



Wichita-Sedgwick County Metropolitan Area Planning Department

December 7, 2009

Zane and Diane Miller
7451 N 73Rd St W
Valley Center, KS 67147

RE: CON2009-00020 - County Conditional Use request for a rural home occupation (vehicle repair) for property less than 20 acres but greater than 5 acres and to waive certain development standard, generally located on the north side of 73rd Street North one-fourth mile west of Ridge Road. (7451 N. 73rd Street West and 7520 W. 73rd Street North).

Dear Ladies and Gentlemen:

At its regular meeting on **November 5, 2009**, the Metropolitan Area Planning Commission considered the above-captioned request. The action of the MAPC was to **APPROVE** the request subject to the conditions stated in the enclosed resolution.

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

Sincerely,

A handwritten signature in cursive script that reads 'Dale Miller'.

Dale Miller
Current Plans Manager
Current Plans Division

DLM:mc

Copies to: Barbara Stewart and Michelle Gorges, PO Box 72, Valley Center, KS 67147
Kevin Quenzer, 7410 W. 73rd St., N, Valley, Center, KS 67147
BCOC IV, Kelly Parks, Mail Stop County, Room 320
Bill Buchanan, County Manager, Mail Stop County Room 343
Bob Parnacott, County Law, Mail Stop Room 359
Glen Wiltse County Code Enforcement, 1144 S Seneca, Wichita, KS 67213
Jim Weber County Public Works, 1144 S Seneca, Wichita, KS 67213
Park Township, David Kessler, 6324 W. 53rd St, North, Wichita, KS 67205

consistent with the intent of the code. The property could be used as restricted since it has been used that way up to this point.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The requested use has the potential to create higher levels of noise, odor and traffic than is normally expected in a rural residential area; hence, the recommended development standards. Because of its proximity to existing off-site residences, approval of the use on Tract A will place these potentially detrimental side effects closer to adjacent nearby residences than placing the use on Tracts B, C and D. Tracts B, C and D come much closer to meeting the recommended minimum development standards, and presumably mitigating anticipated impacts from the proposed use.
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 of the applicant's full proposal presumably could be an economic hardship; however, approval of only the second phase of the proposal would place the use in a location that meets more of the Rural Home Occupation standards and, therefore, presumably minimizes potential impacts upon those residences closest to Tract A.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The application area is located in a part of Sedgwick County that has been designated by the *Wichita and Small Cities 2030 Urban Growth Areas* map as being "rural." This land use category encompasses land located outside the 2030 urban growth areas for Wichita and the small cities. This category is intended to accommodate agricultural uses and rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County. "Commercial locational guideline" No. 5 discourages putting commercially generated traffic onto local residential roads. The Comprehensive Plan does not list specific policies for rural home occupations, however the Rural Home Occupation section of the *Wichita-Sedgwick County Unified Zoning Code*, Sec. IV-E. 7 enumerates specific uses that, due to the characteristics associated with the use, would not be appropriate in residential areas developed with smaller urban density lots, but because of the larger lots associated with rural land ownership may be appropriate in rural settings. While neither location meets all the standards for a Rural Home Occupation, the portion supported by staff is more consistent with adopted plans and standards.
6. Impact of the proposed development on community facilities: Traffic will increase to some degree.

If the MAPC feels it is appropriate to approve the full request the following conditions of approval are recommended:

