RESOLUTION NO. 28-04

28-04

A RESOLUTION APPROVING A CONDITIONAL USE FOR A RURAL HOME OCCUPATION TO PERMIT PARKING/STORAGE OF COMMERCIAL VEHICLE EXCEEDING 26,000 POUNDS GROSS VEHICLE WEIGHT ON 4.69-ACRES, LOCATED, BETWEEN RIDGE ROAD AND THE WICHITA-VALLEY CENTER FLOODWAY, ON THE SOUTH SIDE OF 85TH STREET NORTH, 6333 WEST 85TH STREET NORTH; ON PROPERTY ZONED "RR" RURAL RESIDENTIAL, LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY 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 V-D of the Wichita Sedgwick County Unified Zoning Code, a conditional use for the land legally described herein is approved as follows:

Case No. CON2003-00054

A Conditional Use for a Rural Home Occupation to Permit Parking/Storage of Commercial Vehicle exceeding 26,000 pounds gross vehicle weight on property described as:

> The North 660.00 feet of the West 330.00 feet of the Northeast Quarter of Section 34, Township 25 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, subject to existing Road right-of-way. Generally located between Ridge Road and the Wichita-Valley Center Floodway, on the south side of 85th Street North, 6333 West 85th Street North.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. One commercial vehicle exceeding 26,000 pounds owned by the applicant of this site shall be permitted. Except as noted in the Staff's recommended conditions, all conditions of Sec IV-E, 6 shall apply.

2. No vehicle repair of other vehicles other than the one tractor-trailer or any other business activity except that which is permitted by the UZC for the "RR" zoning district or this Conditional Use. All repairs will be within an approved accessory structure or a garage with concrete floors.

3. The applicant shall submit a revised site plan showing the area where the tractor-trailer will be parked and screening/landscaping within 90 days of approval of the Conditional Use by the governing body. The parking area will be behind the house located on the site and 600-feet from any adjacent residences. The applicant shall plant and maintain a solid row of evergreen trees, a minimum of 5-feet in height around the parking area. A break in the solid row of evergreens will be allowed along the street frontage for access into the parking area. Planting of the evergreens will be completed within 180 days of the approval of the Conditional Use by the governing body. Note: The Valley Center Planning Commission recommended 180 days allowed for planting and the MAPC supported the Valley Center Planning Commission recommendation. If the applicant

provides all time inside parking for the tractor-trailer no landscaping/ screening will be required. If needed additional gravel will be laid on the parking area to ensure that the one allowed tractor-trailer would always be on a gravel-parking surface.

4. Waive 3,000-square foot maximum for accessory buildings for rural home occupation of Article IV, Site Development Regulations, Sec IV-E, 6c, to allow a 6,000-square foot accessory building.

5. Waive the 200-foot separation from the parking/outside storage area to the abutting property lines for rural home occupation of Article IV, Site Development Regulations, Sec IV-E, 6d to allow the parking/outside storage area to be placed in the middle of the 330-foot width of the lot.

6. Use of the site for the rural home occupation conditional use shall not occur until all conditions of the Conditional Use have been met.

7. The property will be developed in general conformance with the revised site plan approved by the Planning Director.

8. 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 VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

SECTION II. That upon the taking effect of this Resolution, the notation of such Conditional Use shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director 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 by the Governing Body.

Commissioners present and voting were:

DAVE UNRUH	aye
TIM R. NORTON	aye
THOMAS G. WINTERS	aye
CAROLYN McGINN	aye
BEN SCIORTINO	aye

DATED this 3rd day of March, 2004

CLERK OF SEDGWICK COUNTY SEDGWICK COUNTY KANSAS

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

Thomas G. Winters
THOMAS G. WINTERS, CHAIRMAN
Third District

ATTEST:

Don Brace
DON BRACE, County Clerk

APPROVED AS TO FORM:



