CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

January 6, 2014

Theodore G. and Amy Elizabeth Bender
12048 North 143rd Street East
Valley Center, KS 67147-8794

RE: **CON2013-00032** - County Conditional Use request to permit a rural home occupation that exceeds certain rural home occupation standards - 1. the requirement that a rural home occupation be located more than 120 feet from an off-site residence; 2. rural home occupations are limited to a maximum of 3,000 square feet of floor; 3. rural home occupations are limited to the equivalent of four full-time employees - on property zoned SF-20 Single-family Residential (SF-20) generally located on 20.62 acres addressed as 12048 North 143rd Street East (northeast of the intersection of North 143rd Street East and East 117th Street North).

Dear Ladies and Gentlemen:

At its regular meeting on December 5, 2013, the Wichita - Sedgwick County Metropolitan Area Planning Commission considered the above captioned request. The action of the MAPC was to **APPROVE** the request subject to the conditions on the attached resolution.

If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

Dale Miller
Current Plans Manager

Copies to: Board of County Commissioners I, Dave Unruh, Mail Stop Room 320, County Courthouse
County Law, Robert Parnacot, Mail Stop Room 359, County Courthouse
County Public Works, Jim Weber, 1144 South Seneca, Wichita, KS 67213
Metropolitan Area Building and Construction Department, Kelly Dixon, 1144 South Seneca, Wichita, KS 67213
JR Cox, MABCD

DLM/mc
Attachment (Resolution)

CONDITIONAL USE RESOLUTION NO. CON2013-00032

WHEREAS, Theodore G. and Amy Elizabeth Bender (owner); pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requests Conditional Use approval to permit a rural home occupation that exceeds certain rural home occupation standards on 20.62 acres zoned SF-20 Rural Residential (SF-20), described as:

A tract in the southwest quarter of section 1, township 25 south, range 2 east of the Sixth Principal Meridian, Sedgwick County, Kansas, described as follows: Beginning at the southwest corner of said southwest quarter: Thence north on the quarter section line a distance of 1,925 feet; thence east 500 feet; thence south 1,925 feet; thence west 500 feet to the point of beginning, together with all the improvements located thereon.

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 December 5, 2013, 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 allow a rural home occupation that exceeds certain rural home occupation standards on property zoned SF-20 Rural Residential (SF-20), described as:

A tract in the southwest quarter of section 1, township 25 south, range 2 east of the Sixth Principal Meridian, Sedgwick County, Kansas, described as follows: Beginning at the southwest corner of said southwest quarter: Thence north on the quarter section line a distance of 1,925 feet; thence east 500 feet; thence south 1,925 feet; thence west 500 feet to the point of beginning, together with all the improvements located thereon.

Approved subject to the following conditions:

A. In addition to the other listed uses allowed by right as a "rural home occupation," this Conditional Use permits metal fabrication from previously prepared steel subject to the "rural home occupation" standards contained in the Wichita-Sedgwick County Unified Zoning Code unless specifically modified by this Conditional Use. The production of steel or other metals from extracted or raw materials is prohibited.
B. The "rural home occupation" shall be allowed up to 25,000 square feet of floor area.
C. The "rural home occupation" shall be allowed up to eight full-time employees.
D. Hours of operation for the rural home occupation permitted by this Conditional Use shall be limited to the hours between 6:00 a.m. and 8:00 p.m., Monday through Saturday.
E. The "rural home occupation" shall be allowed to be conducted within 80 feet of an off-site residence.
F. The "rural home occupation" shall be developed, operated and maintained in compliance with the approved site plan. If necessary, the applicant shall submit a revised site plan that reflects the final conditions of approval. The revised site plan shall be submitted prior to commencing activities approved by this Conditional Use.
G. The "rural home occupation" shall comply with all other applicable codes and regulations, including, but not limited to, fire, zoning, subdivision, sanitation and building codes.
H. 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 VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

Adopted this 5th day of December 2013.