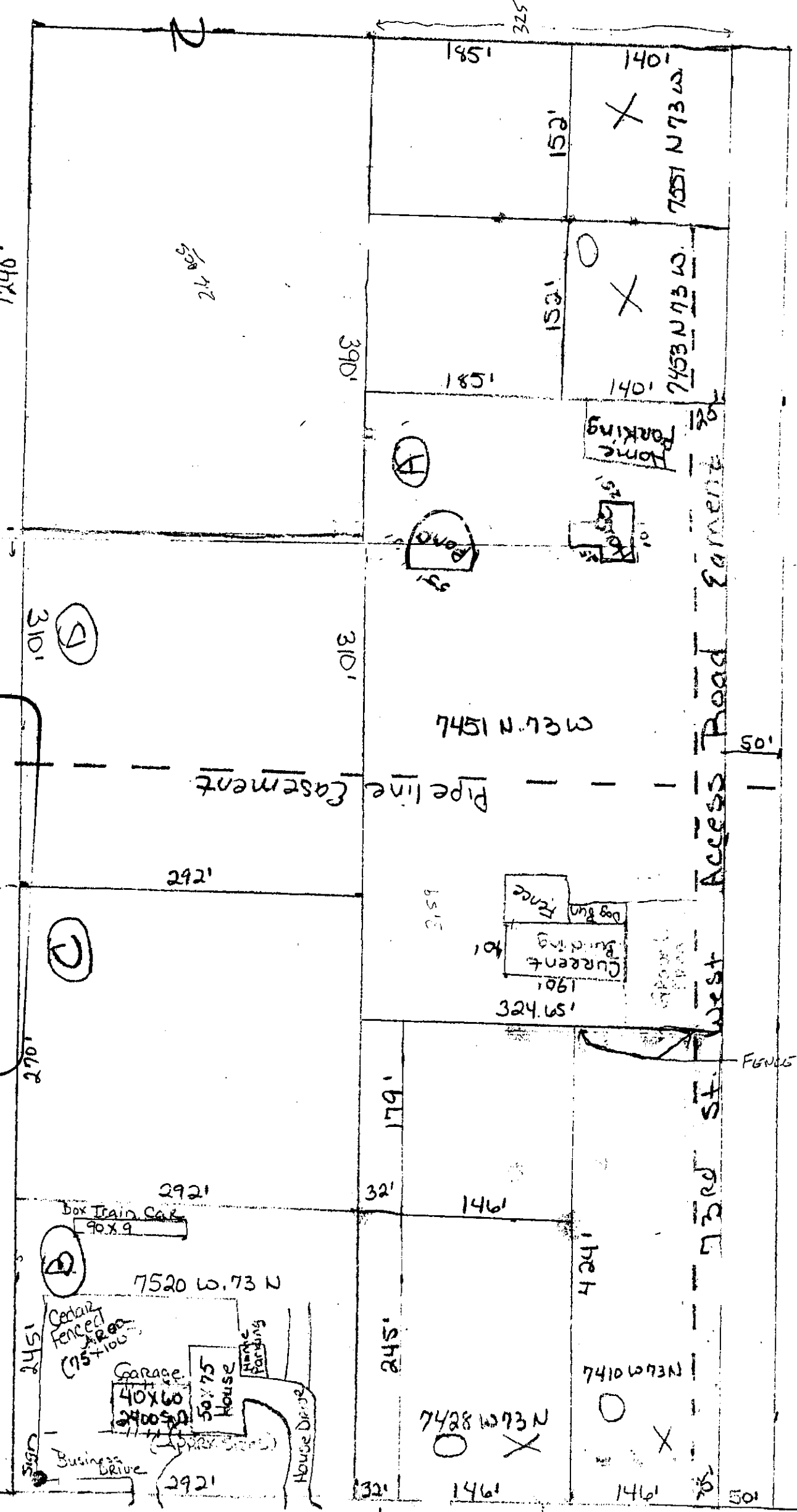
- A. CON2009-00020 permits a rural home occupation: automobile painting, upholstery, rebuilding, renovation, reconditioning, body and fender works and overhaul conducted entirely within an enclosed structure with no outdoor storage of vehicles, parts or

equipment” as specified in Sec IV-E. 6. a-h and 7. e of the *Wichita-Sedgwick County Unified Zoning Code* except as specifically modified by this Conditional Use approval, and as identified on the approved site plan.