ROBERT W. PARNACOTT,
Assistant County Counselor

MACON COMPANY, INC.
SURVEYING SERVICES

200 E. 4TH ST.
NEWTON, KS 67114
(316) 799-2250 WICHITA
(316) 284-2799 NEWTON
FAX (316) 283-6048

Project No. 1751-P Sheet No. ___

Date: August 13, 1998 By ___

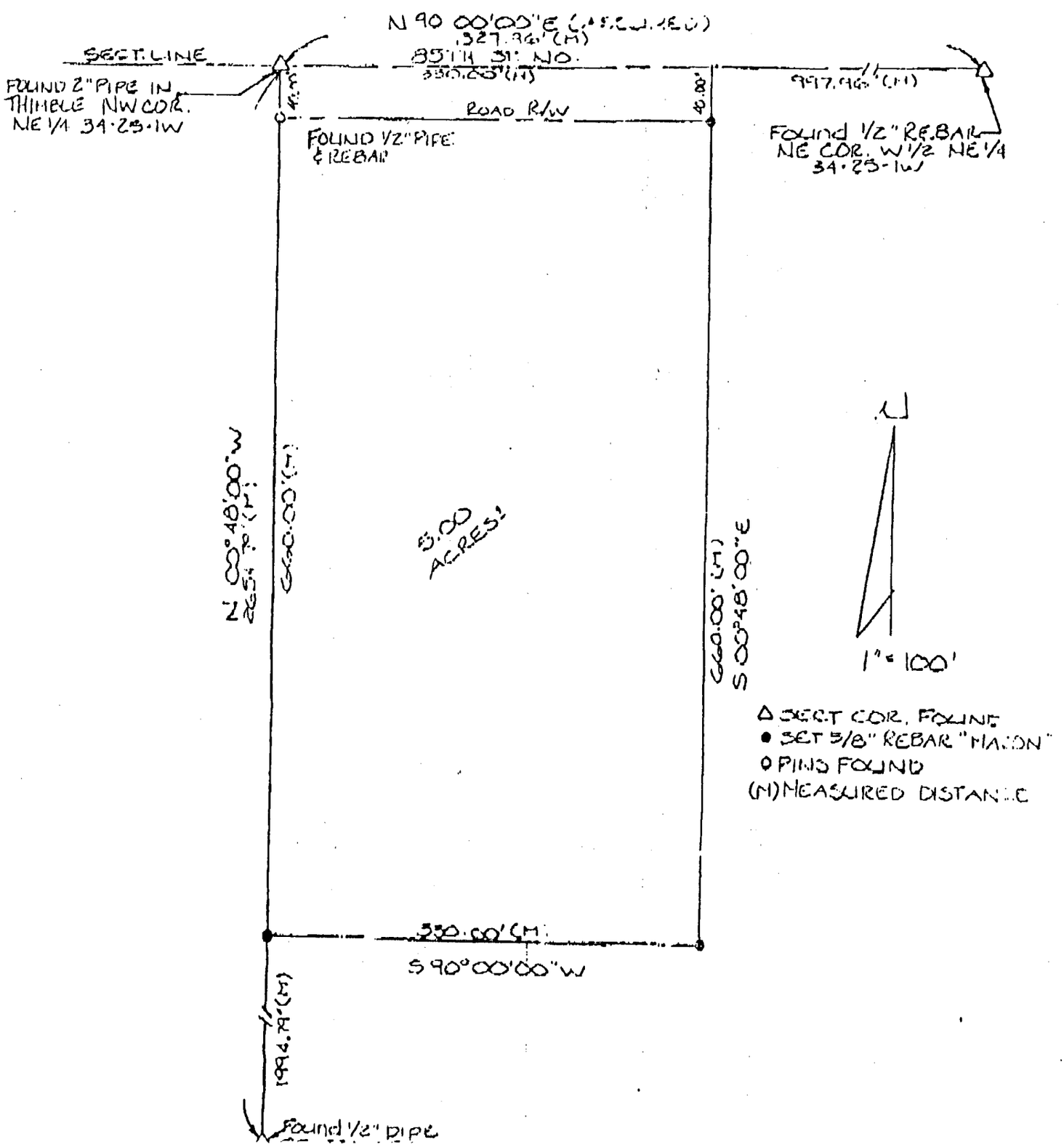
CLIENT: Gillett Realty - Prop. @ 6333 W. 85th St. N. Valley Center, KS

LEGAL DESCRIPTION: The North 660.00 feet of the West 330.00 feet of the Northeast Quarter of Section 34, Township 25 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, subject to existing Road Right-of-Way.

