



**Wichita-Sedgwick County
Metropolitan Area
Planning Department**

KPC Pipeline LLC
19970 West 161st Street
Olathe, KS 66062

January 25, 2024

RE: BZA2023-00065 – Variance request in the City to remove the landscape buffer requirements on the north and south sides of a property zoned TF-3 Two-Family Residential District, generally located on the east side of South 167th Street West, south of West Apollo Street.

Dear applicant;

At its regular meeting on **January 25, 2024**, the official action of the Board of Zoning Appeals was to **GRANT** the requested variance. The approval of the request is subject to the following conditions:

1. The site is to be developed in general conformance to the approved site plan.

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

Sincerely,

A handwritten signature in cursive script that reads 'Christina Rieth'.

Christina Rieth
Current Plans
Associate Planner

CC: MABCD
Baughman Company, 315 South Ellis Street, Wichita, KS 67212

BZA RESOLUTION NO. BZA2023-00065

WHEREAS, KPC Pipeline LLC (owner); pursuant to Kansas Statutes Annotated 12-759, request a Variance to remove the landscape buffer requirements on the north and south sides of the property generally located on the east side of South 167th Street West, south of West Apollo Street; legally described as follows:

That part of Reserve "A", Abilene Place Addition, Wichita, Sedgwick County, Kansas, as prepared by Baughman Company, P.A., CLS 58, surveyors in aforementioned county and state on May 24, 2023, more particularly described as follows: Beginning at the northwest corner of Reserve "A", in said Abilene Place; thence N89°19'04"E, coincident with the north boundary line of said Abilene Place, a distance of 252.45 feet, to the northwesterly line of a 100 foot Phillips 66 Pipeline right-of-way described in DOC.#FLM/PG: 30051766 as filed with the Sedgwick County Register of Deeds, thence S60°57'04"W, coincident with the northerly line of said 100 foot right-of-way, a distance of 286.76 feet, to the west boundary line of said Abilene Place, said boundary line also being the east right-of-way line of South 167th Street West; thence N00°44'02"W, coincident with said west boundary line, a distance of 136.25 feet, to the point of beginning. Subject to road rights-of-way record. Subject property contains 17,197.72 square feet or 0.395 acres.

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 January 25, 2024, 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 request to remove the landscaping requirements on the north and south sides of the property the subject property is unique from most properties in the same zoning district because of the allowed use and zoning. The subject property will house a gas regulator that fallen tree limbs and the accumulation of foliage can damage the regulator.

WHEREAS, granting the Variance will not adversely affect the rights of adjacent property owners. The intended use of the subject property is to develop a gas regulator and the removal of the landscaping requirements is necessary for maintenance and general clearance of foliage and fallen leaves in the equipment.

WHEREAS, the strict application of the restriction on landscaping constitute an unnecessary hardship on the applicant. Requiring the landscaping within the Wichita Landscape Ordinance would allow for the possibility of a dangerous environment for the regulator. Leaves, fallen branches and other landscaping foliage present a danger of fire and other calamities within the regulator.

WHEREAS, granting the Variance to remove the landscaping requirements on the north and south sides of the property will not adversely affect surrounding properties. Gas regulators are installed along the existing pipeline for safety and regulatory requirements.

WHEREAS, granting the variance will not be opposed to the general spirit and intent of the Code. The spirit of the Zoning Code is to protect adjoining property owners from adverse impacts that would negatively affect their properties. Again, when considering all the factors of the request; including the amount of open space around this gas regulator, this Variance will not detract from the adjacent uses and maintain the intent of the Code.

WHEREAS, each of the five conditions required by Kansas Statutes Annotated 12-759, 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, a Variance to remove the landscape buffer requirements on the north and south sides of the property generally located on the east side of South 167th Street West, south of West Apollo Street; legally described as follows; legally described as follows:

That part of Reserve "A", Abilene Place Addition, Wichita, Sedgwick County, Kansas, as prepared by Baughman Company, P.A., CLS 58, surveyors in aforementioned county and state on May 24, 2023, more particularly described as follows: Beginning at the northwest corner of Reserve "A", in said Abilene Place; thence N89°19'04"E, coincident with the north boundary line of said Abilene Place, a distance of 252.45 feet, to the northwesterly line of a 100 foot Phillips 66 Pipeline right-of-way described in DOC.#FLM/PG: 30051766 as filed with the Sedgwick County Register of Deeds, thence S60°57'04"W, coincident with the northerly line of said 100 foot right-of-way, a distance of 286.76 feet, to the west boundary line of said Abilene Place, said boundary line also being the east right-of-way line of South 167th Street West; thence N00°44'02"W, coincident with said west boundary line, a distance of 136.25 feet, to the point of beginning. Subject to road rights-of-way record. Subject property contains 17,197.72 square feet or 0.395 acres.

The Variance is hereby **GRANTED**, subject to the following conditions:

1. The site is to be developed in general conformance to the approved site plan.

ADOPTED AT WICHITA, KANSAS, this 10th **Day of** MAY **2024.**


Robert Dool, BZA Board Chair

ATTEST:



Scott Wadle,
BZA Secretary



The Beaufort Gazette
The Belleville News-Democrat
Bellingham Herald
Centre Daily Times
Sun Herald
Idaho Statesman
Bradenton Herald
The Charlotte Observer
The State
Ledger-Enquirer

Durham | The Herald-Sun
Fort Worth Star-Telegram
The Fresno Bee
The Island Packet
The Kansas City Star
Lexington Herald-Leader
The Telegraph - Macon
Merced Sun-Star
Miami Herald
El Nuevo Herald

The Modesto Bee
The Sun News - Myrtle Beach
Raleigh News & Observer
Rock Hill | The Herald
The Sacramento Bee
San Luis Obispo Tribune
Tacoma | The News Tribune
Tri-City Herald
The Wichita Eagle
The Olympian