- B. Waivers are granted for all rural home occupation developments standards to allow the use to be developed as indicated on the approved site plan, except for the off-site signage.
- C. The site shall be developed in substantial conformance with the approved site plan. The site and the use shall be operated and maintained in conformance with all *Wichita-Sedgwick County Zoning Code*, building, environmental, health or other applicable codes, not specifically modified by this Conditional Use.
- D. An unlighted 32 square-foot building sign shall be permitted at the 7451 North 73rd Street West location. An unlighted, 32 square-foot building sign and an unlighted, up to 12-square-foot, pole sign shall be permitted at the southwest corner of 7520 West 73rd Street North location; otherwise signage shall be per the Rural Home Occupation standards listed in the Wichita-Sedgwick County Rural Home Occupation standards, Sec. IV-E. 6. g or the County Sign Code.
- E. Prior to commencing the vehicle repair use, a restrictive covenant shall be filed with the Register of Deeds that ties Tracts B, C and D together and prevents them from being sold individually as long as the “Rural Home Occupation, vehicle repair” use is located on Tracts B, C or D.
- F. All fluids associated with the “Rural Home Occupation, vehicle repair” use shall be collected, stored and disposed of in a manner consistent with local, state or federal regulations.
- G. The applicant has one year from the date of final approval, either MAPC or County Commission, in which to establish the “Rural Home Occupation, vehicle repair” use at either location or the Conditional Use shall be made null and void. If the applicant first establishes the use at the 7451 North 73rd Street West location, the applicant may operate at that site for up to two years from the date of final approval. By the end of the two years following final approval, the use is to be moved from the 7451 North 73rd Street West location to the to the 7520 West Street North location. If more time is needed the applicant may file an Administrative Adjustment to extend the time frame up to an additional year.
- H. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

20' scale 50' per inch
Not in Flood Plain
B, C, E, D are tied together

APPROVED
Conditional Use Permit
Approved for Tracks B, C, E, D
Date: 10/09/20
By: [Signature]



X = Houses - Neighbors - (Size Unknown)
O = Other buildings (Garages, Sheds)
Green = Tree Paved & A Tree

389027.57
561500.94
Diane & Zane Miller
7451 N 73 W
7453 N 73 W
7457 N 73 W
7428 W 73 N
7410 W 73 N

Sit Plan for DZ Automotive

A) PK 20-15a, PK 20-19a, PK 20-28a2
AKA: 7451 N 73rd W, Valley Center KS 67147
A track beginning at a point 710 Feet West of 449 feet North of the Southeast corner of the Northeast Quarter of section 4, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County Kansas; Thence North parallel with the East line of said Northeast Quarter 91 feet; Thence West parallel with the South line of said Northeast Quarter, 22 feet; Thence North parallel of the East line of said Northeast Quarter, 396 feet; thence West parallel with the South line of said Northeast Quarter, 303.12 feet more or less to a point 292 feet East of the West line of the Southeast Quarter of said Northeast Quarter; Thence South parallel with the West line of the Southeast said Northeast Quarter, 487 feet; Thence East 324.65 feet more or less to a point of beginning, subject to easements and restrictions of record, if any, and rights of way of record.

B) PK 20-16 AKA 7520 W 73rd N, Valley Center KS 67147
Beginning at the Southwest corner of the Southeast Quarter of the Northeast Quarter of Section 4, Township 26S, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence East 292 feet; thence North 270 feet; thence West 292 feet to the West line of said Southeast Quarter of Northeast Quarter; thence South 270 feet to the place of beginning, together with all easements, tenements, hereditaments, privileges, and appurtenances in any way belonging or appertaining thereto.

C) PK 20-27 Lot directly North of 7520 W 73rd N, Valley Center KS 67147
Beginning 270 feet North of Southwest corner of the Southeast Quarter of Northeast Quarter of Section 4, Township 26 S, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence East 292 feet; thence North 270 feet to the West line of said Southeast Quarter of the Northeast Quarter; thence South 270 feet to the place of beginning.

D) PK 20-24-1 Lot Directly North of PK 20-27
North property line of PK-20-27 going North 310 feet; thence East 292 feet; thence South 310 feet; thence West 292 feet to Point of beginning. Beginning 540 feet North of Southwest corner of the Southeast Quarter of the Northeast Quarter of Section 4, Township 26 S, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence East 292 feet; thence North 270 feet to the West line of said Southeast Quarter of the Northeast Quarter; thence South 270 feet to the place of beginning.

CONDITIONAL USE RESOLUTION NO. CON2009-00020

WHEREAS, Zane S. & Diane R. Miller; pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requests a Conditional Use for a rural home occupation to permit vehicle repair on 5.53 acres zoned RR Rural Residential ("RR"), identified on the approved site plan as Tracts B, C and D, and described as:

Beginning at the Southwest corner of the Southeast Quarter of the Northeast Quarter of Section 4, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence East 292 feet; thence North 270 feet; thence West 292 feet to the West line of said Southeast Quarter of the Northeast Quarter; thence South 270 feet to the place of beginning, together with all easements, tenements, hereditaments, privileges, and appurtenances in any way belonging or appertaining thereto; plus