NOTE: This property is not located in the 100 Year Flood Plain. FIRM MAP #200321 0010B, dated 6/3/86.

I Hereby Certify that this Boundary Survey, completed on 8/13/98, was made under my supervision and is correct to the best of my knowledge.

John F. Thimmesch, L.S. 1176



WICHITA–SEDGWICK COUNTY
W-SC
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 4

STAFF REPORT

MAPC – February 5, 2004
Valley Center Planning Commission – January 27, 2004

CASE NUMBER: CON2003-00054

APPLICANT/OWNER: Robert A & Brenda M McVicar

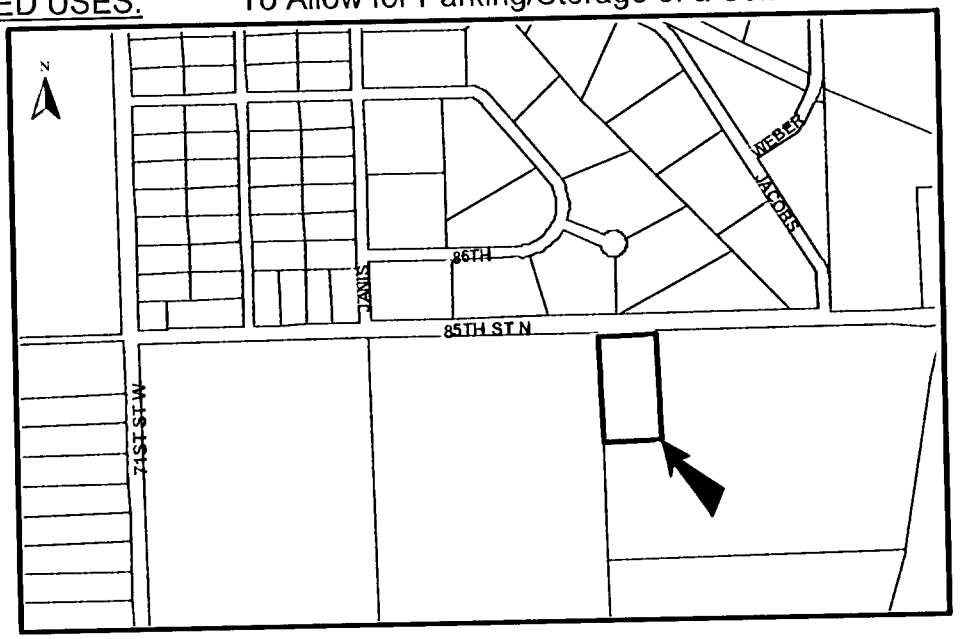
REQUEST: Conditional Use for a Rural Home Occupation to Permit Parking/Storage of Commercial Vehicle exceeding 26,000 pounds gross vehicle weight

CURRENT ZONING: "RR" Rural Residential

SITE SIZE: Approximately 4.69-acres

LOCATION: Between Ridge Road & the Wichita-Valley Center Floodway, on the south side of 85th Street North, 6333 West 85th Street North

PROPOSED USES: To Allow for Parking/Storage of a Semi-Tractor and Trailer



BACKGROUND: The applicants are requesting a Conditional Use to permit a rural home occupation to park a semi-truck and trailer, which exceeds 26,000 pounds gross vehicle

weight on an approximately 4.69-acre tract of land. This property is zoned "RR" Rural Residential and is located on the south side of 85th Street North, between Ridge Road and the Wichita-Valley Center Floodway, 6333 West 85th Street North. The site is in Sedgwick County, but within the City of Valley Center's area of zoning influence and thus will be considered by the City of Valley Center's Planning Commission.

