

## CONDITIONAL USE RESOLUTION NO. CU-502

**WHEREAS**, Freedom Development, Inc., pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requested a Conditional Use to allow construction of a swimming pool on .37 acres zoned "SF-6", Single-family Residential described as:

Lot 1, Block 3, Oak Ridge 2nd Addition, Sedgwick County, Kansas. Generally located north of 29th Street North and east of Pepper Ridge.

**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 January 14, 1999, 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 to allow construction of a swimming pool on .37 acres zoned "SF-6", Single-family Residential described as

Lot 1, Block 3, Oak Ridge 2nd Addition, Sedgwick County, Kansas. Generally located north of 29th street north and east of Pepper Ridge.

subject to the following conditions:

- A. Within 60 days following approval of the Conditional Use Permit and prior to the issuance of any building permits, the applicant shall submit to the Planning Department for review and approval eight copies of a landscape plan for this site. The plan shall provide for landscaping in accordance with the Landscape Ordinance.
- B. Development of the swimming pool shall include a screening fence or solid landscaping to shield the pool area from adjoining residential properties.
- C. Development and use of this site for a neighborhood association swimming pool shall be in accordance with all applicable codes, including building and construction codes, health codes and operational standards.
- D. The site shall be developed in substantial conformance with the approved site plan (attached as an exhibit to this resolution).

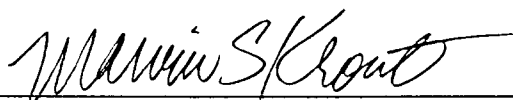
- E. Violation of the foregoing conditions shall be caused for declaring this conditional use null and void.

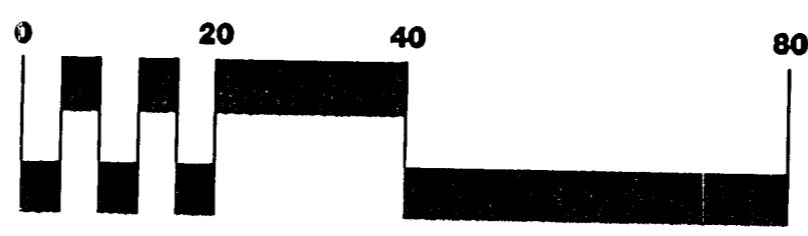
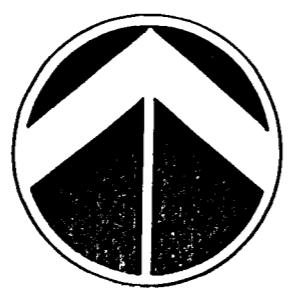
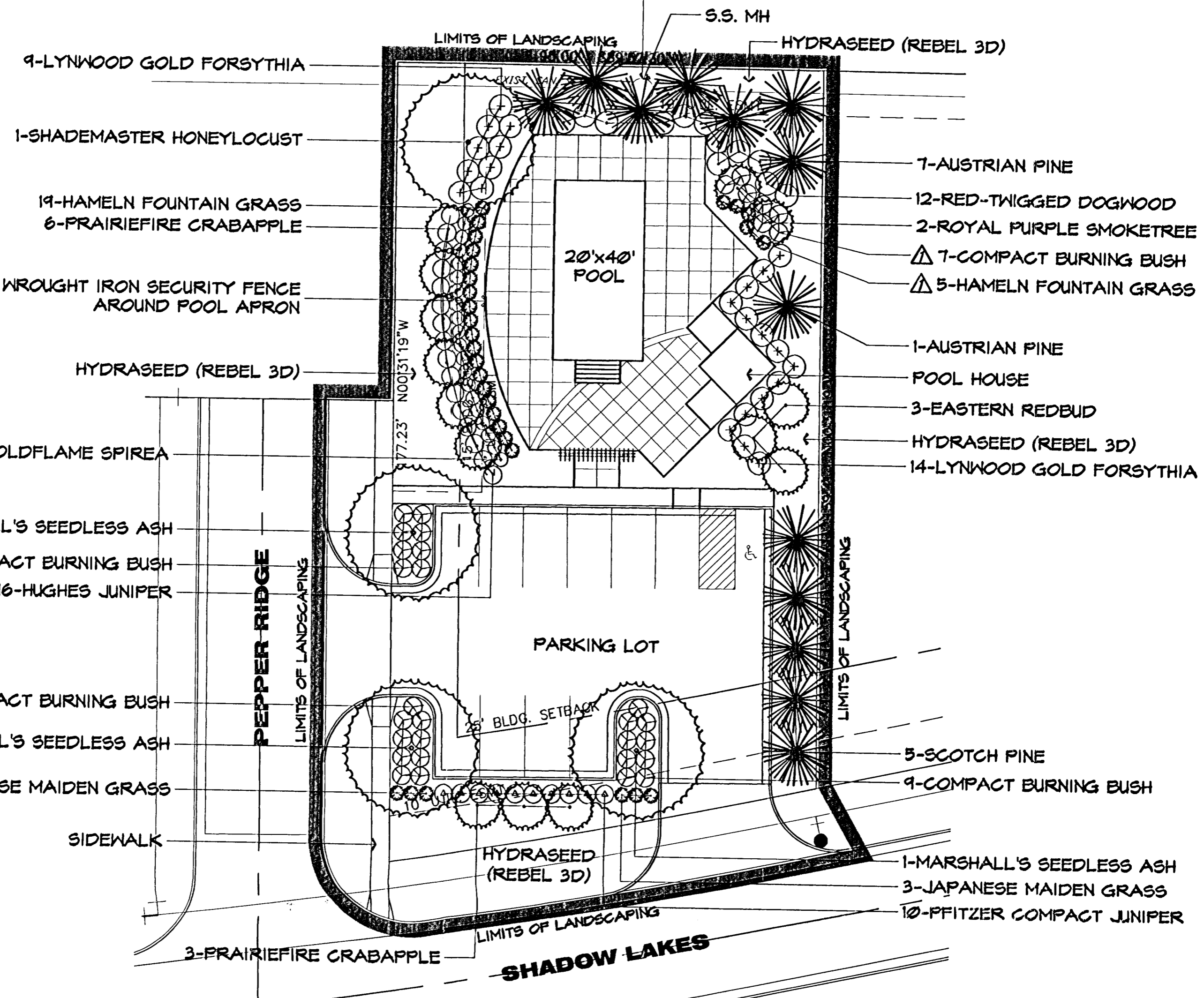
Adopted this 14th day of January, 1999. This resolution shall become effective on the fifteenth day after the date last noted above unless the matter is forwarded to the Governing Body for final action under the provisions of Section V-D.6. When any one or more of the exceptions listed in Section V-D.6 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