Beginning 270 feet North of the Southwest corner of the Southeast Quarter of the Northeast Quarter of Section 4, Township 26 South, Range 1 West of the 6th P. M., Sedgwick County, Kansas; thence East 292 feet; thence North 270 feet to the West line of said Southeast Quarter of the Northeast Quarter; thence South 270 feet to the place of beginning; plus

Beginning 540 feet north of the Southwest corner of the Southeast Quarter of the Northeast Quarter of Section 4, Town 26 South, Range 1 West, thence North 310 feet; thence East 292 feet; thence South 310 feet; thence West 292 feet to the point of beginning, as generally located north of West 73rd Street North and 1,200 feet west of North 71st Street West (7520 West 73rd Street North).

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 November 5, 2009, 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 vehicle repair as a rural home occupation 5.53 acres zoned RR Rural Residential ("RR") described as:

Beginning at the Southwest corner of the Southeast Quarter of the Northeast Quarter of Section 4, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas; thence East 292 feet; thence North 270 feet; thence West 292 feet to the West line of said Southeast Quarter of the Northeast Quarter; thence South 270 feet to the place of beginning, together with all easements, tenements, hereditaments, privileges, and appurtenances in any way belonging or appertaining thereto; plus

Beginning 270 feet North of the Southwest corner of the Southeast Quarter of the Northeast Quarter of Section 4, Township 26 South, Range 1 West of the 6th P. M., Sedgwick County,

Kansas; thence East 292 feet; thence North 270 feet to the West line of said Southeast Quarter of the Northeast Quarter; thence South 270 feet to the place of beginning; plus

Beginning 540 feet north of the Southwest corner of the Southeast Quarter of the Northeast Quarter of Section 4, Town 26 South, Range 1 West, thence North 310 feet; thence East 292 feet; thence South 310 feet; thence West 292 feet to the point of beginning, as generally located north of West 73rd Street North and 1,200 feet west of North 71st Street West (7520 West 73rd Street North).

Approved subject to the following conditions:

1. CON2009-00020 permits a rural home occupation: automobile painting, upholstering, rebuilding, renovation, reconditioning, body and fender works and overhaul conducted entirely within an enclosed structure with no outdoor storage of vehicles, parts or equipment” as specified in Sec IV-E. 6. a-h and 7. e of the *Wichita-Sedgwick County Unified Zoning Code* except as specifically modified by this Conditional Use approval for 7520 West 73rd Street North, Tracts B, C and D, as identified on the approved site plan.
2. The following waivers dealing with the use identified in 1 above are granted: the use may be operated on a site with less than 20 acres but greater than five acres; the use may be located closer to off-site residences than 600 feet; parking of vehicles waiting for repair or to be picked up outside the screened 75 x 100-foot outside parking / storage area identified on the site plan is permitted for up to 24 hours, otherwise all vehicles are to be parked or stored inside the 75 x 100-foot storage area shown on the site plan or inside the vehicle repair building. Outside parking / storage of vehicles in accordance with the previous sentence is permitted within 200 feet of the property line.
3. The site shall be developed in substantial conformance with the approved site plan. The site and the use shall be operated and maintained in conformance with all *Wichita-Sedgwick County Zoning Code*, building, environmental, health or other applicable codes, not specifically modified by this Conditional Use. The use may begin operation only when fully compliant with all applicable codes.
4. Signage shall be per the Rural Home Occupation standards listed in the *Wichita-Sedgwick County Rural Home Occupation standards*, Sec. IV-E. 6. g.
5. Prior to commencing the vehicle repair use, a restrictive covenant shall be filed with the Register of Deeds that ties Tracts B, C and D together and prevents them from being sold individually as long as the “Rural Home Occupation, vehicle repair” use is located on Tracts B, C or D.
6. All fluids associated with the “Rural Home Occupation, vehicle repair” use shall be collected, stored and disposed of in a manner consistent with local, state or federal regulations.
7. The applicant has two years from the date of final approval, either MAPC or County Commission, in which to establish the “Rural Home Occupation, vehicle repair” use. If more time is needed the applicant may file an Administrative Adjustment to extend the time frame up to an additional year.
8. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