AFFIDAVIT OF PUBLICATION

Account #	Order Number	Identification	Order PO	Amount	Cols	Depth
16399	501875	Print Legal Ad-IPL01524820 - IPL0152482		\$144.27	2	86 L

Attention: MANDY HEBERT
CITY OF WICHITA/PLANNING DEPT
271 WEST THIRD ST., 2ND FL, SU 203
WICHITA, KS 67202

MHEBERT@wichita.gov

LEGAL PUBLICATION

OGA 150004
Published in The Wichita Eagle on December 21, 2023
(One Time Only)
MAPC/BZA January 11, 2024
OFFICIAL HEARING NOTICE

NOTICE IS HEREBY GIVEN that on Thursday, January 11, 2024, no earlier than 1:30 p.m., the Wichita-Sedgwick County Metropolitan Area Planning Commission/Board Zoning Appeals will consider the following applications. The meeting will be held in person at the Ronald Reagan Building, 271 West Third Street, 2nd Floor, Wichita, KS 67202. Public participation is encouraged (see instructions below). Virtual participation is not available. If you have any questions regarding the meeting or items on this notice, please call the Wichita-Sedgwick County Metropolitan Area Planning Department at (316) 268-4421.

BZA2023-00065: Variance request in the City to remove the landscape buffer requirements on the north and south sides of the property zoned TF-3 Two-Family Residential District, generally located on the east side of South 167th Street West, south of West Apollo Street.

CUP2023-00046: Minor Amendment to CUP DP-21 to allow a car wash on Parcel 14 zoned LC Limited Commercial, generally located on the west side of South Seneca Street and within one-quarter mile south of West Pawnee Avenue.

VAC2023-00053: Vacation request in the City to vacate the plat's text in Reserve A on property zoned TF-3 Two-Family Residential District, generally located on the east side of South 167th Street West, within 1500 feet north of U.S. Highway 54.

VAC2023-00054: Request in the City to vacate a portion of the front building setback for a Carwash on property zoned LC Limited Commercial District, generally located on the west side of South Seneca Street and within one-quarter mile south of West Pawnee Avenue.

ZON2023-00072: Request in the City to amend Protective Overlay #11 to permit additional uses on property zoned LC Limited Commercial; located on the north side of West Maple Street, within one-quarter mile west of South 135th Street West (13710 West Maple St.).

ZON2023-00073: Zone change request in the City from NO Neighborhood Office and MF-29 Multi-Family Residential to LC Limited Commercial to allow for a mixed-use building, generally located on the east side of North Waco Avenue, within 150 feet south of West 9th Street North.

ZON2023-00074: Zone Change request in the City from LC Limited Commercial to OW Office Warehouse for contractor warehousing, generally located 300 feet north of 13th Street North and on the west side of North Broadway (1451 North Broadway).

Complete legal descriptions are available for public inspection at the Metropolitan Area Planning Department, 271 W. Third St., 2nd Floor, Wichita, Kansas 67202. As provided in Section V of the Wichita-Sedgwick County Unified Zoning Code, the same will then and there be discussed and considered by the said MAPC, and all persons interested in said matters will be heard at this time concerning their views and wishes in the premises, and any protest against any of the provisions of the proposed changes to the zoning regulations will be considered by the MAPC as by law provided.

Options to participate:

1) Attend In-Person at the Ronald Reagan Building, 271 West Third Street, 2nd Floor, Wichita, Kansas 67202. Self-paid parking is available nearby. If you have any written or visual materials you wish to present, please contact Planning Department Graphics staff (316-268-4464) by 5:00 PM, 3 days prior to the meeting.
2) Submit Comments Ahead of Time regarding items on the Planning Commission agenda to the Wichita-Sedgwick County Metropolitan Area Planning Department (Planning Department) - using the contact information below. The comments received ahead of the submission deadline will be shared with the MAPC, prior to or during the meeting. Planning Departments staff make efforts to share all comments but may not be able to share those received after the deadlines below. Please be sure to provide ample time for delivery. Written Comments should be submitted by 5:00 PM the day before the meeting. Video and Audio Comments (mp3, etc.) formats be submitted at least 3 days prior to the MAPC meeting. The comments should indicate which item they pertain to and be less than three (3) minutes in duration.

Email: Planning@wichita.gov

Mailing Address

Wichita-Sedgwick County Metropolitan Area Planning Department

Attn: Scott Wadle

271 W. 3rd Street - Suite 201

Wichita, KS 67202

Phone: 316.268.4421

Fax: 316.858.7764

3) If you need accommodations pursuant to the ADA, please contact Planning Staff within one week prior to the scheduled meeting.

Option to View Remotely (Not Participate)

The meeting will be streamed live and recorded. Virtual comment is not available.

To view the live stream or recording, follow the link: <https://www.wichita.gov/>

Planning.

WITNESS MY HAND on December 21, 2023

Scott Wadle, Secretary

Wichita-Sedgwick County

Metropolitan Area Planning Commission

IPL0152482

Dec 21 2023

In The STATE OF KANSAS
In and for the County of Sedgwick

1 insertion(s) published on:

12/21/23

STATE OF KANSAS)

SS

County of Sedgwick)

Stefani Beard, of lawful age, being first duly sworn, depose and saith: That he is Record Clerk of The Wichita Eagle, a daily newspaper published in the City of Wichita, County of Sedgwick, State of Kansas, and having a general paid circulation on a daily basis in said County, which said newspaper has been continuously and uninterruptedly published in said County for more than one year prior to the first publication of the notice hereinafter mentioned, and which said newspaper has been entered as second class mail matter at the United States Post Office in Wichita, Kansas, and which said newspaper is not a trade, religious or fraternal publication and that a notice of a true copy is hereto attached was published in the regular and entire Morning issue of said The Wichita Eagle from 12/21/2023 to 12/21/2023.

