CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

February 19, 2015

Eyster Properties, LLC
c/o Michael Ramsey
135 East Douglas
Wichita, KS 67202

RE: BZA2015-00001 – City Variance request to install temporary parking surface material in conjunction with construction of a temporary pop-up park, located east of Main Street, on the south side of E. Douglas (111-123 East Douglas Avenue)

Dear Applicants:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on **February 19, 2015.** This resolution reflects the official action of the Board, it is forwarded for your information and files.

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

Sincerely,

Derrick Slocum
Asst. BZA Secretary

cc: Tom Stolz, MABCD
Mike Gable, MABCD
JR Cox, MABCD
Lavonta Williams, WCC I CM
Alana Haynes, CL I

BZA RESOLUTION NO. BZA2015-00001

WHEREAS, Eyster Properties, LLC c/o Michael Ramsey (Owner/Applicant) pursuant to Kansas Statutes Annotated 12-759 *et. seq.*, to install temporary parking surface material in conjunction with the construction of a temporary pop-up park; generally Located east of Main Street, on the south side of East Douglas Avenue (111-123 East Douglas Avenue.)

Legal Description: Lots 97, 99, 101, 103, 105, 107 and the West 21.4 feet of lot 109, Douglas Avenue in Plat of Reserve Greiffinstein's Addition to Wichita, Sedgwick County, Kansas.

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of February 19, 2015, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Kansas Statutes Annotated 12-759 *et. seq.*; and

WHEREAS, the Board of Zoning Appeals has found that this property is unique inasmuch as the site has been vacant and dangerous to the public with the presence of a large, deep hole taking up the majority of the site. The uniqueness of the site is due to the fact the subject site is suited for a large commercial building operation, but currently, the conditions do not exist to support such a development. The crushed rock surface would be temporary and used in conjunction of the proposed pop-up park.

WHEREAS, the Board of Zoning Appeals has found that the requested variance to allow for crushed rock temporary parking will not adversely affect the rights of adjacent property owners, inasmuch as surrounding properties will take advantage of the additional parking and the current visual eyesore and public hazard, that is the large hole, will be filled and developed with a more aesthetically visually pleasing pop-up park with parking for food car vendors and building occupants.

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the code would constitute a hardship upon the applicants, inasmuch in that the economic cost to the property owner to pave an area which will, in the future, be developed as a commercial building, would put a burden on the applicant due to the cost associated with paving a large parking. Also, when a building is developed on the site, the paved surface would have to be removed for the construction, which would also come at a greater cost than removing or working with the crushed rock surface.

WHEREAS, the Board of Zoning Appeals has found that the requested variance to allow for a crushed rock temporary parking area for food trucks associated with the pop-up park and parking for surrounding building occupants will not adversely affect the public interest, inasmuch the project fills in the existing hole that was left when the former buildings were torn down. The hole currently is a safety hazard that must be fenced. The temporary improvements planned for this site will also improve the aesthetics and activate the site with programmed uses, inviting the public to utilize the temporary park.

WHEREAS, the Board of Zoning Appeals has found that granting the variance requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch the property had been used for a commercial office building that was demolished and the property is currently an unsafe site and this request will develop the property and create a safe site and fill in an existing undeveloped property.

WHEREAS, each of the five conditions required by Kansas Statutes Annotated 12-759 *et. seq.*, are found to be present for a variance to be granted.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals, pursuant to Kansas Statutes Annotated 12-759 *et. seq.*, to install temporary parking surface material in conjunction with the construction of a temporary pop-up park; generally Located east of Main Street, on the south side of East Douglas Avenue (111-123 East Douglas Avenue.)

Legal Description: Lots 97, 99, 101, 103, 105, 107 and the West 21.4 feet of lot 109, Douglas Avenue in Plat of Reserve Greiffinstein's Addition to Wichita, Sedgwick County, Kansas.

The variance is hereby <u>GRANTED</u>, subject to the following conditions:

1. The site shall be developed in substantial conformance with the approved site plan.
2. The applicant shall obtain all local permits necessary to complete any and all needed improvements.
3. The Variance will be valid for three years after approval and the applicant will be required to reapply after the three year period, if needed.
4. The resolution authorizing this Variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 19th Day of February, 2015.