Adopted this 5th Day of November 2009



AGENDA ITEM NO. 4

STAFF REPORT

MAPC 11-5-2009

CASE NUMBER: CON2009-00020

APPLICANT/AGENT: Zane and Diane Miller

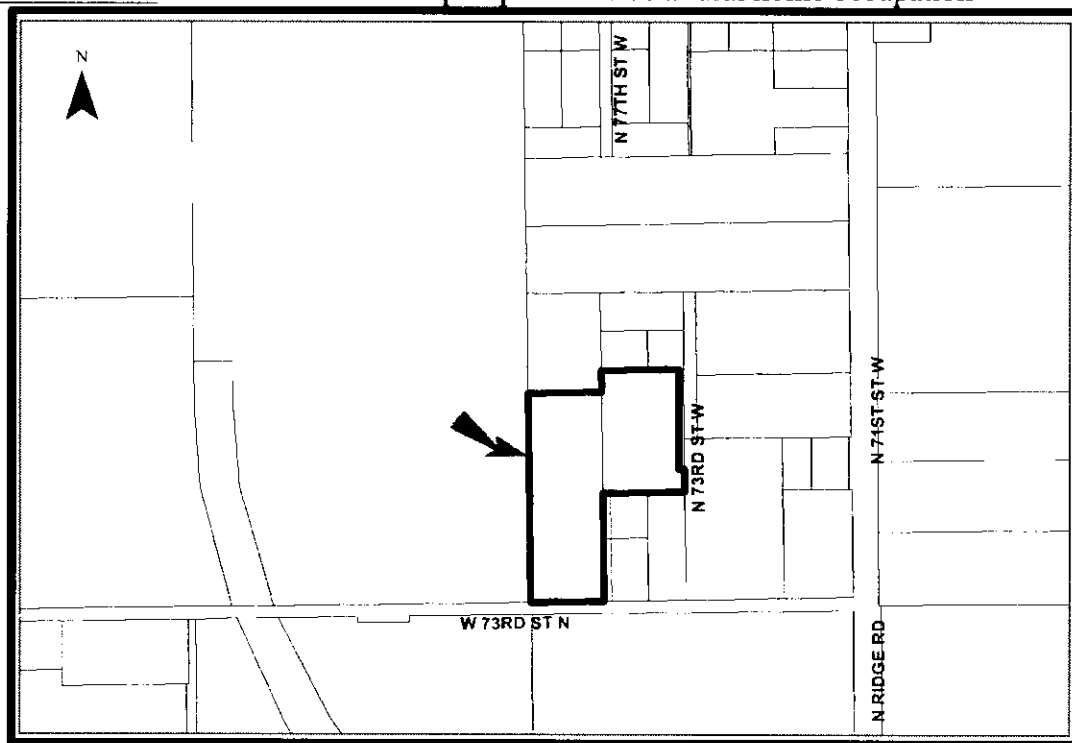
REQUEST: Conditional Use to permit "vehicle repair" as a "rural home occupation" on property less than 20 acres in size and to waive certain development standards

CURRENT ZONING: RR Rural Residential

SITE SIZE: 8.97 acres

LOCATION: North of West 73rd Street North, 1,200 feet west of North 71st Street West (Ridge Road)

PROPOSED USE: Vehicle repair permitted as a rural home occupation



BACKGROUND: The applicants own approximately 12.89 acres (Tracts A-D plus the three tracts located immediately north of Tracts A and D, see the attached site plan) zoned RR Rural Residential (“RR”) that is divided between multiple unplatted tracts located north of West 73rd Street North, approximately 1,200 feet west of North 71st Street West (Ridge Road). The applicants are seeking Conditional Use approval to operate a “rural home occupation” that permits: “automobile painting, upholstering, rebuilding, renovation, reconditioning, body and fender works and overhaul conducted entirely within an enclosed structure with no outdoor storage of vehicles, parts or equipment.” For purposes of this report, the previously listed use and vehicle repair activities will be combined into the term “rural home occupation, vehicle repair.” The application size does not conform to the minimum rural home occupation standard minimum lot size of 20 acre. The application also does not meet a number of rural home occupation standards, as described below; however these standards can be waived by the Board of County Commissioners through the Conditional Use process. (See items a and h in paragraph seven below.)