METROPOLITAN AREA PLANNING COMMISSION

Don Klausmeyer

Don Klausmeyer, Chair MAPC

ATTEST:

John L. Schlegel

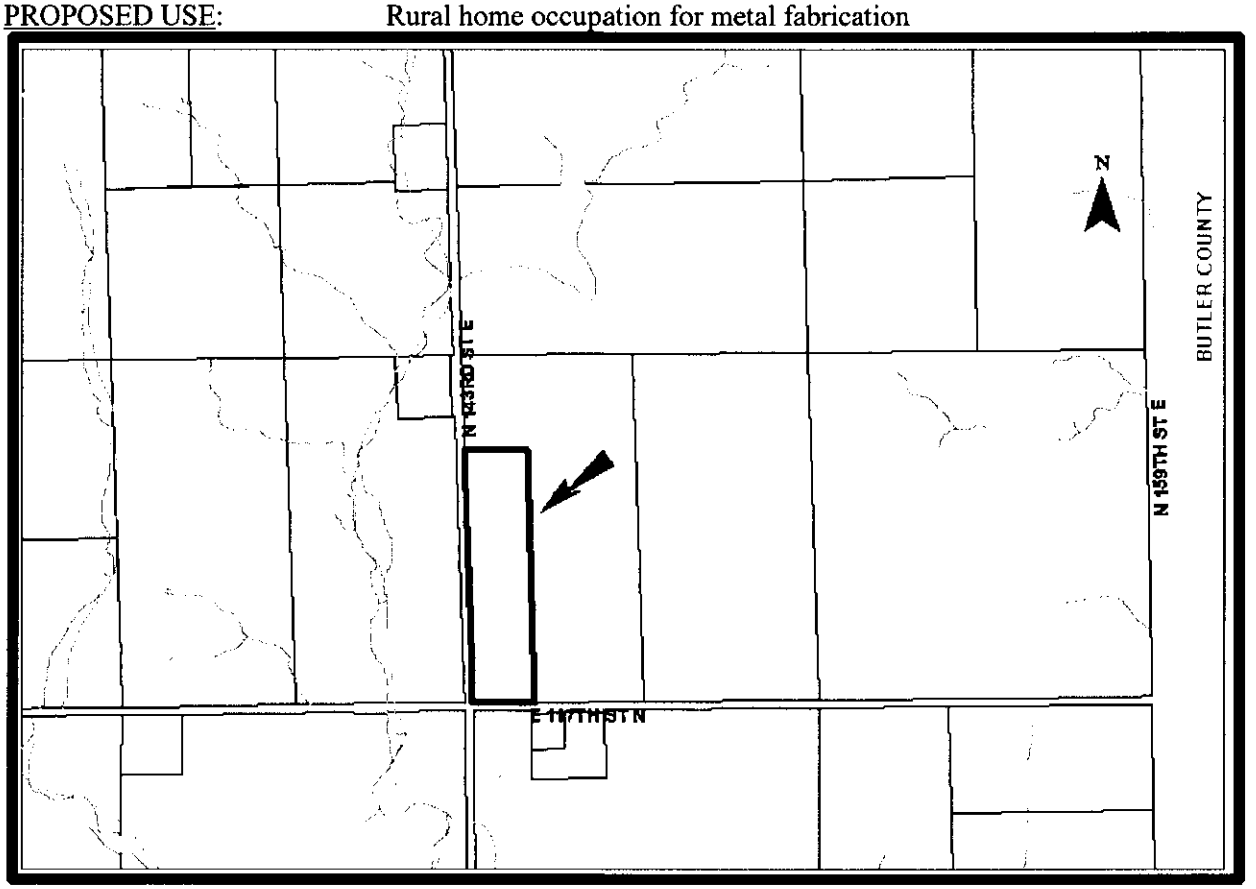
John L. Schlegel, Secretary

WICHITA–SEDGWICK COUNTY
W-SC
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 8