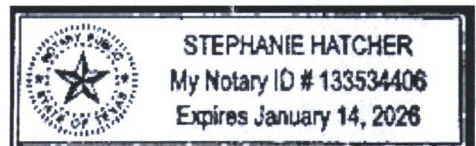
Stefani Beard

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

DATED: 01/03/2024

Stephanie Hatcher

Notary Public in and for the state of Texas, residing in
Dallas County

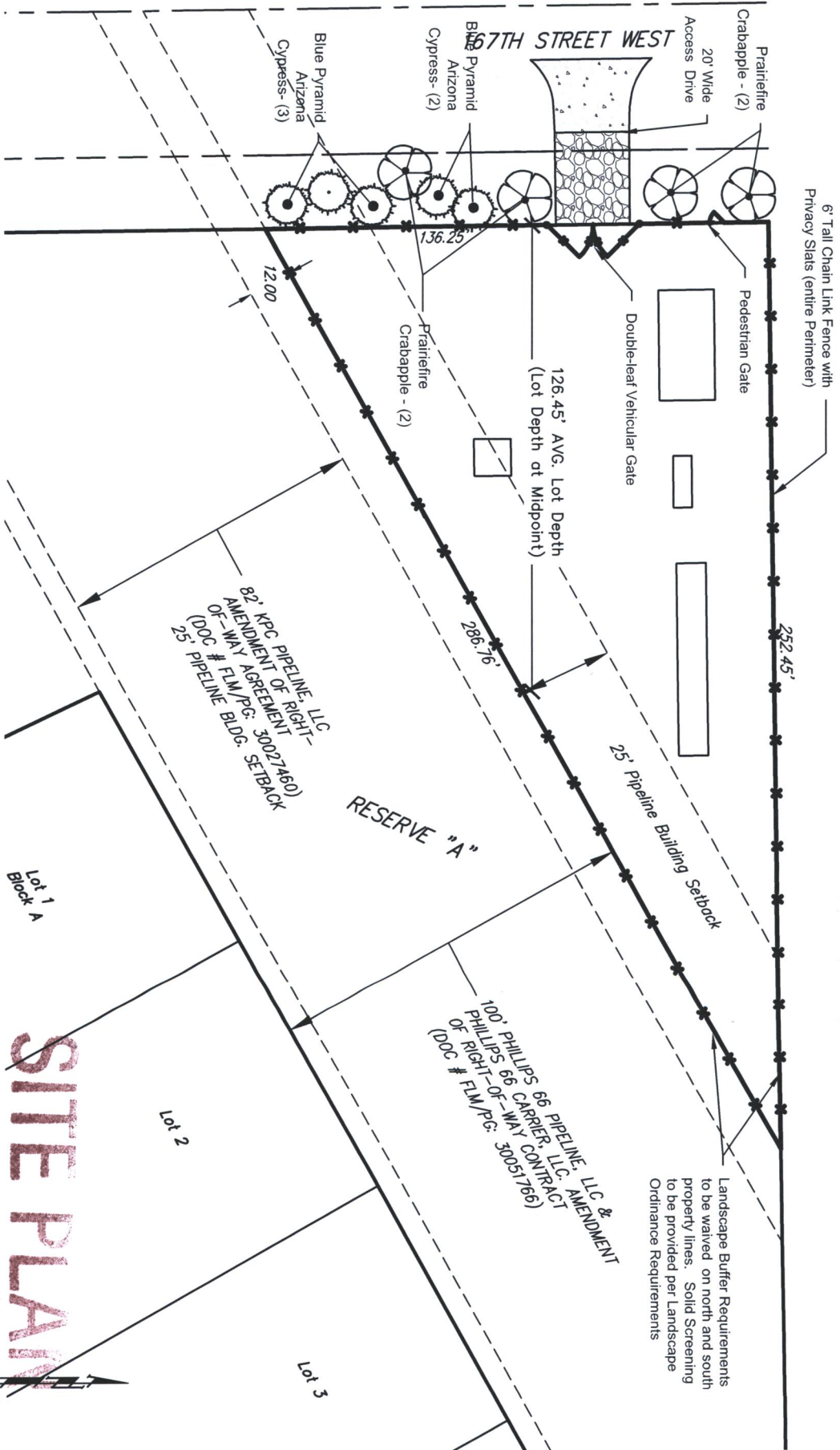


Extra charge for lost or duplicate affidavits.
Legal document please do not destroy!

LANDSCAPE EXHIBIT

ABILENE PLACE ADDITION

Portion of Reserve "A", Wichita, Sedwick County, Kansas



- Notes:**
1. *Prairiefire Crabapple (Malus x Prairiefire)* shall be a minimum of 1.5" caliper when planted
 2. *Blue Pyramid Arizona Cypress (Cupressus arizonica 'Blue Pyramid')* must be a minimum of 6 feet tall when planted.

Landscape Street Yard/ Tree Calculations

Average Lot Depth: 126.45'
 Landscape Street Yard Factor: 8
 167th Street Frontage: 136.25'
 Street Yard: 1090 SF (136.45 x 8)
 Street Trees Required: 2.5 (1090/5=2.18)
 Street Trees Provided: 7 (5 Shade Trees and 4 Ornamentals)

APPROVED

8/29

BY

MM

Scale: 1"=40'

0 40 80

1"=40'