The applicants propose to use 8.97 acres (Tracts A, B, C and D on the applicants’ site plan) of their 12.89-acre ownership for a “rural home occupation, vehicle repair” use. Two of the applicants’ unplatted tracts are addressed as 7520 West 73rd Street North (Tract B) and 7451 North 73rd Street West (Tract A); the other tracts, D and C, included in the application are interior tracts without street frontage and they do not currently have assigned addresses. The property at 7520 West 73rd Street North (Tract B) has 292 feet of frontage along West 73rd Street North, which is a publicly dedicated sand and gravel section line road, the maintenance of which is the responsibility of Park Township. 7451 North 73rd Street West (Tract A) has approximately 478 feet of frontage. North 73rd Street West has the appearance of being a publicly dedicated sand and gravel road; however, as best staff can tell, the road has never been dedicated for public use and exists as an access easement.

The property at 7451 North 73rd Street West (Tract A) contains the applicants’ current residence, located on the northern end of the tract, and a 190-foot x 40-foot accessory structure (7,600 square feet) located on the southern end of the tract. There is an existing gravel parking area located immediately east of the 190 x 40-foot accessory structure that opens to the access easement. The applicants initially propose (Phase 1, six months to two years) to use the 190 x 40-foot building for the repair activity, including outside parking of vehicles that are waiting for repair or are waiting to be picked up after the repairs are completed. The size of the home occupation requested (greater than 3,000 square feet), the location of the outside parking / storage (within 200 feet of the property line) and the outside parking / storage is not completely enclosed is not consistent with home occupation standards listed in items c and d in paragraph seven below. The applicant proposes to install a board fence to screen the parking area from view from the south. The applicants are also requesting a 32-square-foot sign to be placed on the building, and an up to 12-square-foot, lighted, off-site sign to be installed at the intersection of 73rd Street and 73rd Street. Both of these requested signs are not consistent with rural home occupation standards listed in g of paragraph seven below. Since the second sign requested is located on property not owned by the applicant and was not included in this Conditional Use application it cannot be considered for a waiver; however the Metropolitan Area Planning Commission may consider the 32 square-foot building sign request.

In Phase 2 of the request, the applicants propose to build a 40 x 60 (2,400 square feet) Wix style building to house the repair use at 7520 West 73rd Street North (Tract B), and move the “rural home occupation, vehicle repair” use from Tract A to Tract B. Tract B has what appears to be a railroad car that may be serving as a residence. There are two access points to Tract B from the section line road. The applicant also proposes to build a new 50 x 75 (3,750 square feet) residence on Tract B. The applicants’ site plan depicts two drive approaches, one for the business and one for the residence. An outside parking /storage area, 75 feet by 100 feet (7,500 square feet) located west and north of the proposed “rural home occupation, vehicle repair” is to be fenced-in to provide screening for vehicles awaiting repair or to be picked up. For Tract B, the applicants propose two signs, one 32 square-feet in size to be placed on the building, and a second, lighted, sign no larger than 12 feet to be located on the southwest corner of 7520 West 73rd Street North (Tract B).

Once the “rural home occupation, vehicle repair” use has moved from 7451 North 73rd Street West (Tract A) to 7520 West 73rd Street North (Tract B), the applicants are requesting the Conditional Use on Tract A to be made null and void, leaving the Conditional Use to remain active for Tracts B, C and D (5.59 acres).

The subject area has two single-family residential tracts located to the south of Tract A and east of Tract B (7410 and 7428 West 73rd Street North) which have common property lines. The residences at 7410 and 7428 West 73rd Street are located 350 feet from the building the applicant proposes to initially use for the repair shop (Tract A), and approximately 360 and 210 feet respectively from the location of the proposed new shop at 7520 West 73rd Street North (Tract B). 7428 North 73rd Street North has a nearly solid hedgerow surrounding the site. There are some gaps along the western property line. 7410 West 73rd Street North has some pine trees planted along their northeastern property line, but they do not make a solid screen. Also to the east, the residence located at 7312 West 73rd Street North is approximately 480 feet east from the initial shop location (Tract A), but some 734 feet east from the Phase II shop (Tract B). Residences located further east at 7501 and 7465 North 71st Street West (Ridge Road) are located within 575 and 547 feet respectively of the proposed shop location on Tract A. (These last two residences located on North 71st Street West (Ridge Road) are located further than 600 feet from the proposed location of the new shop, Tract B.) The distances that do not meet the 600 foot separation (measured from the location of the home occupation to the off-site residence) requirement discussed in b of paragraph seven below will require a waiver by the County Commission.