BZA Board Chair, **Matt Goolsby**

ATTEST:

Derrick Slocum
Asst. BZA Secretary

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 1
February 19, 2015

SECRETARY'S REPORT

CASE NUMBER: BZA2015-00001

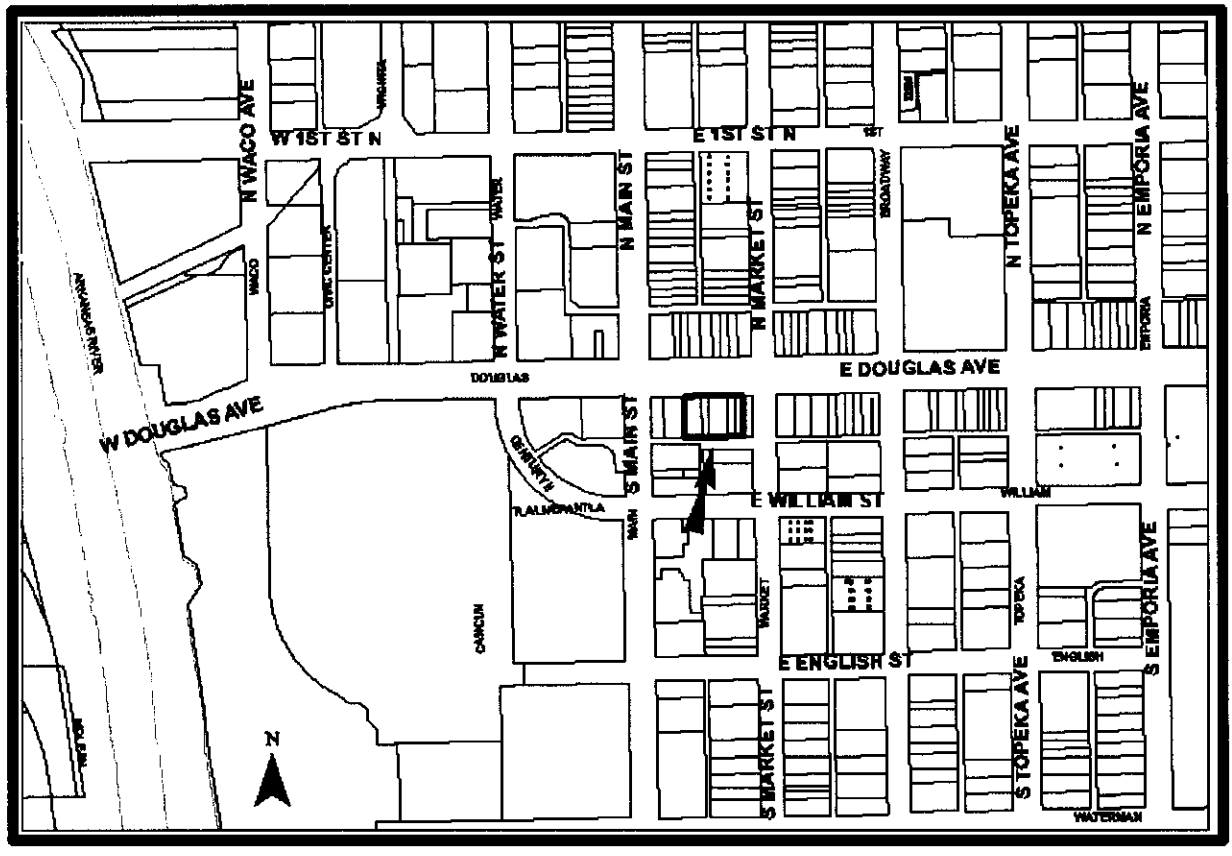
APPLICANT/AGENT: Eyster Properties, LLC c/o Michael Ramsey (Owner/Applicant)

REQUEST: City Variance request to install temporary parking surface material in conjunction with the construction of a temporary pop-up park.

CURRENT ZONING: CBD Central Business District ("CBD")

SITE SIZE: 1 acre

LOCATION: Located east of Main Street, on the south side of East Douglas Avenue (111-123 East Douglas Avenue.)



JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

BACKGROUND: The applicant requests a variance to install a temporary parking area with crushed rock surfacing for a temporary pop-up park on property zoned CBD Central Business District ("CBD"). The applicant purchased the property in 2011 with plans to redevelop the property with a new, mixed-use commercial building. Yet due to current commercial real estate market conditions, there is currently little support for a new building to be constructed at this time. The interim plan for the current time is to fill in the existing hole created when the past building occupying the site was demolished. On the filled area, the applicant plans to occupy the site with a proposed pop-up park with temporary furnishings including planters with landscaping, lighting, seating, tables and art. The plan will also include a space for food trucks to operate during the day for visitors to the park. Additional temporary parking will be designated for the remaining south portion of the site for the adjacent Woolf Bros. building tenants.

The proposed plan is to have a crushed rock temporary surfacing for the parking area. This would be temporary in nature, much cheaper for the applicant, better for drainage and easily removed when a new building is constructed on the site in the future. The variance request is for the use of a crushed rock surface material for the temporary parking area. Article IV, Section A, 2.b of the Unified Zoning Code states "all Parking areas, Loading areas and driveways on all Developments other than low-density residential Developments shall be surfaced with concrete, asphaltic concrete, asphalt or other comparable surfacing and shall be maintained in good condition and free of all weeds, dust, trash and other debris." The variance request would allow for the crushed rock material to be used for the temporary parking area.

All surrounding properties are zoned CBD Central Business District. Property north of the subject site, across Douglas Avenue, is zoned CBD and is developed with a parking garage. Properties south, east and west of the subject site are zoned CBD and are developed with office buildings.

ADJACENT ZONING AND LAND USE:

NORTH:	CBD	Parking Garage
SOUTH:	CBD	General Office Building
EAST:	CBD	General Office Building
WEST:	CBD	General Office Building

The five criteria necessary for approval as they apply to the requested variance.

UNIQUENESS: It is staff's opinion that this property is unique inasmuch as the site has been vacant and dangerous to the public with the presence of a large, deep hole taking up the majority of the site. The uniqueness of the site is due to the fact the subject site is suited for a large commercial building operation, but currently, the conditions do not exist to support such a development. The crushed rock surface would be temporary and used in conjunction of the proposed pop-up park.

ADJACENT PROPERTY: It is staff's opinion that granting the requested variance to allow for crushed rock temporary parking will not adversely affect the rights of adjacent property owners, inasmuch as surrounding properties will take advantage of the additional parking and the current visual eyesore and public hazard, that is the large hole, will be filled and

developed with a more aesthetically visually pleasing pop-up park with parking for food car vendors and building occupants.

HARDSHIP: It is staff's opinion that the strict application of the provisions of the code would constitute a hardship upon the applicants, inasmuch in that the economic cost to the property owner to pave an area which will, in the future, be developed as a commercial building, would put a burden on the applicant due to the cost associated with paving a large parking. Also, when a building is developed on the site, the paved surface would have to be removed for the construction, which would also come at a greater cost than removing or working with the crushed rock surface.