  
William M. Johnson, Chairman

ATTEST:

  
Marvin S. Krout, Secretary



SCALE: 1" = 20'

# SITE PLAN

### STAFF REPORT

CPO 5, 1/13/99

MAPC, 1/14/99

CASE NUMBER: CU-502

APPLICANT/AGENT: Freedom Development, Inc. (J. V. Van Allen), applicant/owner; Mid-Kansas Engineering (Jason Gish), agent

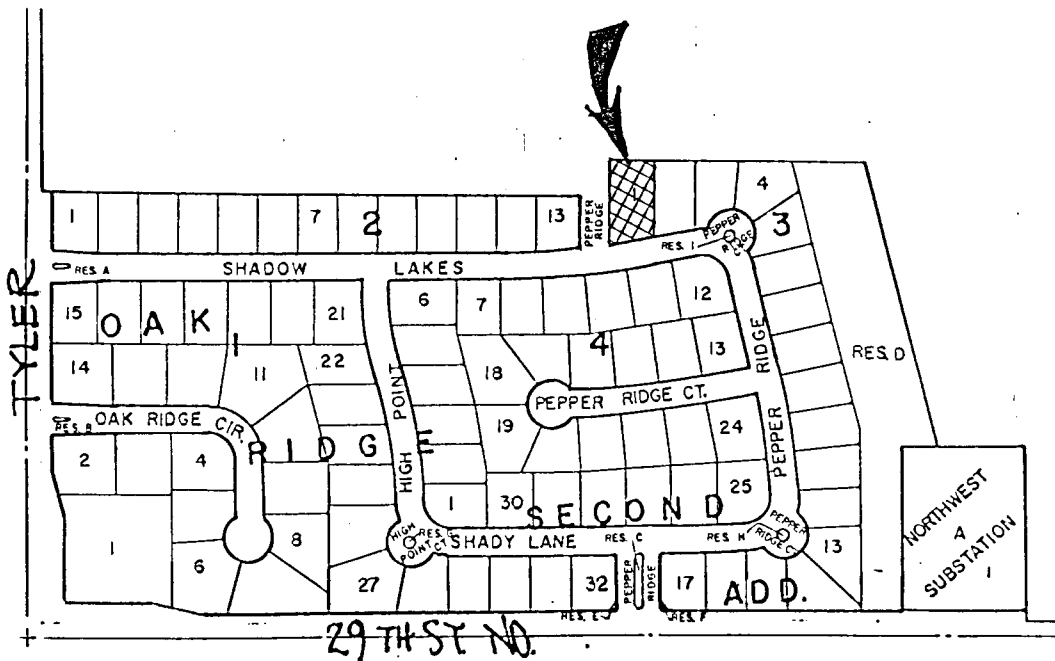
REQUEST: Conditional use to construct a private swimming pool and related facilities