STAFF REPORT
MAPC 12-5-13

CASE NUMBER:	CON2013-00032
APPLICANT/AGENT:	Theodore and Amy Bender
REQUEST:	Conditional Use to permit a rural home occupation that exceeds maximum rural home occupation standards
CURRENT ZONING:	RR Rural Residential (RR)
SITE SIZE:	20.62 acres
LOCATION:	Northeast corner of the intersection of East 117th Street North and North 143rd Street East
PROPOSED USE:	Rural home occupation for metal fabrication



BACKGROUND: The applicants are requesting approval as a "rural home occupation" use the fabrication of metal, and the waiver of certain development standards associated with the operation of a "rural home occupation." The development standards requested to be waived are:

1) The requirement that a rural home occupation be located more than 120 feet from an off-site residence. There are 80 feet between the applicants' southern property line and a house located to the south.
2) Rural home occupations are limited to a maximum of 3,000 square feet of floor. The applicants propose 25,000 square feet of floor area, including their existing building floor area.
3) Rural home occupations are limited to the equivalent of four full-time employees. The applicants request permission for up to eight full-time employees.

Initially the applicants repaired farm machinery on the site; however, in the near past the applicant has begun to fabricate metal railings. The metal railings vary in size from small sections such as a two-step stairs and railing to larger sections, such as a 20-step stairs and railing section. The steel used to fabricate the steps and railings is brought in on semi-tractor trailers, approximately twice a month, and shipped out via pick-up truck and trailer. The applicant currently has five full-time employees. Currently, the hours of operation are 8:00 a.m. to 5:00 p.m., Monday through Friday.

The subject property is 20.62 acres of unplatted RR Rural Residential (RR) zoned land located northeast of the intersection of East 117th Street North and North 143rd Street East. Most of the application area is undeveloped, and is used for agricultural purposes. The northern approximately 3.78 acres are developed with a 1,866 square-foot residence, built in 1887; a 5,000 square-foot shed that is at least partially used to support the rural home occupation; a 2,310 square-foot "old barn," a sizeable rock parking area located south of the residence, a lagoon, a sports court and a livestock pen. (See the portion of the attached site plan labeled "current site plan.") The applicant proposes to demolish the "old barn" and replace it with a 20,000 square-foot "new shed," and expand the driveway/parking area. (See the portion of the attached site labeled "future site plan.")

All land surrounding the application area is zoned RR. To the east is a 57 acre tract used for agriculture. Southeast of the site are two smaller tracts, one and one-half acres and 4.63 acres that are developed with residences. These two residences are the closest off-site residences, located approximately 80 feet and 234 feet (property line to property line) away. Straight south of the application area is 142 plus acres used for agriculture. Southwest of the site are 151 acres, also used for agricultural pursuits. West of the application area is 73 acres used for agricultural purposes. Northwest of the application area, approximately 269 feet (property line to property line), 4.51 acres developed with a residence. Land located immediately north and east of the application area is used for agriculture, and is 57 acres in area.

The Unified Zoning Code (UZC) permits certain land uses to occur in residential and rural areas under conditions that will ensure their compatibility with the character of the area in which the home or rural occupation is located (Article IV, Section IV-E). The development standards associated with home and rural home occupations are intended to permit residents to engage in certain uses that are compatible with residential land uses and to ensure that such uses do not adversely affect the integrity of residential and rural areas. The UZC divides those uses permitted in residential and rural areas into two types, "home occupations" and "rural home occupations. "Home occupations" are those uses that are permitted, subject to certain development standards, in a dwelling unit regardless of the property's zoning. "Rural home occupations" refer to an additional set of uses, when compared to a "home occupation" that may be permitted in the RR or SF-20 Single-family Residential districts if they are operated in compliance with applicable development standards.