0 40 80

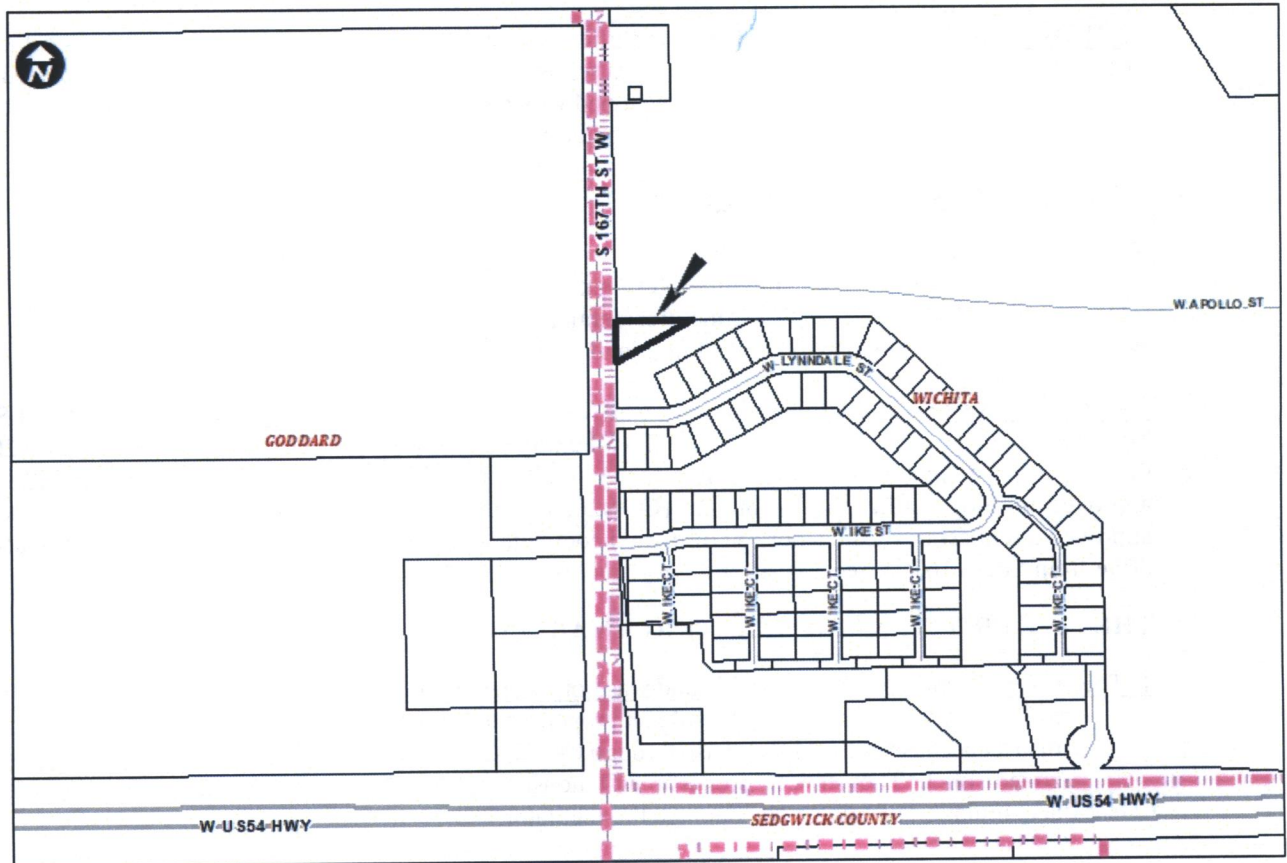
1"=40'



BAUGHMAN COMPANY
 315 Ellis St.
 Wichita, KS 67211 316-262-7271
 BaughmanCo.com

SECRETARY'S REPORT

CASE NUMBER:	BZA2023-00065 (City)
APPLICANT:	KPC Pipeline LLC (Owner)/Baughman Company, P.A. (Agent)
REQUEST:	Variance to remove the landscape buffering requirements on north and south property lines
CURRENT ZONING:	TF-3 Two-Family Residential District
SITE SIZE:	0.39 acres
LOCATION:	Generally located on the east side of South 17 th Street West, within one-quarter mile north of West US-54/400



JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Kansas Statutes Annotated 12-759 *et. seq.* The Board may grant the request when all five conditions, as required by the statutes, are found to exist.

BACKGROUND: The applicant requests a Variance to waive the landscape buffer requirements on the north and south sides of a property zoned TF-3 Two-Family Residential District. The subject site is located on the east side of South 167th Street West, within one-quarter mile north of West US-54/400. The subject site is currently undeveloped, the applicant has indicated that a gas regulator facility will be constructed shortly. A Conditional Use (CON2023-00037) to allow Utility, Major at the site was recently approved.

The Unified Zoning Code requires solid screening on all sides of the property. The applicant has indicated it is their intention to install a 6-foot-tall, slatted steel-post fence in order to meet this requirement.

Wichita passed a landscape ordinance (Title 28-Zoning: Chapter 28.06 of the Wichita City Code) in order to enhance the attractiveness of the city and improve the quality of life for its citizens and visitors. The ordinance seeks to protect residential developments from surrounding uses, soften harsh expanses of pavement, and screen undesirable views. The Wichita Landscape Ordinance requires a landscaped street yard and a landscape buffer for non-residential developments when they are adjacent to residential zoning district. Utilities are not exempt from the Landscape Ordinance. The applicant intends to install landscape buffering along the west property line with seven trees along the west side of the proposed fence, which satisfies the landscaped street yard requirement. Because of the SF-5 zoning to the north and the TF-3 zoning to the south, landscape buffering is required on the north and south property lines. Deviations from the Wichita Landscape Ordinance require a Variance.

SURROUNDING DEVELOPMENT: Properties to the east and south are zoned TF-3 Two-Family Residential District and are undeveloped but platted for residential lots. Property to the north is zoned SF-5 Single-Family Residential District and developed with a school campus. Property to the west is zoned R-1 Single-Family Residential District (City of Goddard) and is in agricultural use.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	School
SOUTH:	TF-3	Pipeline, Residential Lots
EAST:	TF-3	Pipeline, Residential Lots
WEST:	R-1 (Goddard)	Agricultural land

CASE HISTORY: In 2020, the property was rezoned from LC Limited Commercial District and SF-5 Single-Family Residential District to TF-3 Two-Family Residential District (ZON2020-00041). In 2021, the property was platted as Reserve A in the Abilene Place Addition. In 2023, a Conditional Use was approved to allow Utility, Major on site (CON2023-00037). The same year, the Wichita City Council approved a request to vacate a portion of platted complete access control in order to permit a utility access drive from South 167th Street West for a gas regulator (VAC2023-00027).