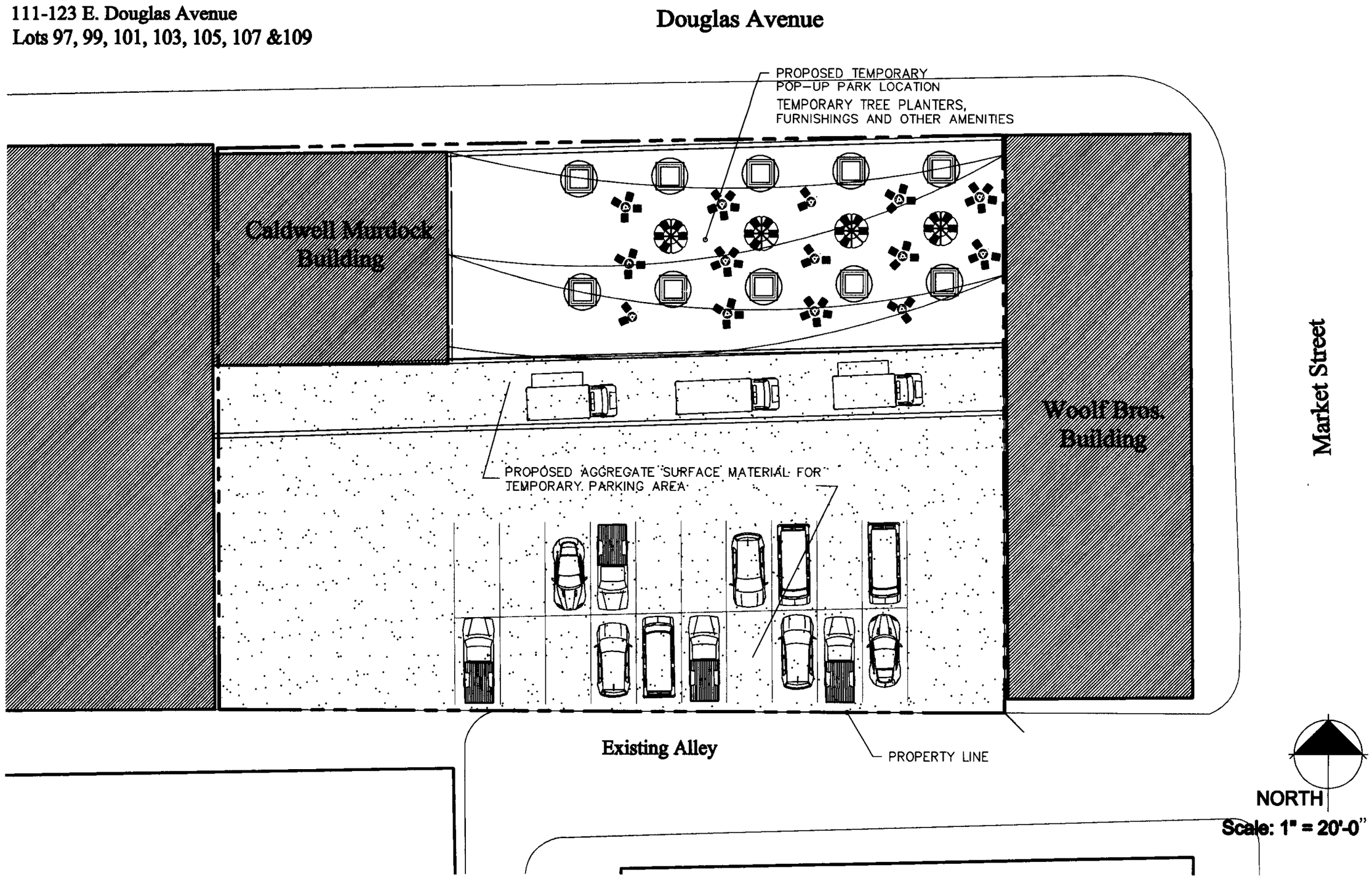
PUBLIC INTEREST: It is staff's opinion that the requested variance to allow for a crushed rock temporary parking area for food trucks associated with the pop-up park and parking for surrounding building occupants will not adversely affect the public interest, inasmuch the project fills in the existing hole that was left when the former buildings were torn down. The hole currently is a safety hazard that must be fenced. The temporary improvements planned for this site will also improve the aesthetics and activate the site with programmed uses, inviting the public to utilize the temporary park.

SPIRIT AND INTENT: It is staff's opinion that granting the variance requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch the property had been used for a commercial office building that was demolished and the property is currently an unsafe site and this request will develop the property and create a safe site and fill in an existing undeveloped property.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the Variance can be found to exist, then it is the recommendation of the Secretary that the Variance for a crushed rock temporary parking area for food trucks associated with the pop-up park and parking for surrounding building occupants be GRANTED, subject to the following conditions:

1. The site shall be developed in substantial conformance with the approved site plan.
2. The applicant shall obtain all local permits necessary to complete any and all needed improvements.
3. The resolution authorizing this Variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

Attachment B

Proposed Site Plan

111-123 E. Douglas Avenue
Lots 97, 99, 101, 103, 105, 107 &109