Paragraph Seven: Article IV, Section E. 6. a-h of the *Wichita-Sedgwick County Unified Zoning Code* establishes minimum qualifying conditions for rural home occupations. Those conditions include: a) a minimum lot or tract size of 20 acres located on a federal or state highway or on a section line road; b) the rural home occupation may not be conducted within 600 feet of a dwelling that does not operate rural home occupation; c) maximum size of a rural home occupation is 3,000 square feet or less; d) outside storage is permitted provided the size of the storage area does not exceed 10,000 square feet, the outside storage is not to be located behind the front of the building containing the home occupation, is at least 200 feet away from all

property lines or public street right-of-way, screening of outside storage is required if located within 600 feet of a property line or public right-of-way, screening is to be six to eight feet in height. Wood fencing, masonry units, stone or landscaping is allowed screening material. Landscaping may also be used but it must meet minimum height requirements and be effective the first growing season and all year round; e) no more than two persons other than persons occupying the dwelling unit as their residence shall be employed in any rural home occupation; f) the principal premise is not be altered, the rural home occupation is not to create noise, vibration, electrical interference, smoke, particulate matter or odors in excess of what is ordinary and usual in the immediate neighborhood; no inventory except articles produced by member of the family residing in the residence shall be displayed or sold on the premise, the rural home occupation shall be conducted entirely within the principal structure or permitted accessory structure; g) one, on-site, non-illuminated free standing or attached to an accessory building sign up to 12 square feet in size located outside public right-of-way is permitted and h) rural home occupation not meeting these standards, but is located on no less than five acres with no more than four non-resident employees may be approved by Conditional Use.

County Code Enforcement staff has advised planning department staff that they have not been inside the building on Tract A proposed to be used initially to see if it meets current building code. The applicants are advised to contact Sedgwick County Code Enforcement at their earliest convenience to arrange for an inspection. It is possible the building may need improvements to meet Americans with Disabilities Act, electrical, fire or other code standards.

In summary, for the building located on Tract A proposed initially for the home occupation, the applicants' are asking for waivers regarding: a) size of the application area, less than 20 acres but greater the five acres; b) size of the rural home occupation, greater than the maximum 3,000 square feet recommended; c) number, size, lighting and location of signs; only one sign up to 12 square feet, no off-site signs permitted; d) 600-foot separation from neighbor's residences, the building in which the home occupation is to be operated is located inside the 600-foot separation distance and e) parking of vehicles outside, the storage of vehicles within 200 feet of the property line and lack of fully enclosed storage. Access to Tract A is questionable given the fact that the roadway appears to be a private access easement. For the second location and proposed building on Tracts B, C and D, waivers are needed for: a) tract size less than 20 acres but greater than five; b) rural home occupation located within 600 feet of an off-site residence; c) outside parking / storage located within 200 feet of the property line and d) the number, size and lighting of signage.

CASE HISTORY: The property was zoned RR Rural Residential in 1985 with the adoption of county-wide zoning.

ADJACENT ZONING AND LAND USE:

NORTH: RR, Rural Residential, residence on 1.16 acres and 2.6 vacant acres that are owned by the applicant, north of that is another large-lot residence not owned by the applicant

SOUTH: RR, Rural Residential, large-lot residences; south of West 73rd Street North,

cropland
EAST: RR, Rural Residential, multiple large-lot residences
WEST: RR, Rural Residential, cropland

PUBLIC SERVICES: On-site sewer and water services are used. West 73rd Street North has 30 feet of half-street right-of-way, and is a sand and gravel Park Township maintained section line road. Increased traffic and insufficient maintenance of West 73rd Street North concerns were raised by area residents in an earlier sand and gravel mining application. As best as staff can determine, North 73rd Street West is not a publicly dedicated road, and may be a private access easement. The site is located in the Equus Beds Management District. The trip generation manual does not have data for a rural vehicle repair shop but using the data the manual has for a quick lube use, this use could generate an average of between one and five trips per day.