THE FIVE CRITERIA FOR GRANTING A VARIANCE:

1. The request is unique to this property and was not created by the applicant.

- a. The applicant states that “the subject property is unique from most properties in the same zoning district because of the allowed use through CON2023-00037 that permits Utility, Major on property zoned TF-3. The subject property will house a gas regulator that fallen tree limbs and the accumulation of foliage can damage the regulator.”

Staff Analysis:

Staff is not in agreement with the above statement. Utility, Major is permitted by Conditional Use in residential zoning and is not exempt from the requirements set forth by the Wichita Landscape Ordinance. The applicant has the option to plant smaller, ornamental trees instead of shade trees, and they have the ability to specify specific species of trees whose foliage is less likely to fall and damage the regulator.

2. The granting of the Variance will not adversely affect the rights of the adjacent property owners or residents.

- a. The applicant states that “the intended use of the subject property is to develop a gas regulator and the removal of the landscaping requirements is necessary for maintenance and general clearance of foliage and fallen leaves in the equipment. Therefore, granting this adjustment will not create an adverse impact on existing uses in the surrounding area. The north portion of the subject property is adjacent to an open space approximately 400 feet to a parking lot and Goddard School. The south portion of the property is adjacent to a 100’ pipeline easement.”

Staff Analysis:

Staff is not in agreement with the above statement. Purposes of the Wichita Landscape Ordinance are to screen undesirable views and break up large areas of screening to increase the attractiveness of development. The surrounding open space, without landscaping in place, will increase the visibility of the screening fence and equipment associated with the gas regulator.

3. The strict application of the provisions of the code would constitute an unnecessary hardship on the applicant.

- a. The applicant states that “the gas regulator will have a 6-foot, slatted fence for screening and protection. Requiring the landscaping within the Wichita Landscape Ordinance would allow for the possibility of a dangerous environment for the regulator. Leaves, fallen branches and other landscaping foliage present a danger of fire and other calamities within the regulator.”

Staff Analysis

Staff is not in agreement with the above statement. The applicant has the option to plant smaller, ornamental trees instead of shade trees, and they have the ability to specify species of trees whose foliage are less likely to fall and damage the regulator.

4. The Variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, general welfare, or harmonious development of the community.

- a. The applicant states that “approving the Variance will have no adverse impact on the public health, safety, morals, order, convenience, prosperity, or general welfare. Gas regulators are installed along the existing pipeline for safety and regulatory requirements.”

Staff Analysis:

Staff is not in agreement with the above statement. Utilities are not exempt from the Wichita Landscape Ordinance. Other approved Utility, Major uses in Wichita have had to comply. Removing the landscape requirement does not promote harmonious development of the community.

5. The granting of the Variance will not be opposed to the general spirit and intent of the Code.

- a. The applicant states that “the spirit of the Zoning Code is to protect adjoining property owners from adverse impacts that would negatively affect their properties. Again, when considering all the factors of the request; including the amount of open space around this gas regulator, this Variance will not detract from the adjacent uses and maintain the intent of the Code.”

Staff Analysis:

Staff is not in agreement with the above statement. The Wichita Landscape Ordinance seeks to screen undesirable views and break up large areas of screening to increase the attractiveness of development. Open space around the property, without any landscaping, does not break up the large area of screening required, which is opposed to the spirit and intent of the Wichita Landscape Ordinance.

RECOMMENDATION: The recommendation of Staff is that the request to waive the landscaping requirements on the north and south ends of a property **does not meet** the five criteria required to grant a Variance.

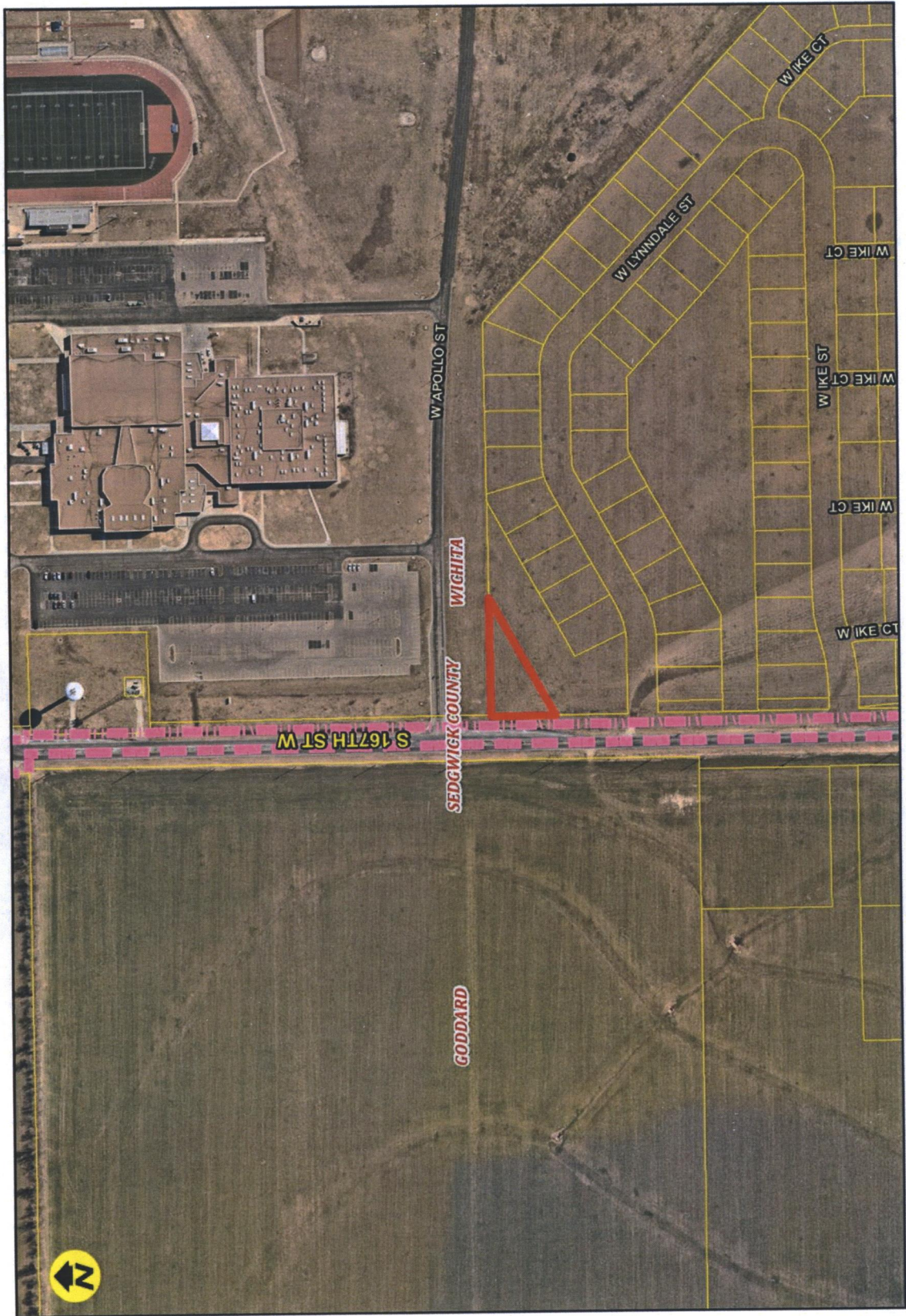
Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, Staff recommends the following condition of approval:

1. The site is to be developed in general conformance to the approved site plan.

Staff Report Attachments:

1. Aerial Map
2. Land Use Map
3. Zoning Map
4. Site Plan
5. Screening Plan
6. Variance Justification Letter

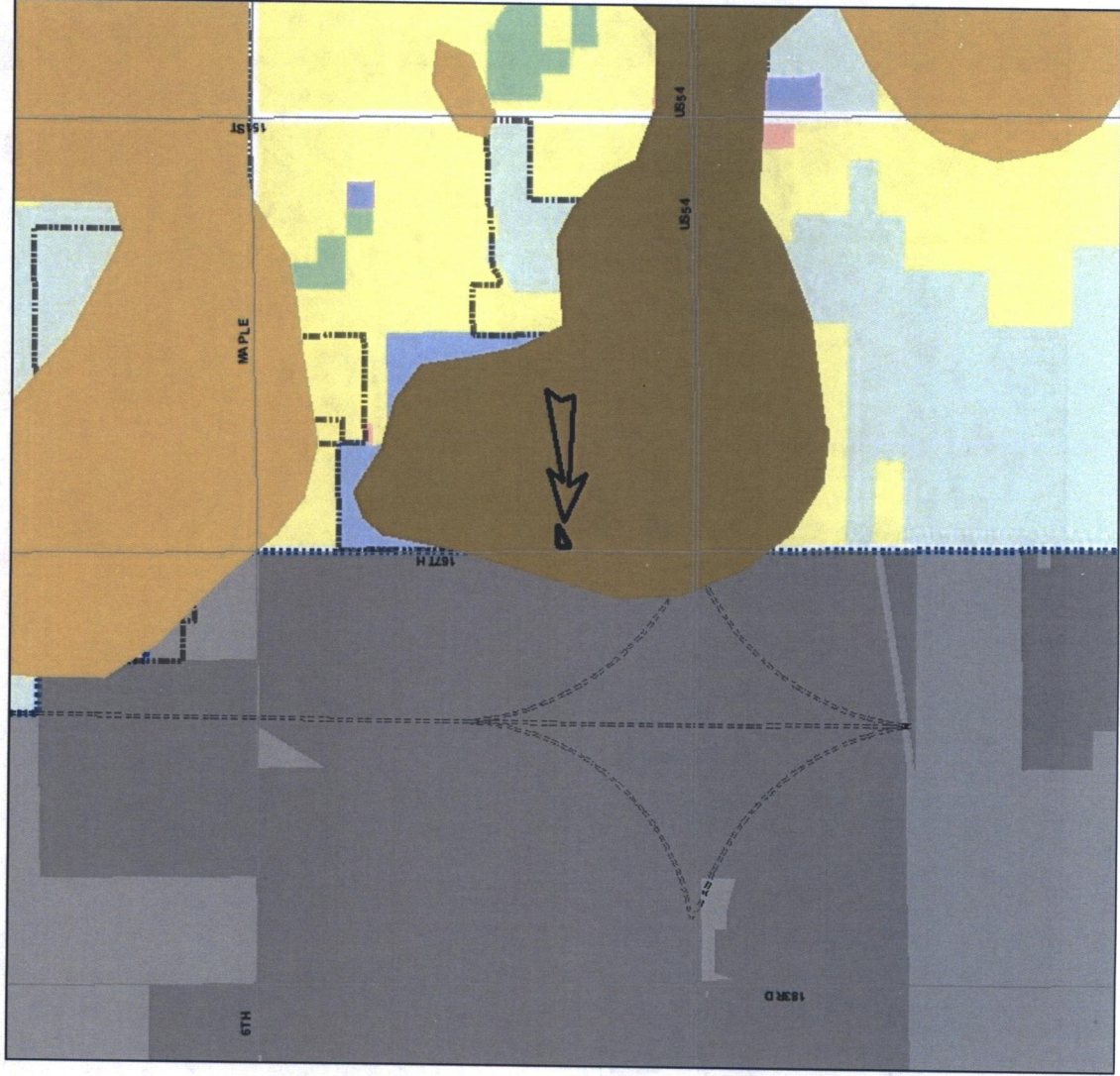
Aerial Map



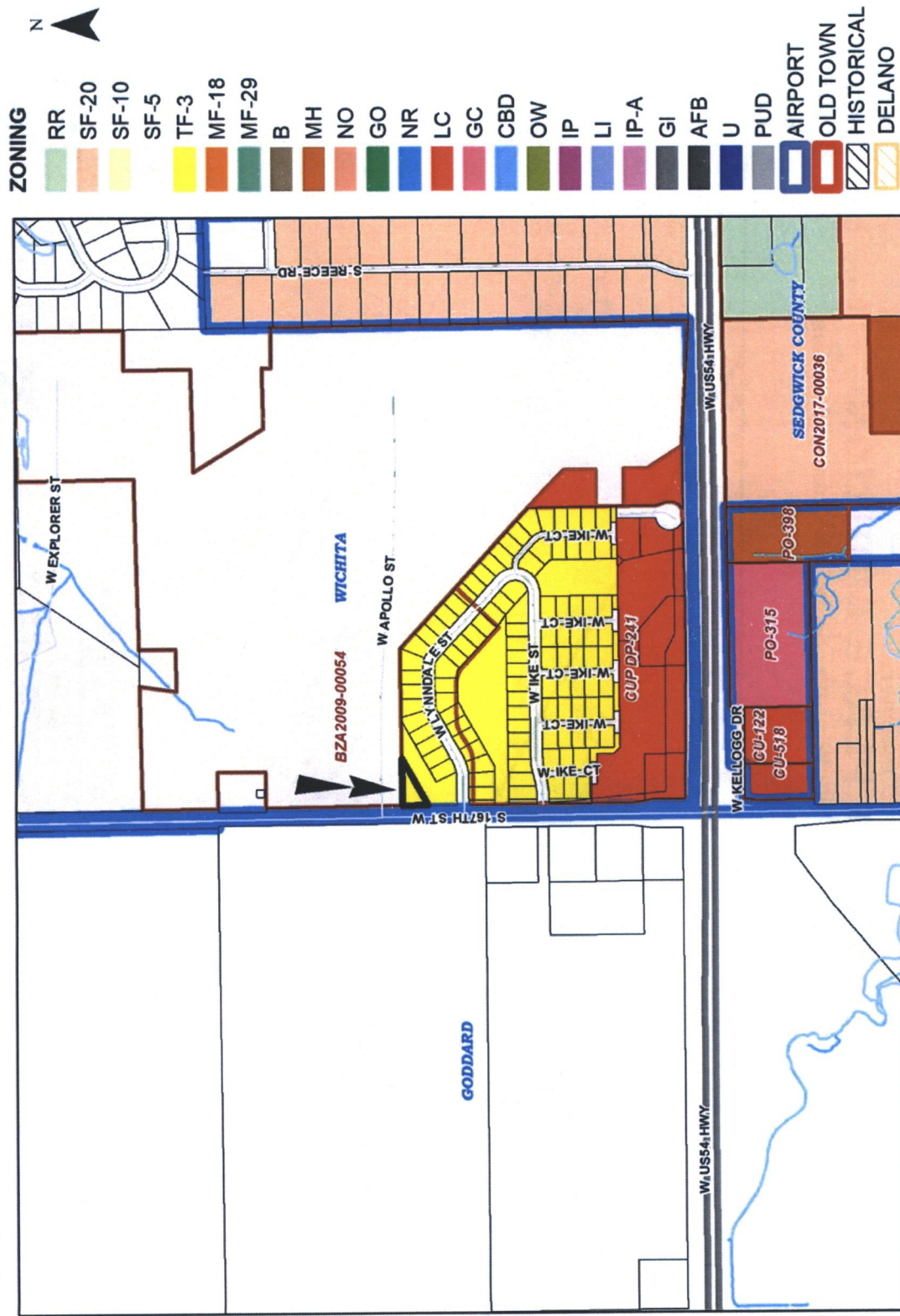
Future Land Use Map

**2035 Wichita
Future Growth
Concept Map**

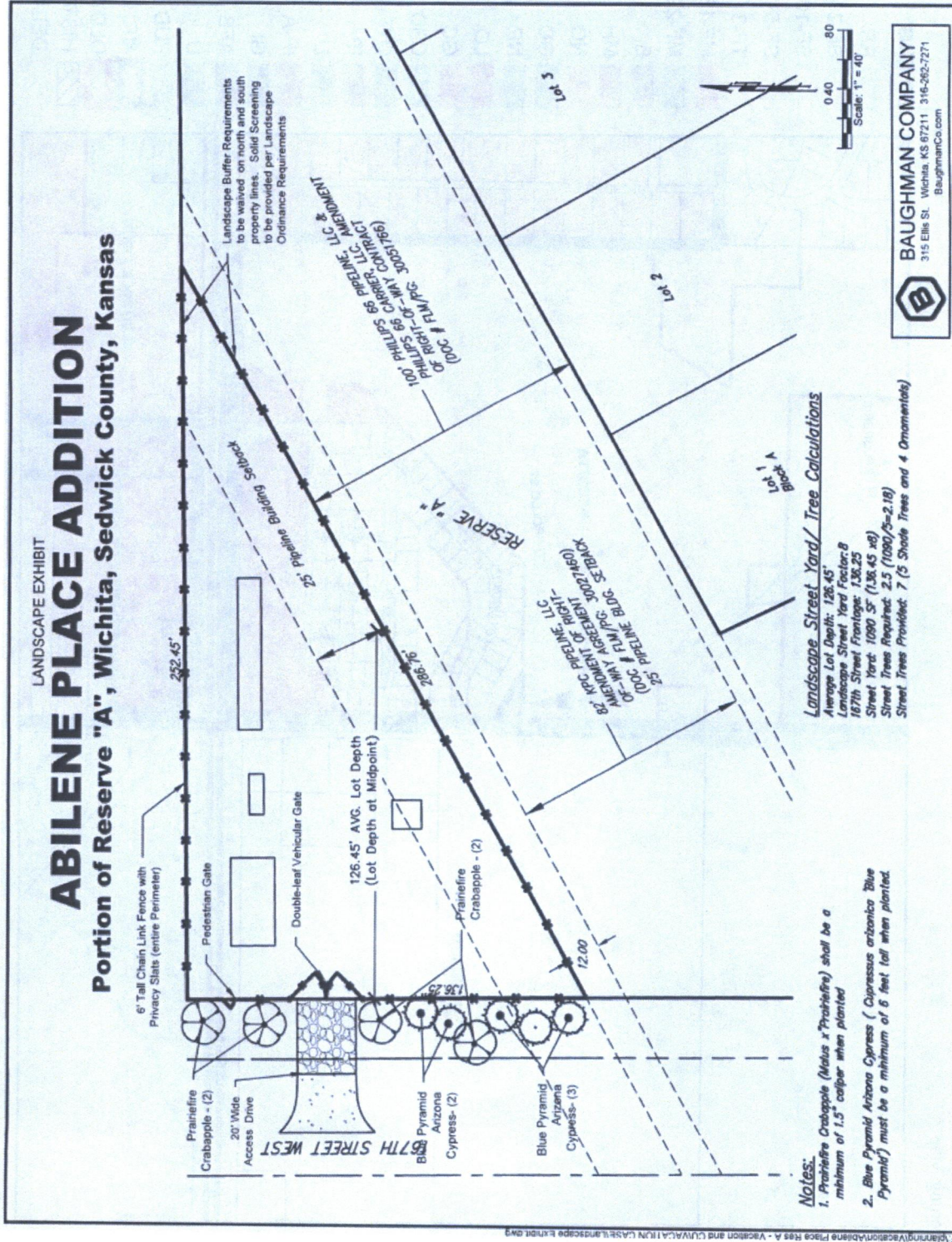
- Legend**
- Established Central Area
 - Residential and Employment Mix
 - New Employment
 - New Residential
 - Wichita City Limits
 - Other Cities
 - Northwest Bypass Right-of-Way
- Statistical Development Areas**
- Small City Urban Growth Areas
 - Small City Urban Growth Areas
 - Rural Areas
- LAND USE**
- Residential
 - Commercial
 - Industrial
 - Major Air Transportation & Military
 - Parks and Open Space
 - Agricultural or Vacant
 - Major Institutional
 - Neighborhood/Area Plans



Zoning Map



Site Plan



Looking east at site



Looking south away from site



Looking north away from site



Applicant's Variance Justification Letter

December 4, 2023

Scott A. Wadle
Planning Department
271 E. 3rd Street – Suite 201
Wichita, Kansas 67202

RE: Variance to remove landscaped buffer requirements in the Abilene Addition at the Northeast corner of Highway US-54 and 167th St.

Dear Mr. Wadle:

On behalf of our client, KPC Pipeline, LLC, our office is filing for a variance to remove the landscaped buffer requirement along the subject property's north and south property line per the Wichita Landscaping Ordinance.