Development standards for "rural home occupations" are, in part, as follows (Article IV, Section IV-

E.7.a-h):

a. Each lot shall be located upon a public road and shall contain a minimum of five acres. (The applicants have 20 plus acres which has 1,925 feet of frontage along North 143 Street East, and 500 feet of frontage along East 117th Street North.)
b. A "rural home occupation" must be located at least 120 feet from residences located off-site. (The application area is located within 80 feet of an off-site residence (measured property line to property line), but there are approximately 1,700 feet between the property line of the tract containing the off-site residence and the structures proposed to contain the rural home occupation.)
c. The rural home occupation may be conducted in an accessory structure having a floor area equal to the floor area of the principal residence or up to 3,000 square feet, whichever is greater. (Currently the applicant is using a 5,000 square-foot structure with hopes of expanding to a new shed containing 15,000 square feet of floor area. The property is unplatted and will be required to plat when building permit is requested.)
d. Outdoor storage is permitted provided the storage area does not exceed 10,000 square feet. (There are also screening and location of outside storage requirements in the code; however, it does not appear that the applicant has outside storage of materials.)
e. No more than the equivalent of four full time employees or persons, other than persons occupying the dwelling unit as their residence, shall be employed at nay rural home occupation site. (The applicant indicates he has five full time employees and would like the potential to increase the number of employees.)
f. Only the standards of Sections IV-E, 3.a and c apply to rural home occupations: a. No alteration of the principal structure or premises shall be made that changes the character or appearance thereof. b. No equipment shall be used that creates noise, vibration, electrical interference, smoke or particulate matter emission, or odors that are in excess of ordinary and usual conditions prevailing in the immediate neighborhood as determined by the zoning administrator.
g. One onsite, free standing (or attached to an accessory building), non-illuminated sign up to 12 square feet in size located outside of public right-of-way shall be permitted.
h. Rural home occupations that do not meet one or more of the conditions listed above, but are limited on no less than two acres may be approved as Conditional Uses in accordance with the requirements and procedures for Conditional Uses in this Code.

Land uses permitted as "rural home occupations" that are most similar to that proposed by the applicant include: assembly, maintenance and repair of agricultural implements and equipment; blacksmith shop, welding, heat treating and machine shop or uses determined by the zoning administrator to be similar in character to those listed (UZC Article IV, Section IV-E.8.c.g and t).

CASE HISTORY: The property's RR zoning would have been established with county-wide zoning in 1985.

ADJACENT ZONING AND LAND USE:

North: RR; agriculture
South: RR; agriculture and two residences
East: RR; agriculture
West: RR; agriculture

PUBLIC SERVICES: East 117th Street North and North 143rd Street East are both sand and gravel section-line roads with 60 feet of right-of-way that are maintained by Lincoln Township. East 101st Street

North, located roughly two and one-half miles to the south, is the closest paved road. The site utilizes a lagoon and either uses a well or rural water.

CONFORMANCE TO PLANS/POLICIES: The "Wichita and Small Cities 2030 Urban Growth Areas" map depicts the site as a "rural area." The rural functional land use category includes land outside the 2030 urban growth areas for Wichita and the small cities. This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County, and predominately larger lot residential exurban subdivisions with provisions for individual, or community water and sewer services. As indicated above, the UZC contains guidelines and development standards regarding the types of uses that are appropriate as a "rural home occupation." The UZC also provides for deviation of the development standards of rural home occupations by the Conditional Use review process.

RECOMMENDATION: Based upon the information available at the time the staff report was filed, it is recommended the request be approved subject to the following conditions:

A. In addition to the other listed uses allowed by right as a "rural home occupation," this Conditional Use permits metal fabrication from previously prepared steel subject to the "rural home occupation" standards contained in the Wichita-Sedgwick County Unified Zoning Code unless specifically modified by this Conditional Use. The production of steel or other metals from extracted or raw materials is prohibited.
B. The "rural home occupation" shall be allowed up to 25,000 square feet of floor area.
C. The "rural home occupation" shall be allowed up to eight full-time employees.
D. Hours of operation for the rural home occupation permitted by this Conditional Use shall be limited to the hours between 6:00 a.m. and 8:00 p.m., Monday through Saturday.
E. The "rural home occupation" shall be allowed to be conducted within 80 feet of an off-site residence.
F. The "rural home occupation" shall be developed, operated and maintained in compliance with the approved site plan. If necessary, the applicant shall submit a revised site plan that reflects the final conditions of approval. The revised site plan shall be submitted prior to commencing activities approved by this Conditional Use.
G. The "rural home occupation" shall comply with all other applicable codes and regulations, including, but not limited to, fire, zoning, subdivision, sanitation and building codes.
H. 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 VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area surrounding the application area is overwhelmingly rural in character, with agricultural use being the dominate land use. There are four residences located within a half-mile of the application area. All of the land located in Sedgwick County and within several miles of the application area is zoned RR.