The rural home occupation guidelines of the Unified Zoning Code (UZC) permit the parking of one commercial vehicle owned by the occupant that exceeds 26,000 pounds gross vehicle weight rating. This rural home occupation becomes a Conditional Use when it fails to meet any of the qualifying conditions as listed in Art IV, Sec IV-E, a-g of the UZC. The applicants do not meet the following conditions of Art IV, Sec IV-E, a-g of the UZC for rural home occupations:

(1) Rural home occupations that do not meet one or more of the conditions listed in Sec. IV-E.7 must be located on a minimum of 5-acres; the applicants' original 5-acre tract has been reduced to 4.69-acre tract, because of dedication of ROW by separate instrument; film 668, page 0001. The UZC allows a lot to comply with the minimum lot size, if the lot size has been reduced for public purpose and is at least 75% of the required lot size; this lot meets this requirement.

(2) The rural home occupation may not be conducted within 600-feet of a dwelling wherein no rural home occupation is conducted; the truck would be located closer than 600 feet from a neighboring dwelling unit (north of the site) that is not conducting a home occupation.

(3) Outdoor storage is permitted provided the size of the storage/parking area does not exceed 10,000 square feet, is located behind the principal structure, is 200 feet from all property lines, and there is screening of the storage/parking area by structures, solid or semi-solid fencing and/or landscaping materials from adjacent roads and properties; the site plan does not show where the truck will be located, but it cannot be located closer than 200-feet from the property lines and the current condition of the site does not provide the required screening. The lot's configuration of 600-feet x 330-feet prevents the applicant from meeting the 200-foot requirement. The applicant will have to request that this condition is waived by the MAPC and subsequently considered for approval by the BOCC.

(4) A rural home occupation may be conducted in an accessory structure equal to the floor area of the principal structure or up to 3,000-square feet. The applicant proposes a 6,000-sqaure foot accessory building on the site. This doubles the square footage that is allowed for an accessory building for rural home occupation. The applicant will have to request that this condition is waived by the MAPC and subsequently considered for approval by the BOCC.

The applicant's site plan shows the existing house, the existing lagoon and a proposed 6,000-sqaure foot building on the site. The site plan does not show the proposed parking area, its surface, or existing and required landscaping. The site is currently developed with a one-story, single-family house with an attached two-car garage, and a driveway onto 85th

Street North. The driveway is approximately 30-35 feet wide where it intersects 85th Street and paved with asphalt for its first 20-feet off of 85th, after that it becomes a wide gravel drive/parking area that goes to the garage and extends to the west and north of the house without being directly behind it. There are recent numerous plantings of trees in the front yard and east side yard of the house.

Agricultural fields abut the east, west and south sides of the site. There is a single-family house approximately ¼ mile east of the site, just before 85th Street crosses the Wichita-Valley Center Floodway. Across 85th Street, north of the site, is a mixture of stick framed single-family houses and single-family manufactured housing on approximately 3.5 – 5-acre tracts. West of this mixture of housing types is the Leo L Ross Addition with stick framed single-family houses on lots just over an acre in size. Housing construction in the immediate area has been staggered over time beginning with a farmhouse constructed in 1890, some houses built in the 1950's and then the majority of housing construction occurring in the 1970's through the present. The site and its immediate area is not unlike other areas west of Valley Center to Ridge Road and from 85th Street North, south into the Wichita City limits; Agricultural land interrupted by groupings of some type of single-family residential housing on unplatted tracts or subdivisions lots of an acre or more. Typically these developments are not served by public water or sewer and do not have paved roads. There are at least 100 single-family houses within a ½ mile of the site.

CASE HISTORY: The Valley Center Planning Commission approved (Unanimous) the conditional use request at their January 27, 2004 meeting, per Staff's recommendation with modification to this portion of condition #3: "Planting of the evergreens will be completed within 120 days of the approval of the Conditional Use by the governing body." The applicant is allowed 180 days for planting. No one spoke in opposition to this case at the Valley Center Planning Commission meeting.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR" Rural Residential	large tract/lot single-family residences
EAST:	"RR" Rural Residential	Agricultural, a large tract single-family residence
SOUTH:	"RR" Rural Residential	Agricultural
WEST:	"RR" Rural Residential	Agricultural

PUBLIC SERVICES: Access to the subject property is from 85th Street North a paved, two-lane county highway. The 2030 Transportation Plan projects 85th Street's status to remain a 2-lane arterial. The subject property is located outside any rural water district service area. Lagoon and well water serves the property.