We are requesting this adjustment to remove the required landscaping requirements to accommodate a major utility. The subject property is zoned "TF-3" Two-Family Residential.

The U.Z.C. sets out four conditions to be met before a zoning adjustment can be granted per Section V-G (6). The following section outlines those conditions and each of our justifications for this request.

- a) *The unique conditions for this location that are not ordinarily found in the same zoning district are as follows:*

The subject property is unique from most properties in the same zoning district because of the allowed use through CON2023-00037 that permits Utility, Major on property zoned TF-3. The subject property will house a gas regulator that fallen tree limbs and the accumulation of foliage can damage the regulator.

- b) *The granting of this variance will not adversely affect the rights of adjacent property owners or residents:*

The intended use of the subject property is to develop a gas regulator and the removal of the landscaping requirements is necessary for maintenance and general clearance of foliage and fallen leaves in the equipment. Therefore, granting this adjustment will not create an adverse impact on existing uses in the surrounding area. The north portion of the subject property is adjacent to an open space approximately 400' to a parking lot and Goddard School. The south

portion of the property is adjacent to a 100' pipeline easement.

- c) *The strict application of the zoning ordinance will constitute unnecessary hardship upon the property owner due to the following:*

The gas regulator will have a 6-foot, slatted fence for screening and protection. Requiring the landscaping within the Wichita Landscape Ordinance would allow for the possibility of a dangerous environment for the regulator. Leaves, fallen branches and other landscaping foliage present a danger of fire and other calamities within the regulator.

- d) *The variances effect on the public health, safety, morals, order, convenience, prosperity, or general welfare:*

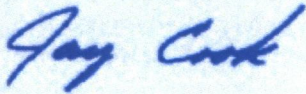
To approving the variance will have no adverse impact on the public health, safety, morals, order, convenience, prosperity, or general welfare. Gas regulators are installed along the existing pipeline for safety and regulatory requirements.

- e) *That granting the variance desired will not be opposed to the general spirit and intent of the zoning order:*

The spirit of the Zoning Code is to protect adjoining property owners from adverse impacts that would negatively affect their properties. Again, when considering all the factors of the request; including the amount of open space around this gas regulator, this variance will not detract from the adjacent uses and maintain the intent of the Code.

If you have any questions about this adjustment, please contact our office at 262-7271.

Sincerely,
Baughman Company, P.A.

A handwritten signature in blue ink that reads "Jay Cook". The signature is fluid and cursive, with the first name "Jay" and last name "Cook" clearly distinguishable.

Jay Cook, Planner