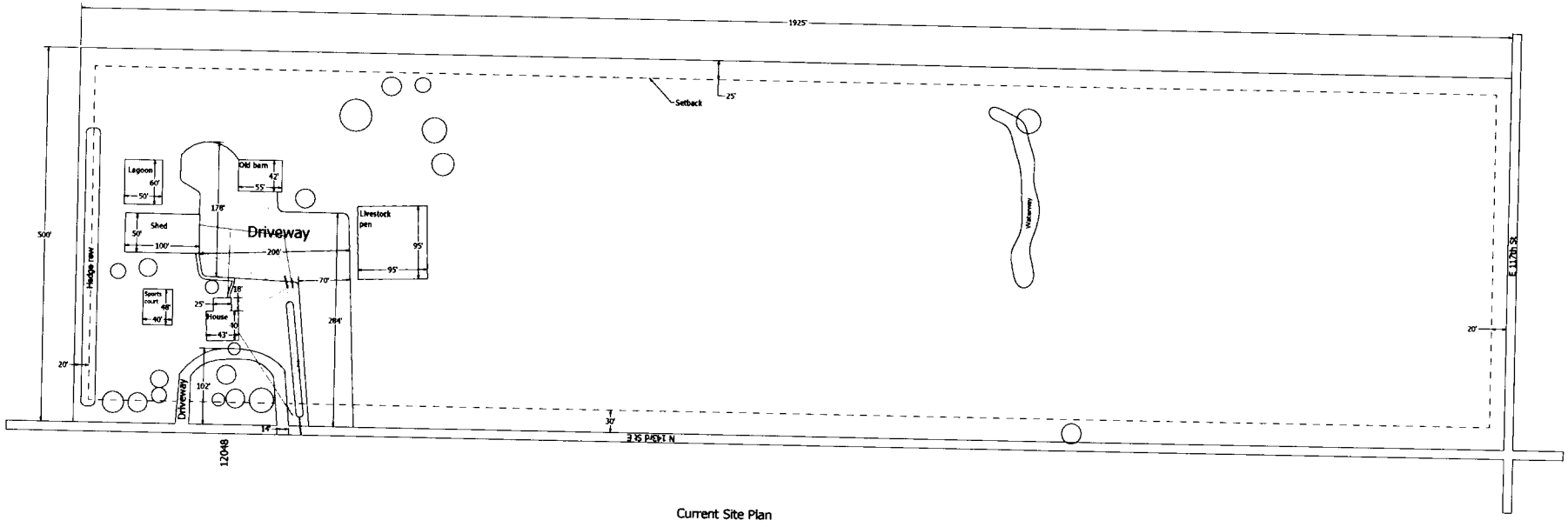
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned RR which permits primarily agricultural activities and large-lot residences (2-acre minimum lot size). The RR district permits rural home occupations subject to the development standards discussed above. The property could be used for economically viable uses as currently zoned.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will clarify that "metal fabrication" under the recommended conditions is similar to listed rural home occupation uses such as "machine shop" or "assembly, maintenance and repair of agricultural implements." The application area is 20 plus acres, which provides ample room for the proposed activities. The recommended conditions of approval should minimize identifiable impacts.