CONFORMANCE TO PLANS/POLICIES: The application area is located in a part of Sedgwick County that has been designated by the *Wichita and Small Cities 2030 Urban Growth Areas* map as being “rural.” This land use category encompasses land located outside the 2030 urban growth areas for Wichita and the small cities. This category is intended to accommodate agricultural uses and rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County. “Commercial locational guideline” No. 5 discourages putting commercially generated traffic onto local residential roads. The Comprehensive Plan does not list specific policies for rural home occupations, however the Rural Home Occupation section of the *Wichita-Sedgwick County Unified Zoning Code*, Sec. IV-E. 7 enumerates specific uses that, due to the characteristics associated with the use, would not be appropriate in residential areas developed with smaller urban density lots, but because of the larger lots associated with rural land ownership may be appropriate in rural settings. Section IV-E. 6 defines characteristics and development standards designed to eliminate or mitigate foreseeable impacts caused by these uses. The standards for a rural home occupation have been enumerated above, and the areas where waivers of the recommended standards are being requested have been previously listed.

RECOMMENDATION: Because of the number of waivers needed (eight), to make the building proposed to be used initially on Tract A for the home occupation, and the lack of publicly dedicated access to Tract A, staff cannot recommend approval of a “rural home occupation, vehicle repair” in the proposed building located at 7451 North 73rd Street West (Tract A). Staff supports the use on Tracts B, C and D, Phase 2. Based upon information available prior to the public hearings, planning staff recommends that the use be APPROVED ONLY for tracts B, C and D, subject to the following conditions:

1. CON2009-00020 permits a rural home occupation: automobile painting, upholstering, rebuilding, renovation, reconditioning, body and fender works and overhaul conducted entirely within an enclosed structure with no outdoor storage of vehicles, parts or equipment” as specified in Sec IV-E. 6. a-h and 7. e of the *Wichita-Sedgwick County Unified Zoning Code* except as specifically modified by this Conditional Use approval for 7520 West 73rd Street North, Tracts B, C and D, as identified on the approved site plan.
2. The following waivers dealing with the use identified in 1 above are granted: the use may be

operated on a site with less than 20 acres but greater than five acres; the use may be located closer to off-site residences than 600 feet; parking of vehicles waiting for repair or to be picked up outside the screened 75 x 100-foot outside parking / storage area identified on the site plan is permitted for up to 24 hours, otherwise all vehicles are to be parked or stored inside the 75 x 100-foot storage area shown on the site plan or inside the vehicle repair building. Outside parking / storage of vehicles in accordance with the previous sentence is permitted within 200 feet of the property line.

3. The site shall be developed in substantial conformance with the approved site plan. The site and the use shall be operated and maintained in conformance with all *Wichita-Sedgwick County Zoning Code*, building, environmental, health or other applicable codes, not specifically modified by this Conditional Use. The use may begin operation only when fully compliant with all applicable codes.

4. Signage shall be per the Rural Home Occupation standards listed in the Wichita-Sedgwick County Rural Home Occupation standards, Sec. IV-E. 6. g.

5. Prior to commencing the vehicle repair use, a restrictive covenant shall be filed with the Register of Deeds that ties Tracts B, C and D together and prevents them from being sold individually as long as the “Rural Home Occupation, vehicle repair” use is located on Tracts B, C or D.

6. All fluids associated with the “Rural Home Occupation, vehicle repair” use shall be collected, stored and disposed of in a manner consistent with local, state or federal regulations.

7. The applicant has two years from the date of final approval, either MAPC or County Commission, in which to establish the “Rural Home Occupation, vehicle repair” use. If more time is needed the applicant may file an Administrative Adjustment to extend the time frame up to an additional year.

8. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator 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: All properties surrounding the application area are zoned RR Rural Residential and are used for large-lot residential or farmsteads or agricultural uses. The character of the larger area is clearly agricultural with large-lot residences scattered among crop land.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR Rural Residential that permits, by right: agriculture, single-family residences on two-acre or larger lots and a limited set of low intensity non-residential uses. The Unified Zoning Code also permits, by right, a limited set of Rural Home Occupation uses, including vehicle repair if the Rural Home Occupation can meet the development standards associated with Rural Home Occupations. In this instance, the part of the application dealing with Tract A will need at least eight different waivers to operate as a Rural Home Occupation. An application requiring that many waivers does not seem consistent with the spirit and intent of the code’s Rural Home Occupation standards, however, the portion of the application dealing with Tracts B, C and D is more