CONFORMANCE TO PLANS/POLICIES: The Sedgwick County Development Guide of the Comprehensive Plan designates this area as outside a Small City Growth Area, but within the Valley Center area of Zoning Influence. 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 the parking of one commercial vehicle owned by the occupant that exceeds 26,000 pounds gross vehicle weight rating as a rural home occupation Conditional Use in the "RR" district, when it fails to meet any of the qualifying conditions as listed in Art IV, Sec IV-E, a-g of the UZC. The site appears to conform to most of these requirements (a revised, more detailed site plan would fill in missing information) with the exception of, a lack of screening/landscaping, not being able to meet the 200-feet separation from the abutting property lines and the 6,000 square foot (60-foot x 100-foot) accessory building.

RECOMMENDATION: The property will be developed in general conformance with the revised site plan approved by the Planning Director. The 6,000-sqaure foot accessory building does not met the 3,000-sqaure foot maximum for accessory buildings for rural home occupation. If the applicant desires this building he may ask for the MAPC to waive the 3,000-sqaure foot requirement (Sec IV-E, 6c) and the request will be considered by the BOCC. The applicant cannot meet the 200-foot separation from the parking/outside storage area to the abutting property lines; the applicant may ask for the MAPC to waive the 200-foot requirement and the request will be considered by the BOCC. Based on the information available prior to the public hearing, the MAPD staff recommends the application be APPROVED, subject to the following conditions:

1. One commercial vehicle exceeding 26,000 pounds owned by the applicant of this site shall be permitted. Except as noted in the Staff's recommended conditions, all conditions of Sec IV-E, 6 shall apply.

2. No vehicle repair of other vehicles other than the one tractor-trailer or any other business activity except that which is permitted by the UZC for the "RR" zoning district or this Conditional Use. All repairs will be within an approved accessory structure or a garage with concrete floors.

3. The applicant shall submit a revised site plan showing the area where the tractor-trailer will be parked and screening/landscaping within 90 days of approval of the Conditional Use by the governing body. The parking area will be behind the house located on the site and 600-feet from any adjacent residences. The applicant shall plant and maintain a solid row of evergreen trees, a minimum of 5-feet in height around the parking area. A break in the solid row of evergreens will be allowed along the street frontage for access into the parking area. Planting of the evergreens will be completed within 120 days of the approval of the Conditional Use by the governing body. **Note: The Valley Center Planning Commission recommended 180 days allowed for planting**. If the applicant provides all time inside parking for the tractor-trailer no landscaping/ screening will be required. If needed additional gravel will be laid on the parking area to ensure that the one allowed tractor-trailer would always be on a gravel-parking surface.

4. Use of the site for the rural home occupation conditional use shall not occur until all conditions of the Conditional Use have been met.

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 VII hereof, 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 character of the surrounding area is rural/large tract-lot single-family residential. All properties surrounding the subject property are zoned "RR" Rural Residential are used for agriculture or are developed with large tract/lot single-family residences.

2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "RR" Rural Residential and is presently used for a single-family residence and could continue to be used in conformance with its present zoning.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The conditions of the Conditional Use should minimize the detrimental affect on the adjacent properties. In rural areas it is not unusual for larger agricultural related machinery to be stored at farmsteads. Approximately ½ mile east of the site, across the Wichita-Valley Center Floodway numerous large pieces of farm equipment are parked, abutting the 85th Street North ROW, in a farmyard. The presence of one semi-tractor trailer should not be any more detrimental than farm equipment.

4. Conformance of the requested change to adopted or recognized Plans/Policies: The UZC contains specific policies pertaining to the parking of a commercial vehicle weighing in excess of 26,000 pounds in the "RR" Rural Residential zoning district, as a rural home occupation conditional use. Although the applicant does not meet all the conditions required by the code, the conditions of the Conditional Use including the planting of screening material help the request to generally conform to the adopted plans and policies. The proposed 6,000-sqaure foot accessory building doubles the maximum size for an allowed accessory building used in a rural home occupation and suggests a commercial business that is beyond the requested Conditional Use.

5. Impact of the proposed development on community facilities: Minimum impacts on community facilities are anticipated, if the recommended conditions are applied to the site.