CURRENT ZONING: "SF-6", Single-family Residential

SITE SIZE: .37 acres

LOCATION: East of Pepper Ridge and north of Shadow Lake (north of 29th Street North and 3/8th mile east of Tyler Road)

PROPOSED USE: Swimming pool for home owners association



**BACKGROUND:** The applicant is seeking to locate a private, home owner association owned swimming pool located on Lot 1, Block 3 of the Oak Ridge 2nd Addition. The Oak Ridge 2nd Addition is a developing subdivision located north of 29th Street and approximately 3/8 mile east of Tyler Road. The applicant's site plan depicts a 20 by 40 foot swimming pool, a pool house (272 square feet), an arbor and 11 parking spaces. Landscaping is also indicated, but not identified, nor is it clear what type of fencing would be used. Access to the site would be from drives located on both Shadow Lakes and Pepper Ridge Streets. The site plan also depicts parking in the front building setback.

The applicant owns all the platted lots located east, south and west of the application area. Residential lots have been platted to the north of the application area, and they are part of the Forest Lakes West Addition.

All the land surrounding the application area is zoned "SF-6", Single-family Residential and is currently vacant, but platted for single-family use.

The code requires one parking space per 100 square feet of pool area and pool house (1,072 square feet). The 11 spaces shown on the site plan meets code minimums. Parking in residential districts is not supposed to be located in the front yard setback, without being granted an adjustment. The applicant will need to revise the site plan or obtain an "adjustment". Even with an adjustment, parking can not be closer to the property line than eight feet.

**CASE HISTORY:** Oak Ridge 2nd Addition was recorded in July 1997.

**ADJACENT ZONING AND LAND USE:**

NORTH: "SF-6", Single-family Residential; vacant but platted for residential uses  
SOUTH: "SF-6", Single-family Residential; vacant but platted for residential uses  
EAST: "SF-6", Single-family Residential; vacant but platted for residential uses  
WEST: "SF-6", Single-family Residential; vacant but platted for residential uses

**PUBLIC SERVICES:** Public services are available or have been guaranteed.

**CONFORMANCE TO PLANS/POLICIES:** The Comprehensive Plan depicts this area as appropriate for "low density residential" development. This category provides for the lowest density of urban residential land use and consists of traditional, single-family detached homes, zero lot line units and cluster subdivisions, as well as schools, churches and similar uses found in such areas.

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

- A. Within 60 days following approval of the Conditional Use Permit and prior to the issuance of any building permits, the applicant shall submit to the Planning Department for review and approval eight copies of a landscape plan for this site. The plan shall provide for landscaping in accordance with the Landscape Ordinance.
- B. Development of the swimming pool shall include a screening fence or solid landscaping to shield the pool area from adjoining residential properties.
- C. Development and use of this site for a neighborhood association swimming pool shall be in accordance with all applicable codes, including building and construction codes, health codes and operational standards.
- D. The site shall be developed in substantial conformance with the approved site plan.
- E. Violation of the foregoing conditions shall be cause for declaring this conditional use null and void.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The application area is zoned "SF-6", Single-family Residential, and is surrounded by the same zoning. The land in question, as well as nearby land, has been platted for residential uses. This area is a newly developing residential area that was until recently being platted and annexed was farm ground.
- 2. The suitability of the subject property for the uses to which it has been restricted. The code permits swimming pools to be developed for neighborhood use without obtaining a conditional use permit, so long as the lot to be so used is designated at the time of platting. This procedure ensures that anyone who may have bought a lot prior to the decision to make a nearby lot into the pool area would receive notice and have an opportunity to speak at a public hearing. In this case, the developer owns all the lots located to the east, south and west. Another developer owns the platted lots to the north. Clearly, this lot could be developed for single-family uses, however swimming pools are becoming a common place in new subdivisions.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Since all the property adjoining this site is undeveloped, lot buyers would be able to know of this use's location. The exception may be the lots to the north, located in the Forest Lakes Addition, and not part of Oak Ridge 2nd. Locating a neighborhood swimming pool along a local street within a residential development will generate more traffic, and probably noise at the application area than if the site were used for a single family home, as well as increase pedestrian traffic. However, the conditions stipulated in this approval and the site plan will minimize detrimental effects.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: Although the swimming pool is for use by the neighborhood, it would assist in meeting the Comprehensive Plan's goal of creating a neighborhood park within each square mile in developing areas.
5. Impact of the proposed development on community facilities: The proposed swimming pool would increase trips to the site, but the impact should be minimal. The pool's hours of operation will be regulated by the residents, thereby minimizing the need for additional police patrols.