



Wichita-Sedgwick County Metropolitan Area Planning Department

November 3, 2008

Catholic Diocese of Wichita
424 N Broadway
Wichita, KS 67202

RE: CON2008-00035 - County Conditional Use for a cemetery on property zoned RR Rural Residential; generally located northwest of the intersection of K-42 and W. 71st Street South.

Dear Ladies and Gentlemen:

At its regular meeting on **September 25, 2008**, 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 stated in the enclosed resolution.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Derrick K. Slocum'.

Derrick K. Slocum
Associate Planner
Current Plans Division

DKS:mc
Enclosure

Copies to: Karl Hesse, 1551 N. Waterfront Parkway, Wichita, KS
Tom Winters, Mail Stop, County Rm 320
Bill Buchanan, Mail Stop, County Rm 343
Bob Parnacott, Mail Stop, County Rm 359
Jim Weber, 1144 S. Seneca, Wichita, KS 67213
Glen Wiltse, 1144 S. Seneca, Wichita, KS 67213

CONDITIONAL USE RESOLUTION NO. CON2008-00035

WHEREAS, The Catholic Diocese of Wichita (applicant); pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), request a Conditional Use for a Cemetery on 2.50 acres zoned "RR" Rural Residential described as:

A tract of land in the SE/4 of Section 32, Township 28 South, Range 2 West of the 6th Principal Meridian, Sedgwick County, Kansas, and all or parts of certain lots in Wall's Addition to Clonmell, being more particularly described as follows:

Commencing at the SE Corner of Section 32, T28S, R2W of the 6th P.M., thence N 90°W along the South line of said SE/4, 1203.51 feet to a point 115 feet East of the SW corner of the SE/4 of said SE/4; thence N0°06'57"W parallel with the East line of said SE/4, a distance of 690 feet to a point on the North line of Block 2 and 15 feet West of the NE corner of Lot 8, Wall's Addition to Clonmell, Sedgwick County, Kansas; thence continuing N0°06'57"W a distance of 60 feet to a Point of Beginning; thence continuing N0°06'57"W a distance of 130 feet; thence N90°E, a distance of 495 feet; thence S0°06'57"E, 130 feet; thence N90°W a distance of 495 feet to the point of beginning;

Along with

The East 15 feet of Lot 8 and Even Lots 10 through 44 inclusive, Block 2, Wall's Addition to Clonmell, Sedgwick County, Kansas

Along with

The vacated portion of Washington Avenue lying west of the center line of Cashel Street extended to the north line of Washington Avenue and east of the west line of Orchard Street, as platted in Wall's Addition to Clonmell, Sedgwick County, Kansas, EXCEPT the west 115.00 feet thereof.

Along with

The vacated portion of the west half of Cashel Street lying north of the north line of the alley north of Church Street as platted in Wall's Addition to Clonmell, Sedgwick County, Kansas. Generally located northwest of the intersection of K-42 and W. 71st Street South

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 September 25, 2008, 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 Conditional Use for a Cemetery on 2.50 acres zoned "RR" Rural Residential described as:

A tract of land in the SE/4 of Section 32, Township 28 South, Range 2 West of the 6th Principal Meridian, Sedgwick County, Kansas, and all or parts of certain lots in Wall's Addition to Clonmell, being more particularly described as follows:

Commencing at the SE Corner of Section 32, T28S, R2W of the 6th P.M., thence N 90°W along the South line of said SE/4, 1203.51 feet to a point 115 feet East of the SW corner of the SE/4 of said SE/4; thence N0°06'57"W parallel with the East line of said SE/4, a distance of 690 feet to a point on the North line of Block 2 and 15 feet West of the NE corner of Lot 8, Wall's Addition to Clonmell, Sedgwick County, Kansas; thence continuing N0°06'57"W a distance of 60 feet to a Point of Beginning; thence continuing N0°06'57"W a distance of 130 feet; thence N90°E, a distance of 495 feet; thence S0°06'57"E, 130 feet; thence N90°W a distance of 495 feet to the point of beginning;

Along with

The East 15 feet of Lot 8 and Even Lots 10 through 44 inclusive, Block 2, Wall's Addition to Clonmell, Sedgwick County, Kansas

Along with

The vacated portion of Washington Avenue lying west of the center line of Cashel Street extended to the north line of Washington Avenue and east of the west line of Orchard Street, as platted in Wall's Addition to Clonmell, Sedgwick County, Kansas, EXCEPT the west 115.00 feet thereof.

