rural" development. The Rural category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services. The proposed use (raptor center) is a nonprofit educational use and as such is considered a "community assembly". The "RR" zoning district permits "community assembly" with the approval of a Conditional Use. The non-profit birds of prey rehabilitation and educational facility could be a compatible land with the conditions required for this request

5. Impact of the proposed development on community facilities: Minimal negative impacts on community facilities are anticipated.