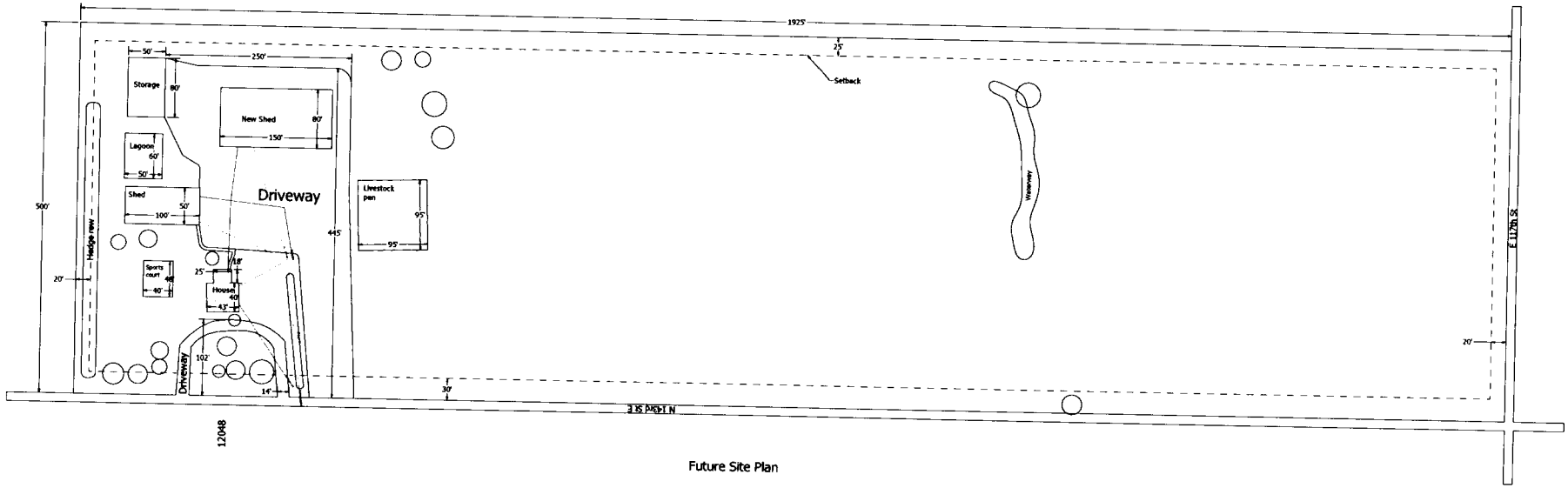
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial would presumably represent a loss in economic opportunity for the applicants to expand their business. Approval will increase local competition for the products the applicants produce.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "Wichita and Small Cities 2030 Urban Growth Areas" map depicts the site as a "rural area." The rural functional land use category includes land outside the 2030 urban growth areas for Wichita and the small cities. This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County, and predominately larger lot residential exurban subdivisions with provisions for individual, or community water and sewer services. As indicated above, the UZC contains guidelines and development standards regarding the types of uses that are appropriate as a "rural home occupation." The UZC also provides for deviation of the development standards of rural home occupations by the Conditional Use review process. The remote location of the proposed rural home occupation and the acreage on which it is proposed mitigate the proposed scale and number of employees, making the proposal substantially in conformance with adopted policies.

6. Impact of the proposed development on community facilities: None identified. The conditions of approval should minimize anticipated impacts on community facilities.



Current Site Plan



Future Site Plan

SITE PLAN

North

APPROVED 1-8-14 BY DM

Theodore Bender's Application for Conditional use to allow metal fabrication business with 8 employees and up to 25,000 square feet dedicated to business use.

Legal Description: A tract in the southwest quarter of section 1, township 25 south, range 2 east of the Sixth Principal Meridian, Sedgwick County, Kansas, described as follows: Beginning at the southwest corner of said southwest quarter: thence north on the quarter section line a distance of 1925 feet; thence east 500 feet; thence south 1925 feet; thence west 500 feet to the point of beginning, together with all the improvements located thereon.

No utility easements on property

Scale 1" = 50'