Along with

The vacated portion of the west half of Cashel Street lying north of the north line of the alley north of Church Street as platted in Wall's Addition to Clonmell, Sedgwick County, Kansas. Generally located northwest of the intersection of K-42 and W. 71st Street South

Approved subject to the following conditions:

1. The site shall be developed in general conformance with the approved site plan.
2. Development and use of the subject property shall be in accordance with all applicable federal, state, and local rules and regulations, including building and construction codes, health codes, and operational standards.
3. 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 the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

- Adopted this 25th Day of September 2008

METROPOLITAN AREA PLANNING COMMISSION

Darrell Downing
Darrell Downing, Chair MAPC

ATTEST:

John L. Schlegel
John L. Schlegel, Secretary

STAFF REPORT

MAPC September 25, 2008

CASE NUMBER: CON2008-00035

APPLICANT/AGENT: Catholic Diocese of Wichita (Owner)
Karl Hesse (Agent)

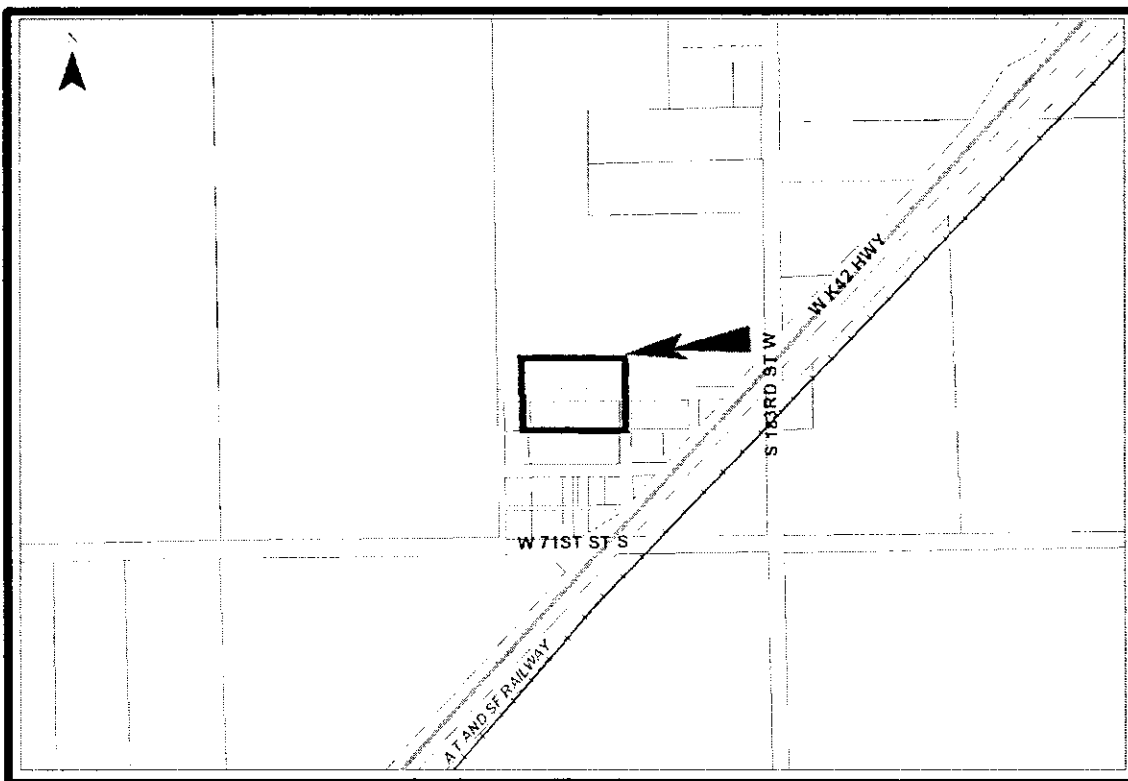
REQUEST: Conditional Use for a Cemetery

CURRENT ZONING: RR Rural Residential ("RR")

SITE SIZE: Total Area = 2.50

LOCATION: Generally located northwest of the intersection of K-42 and West 71st Street South.

PROPOSED USE: Cemetery



BACKGROUND: The applicant owns an existing non-conforming cemetery, and wishes to expand the area of the existing cemetery. Both properties are currently zoned RR Rural Residential ("RR"), and are located at the northwest corner of 71st Street South and K-42; in the unincorporated town of Clonmel (see attached site plan). Cemeteries are permitted by the "Unified Zoning Code" only with Conditional Use approval in the RR zone district; therefore, the applicant has requested a Conditional Use for a cemetery for the existing cemetery, and for the proposed cemetery expansion. Combined, these two tracts total 2.5 acres. The application area is part of the St. John Catholic Church campus.

The surrounding properties are primarily developed with other church facilities, a farmstead and agricultural uses. The surrounding property is zoned RR. The property to the north, west and east is developed as a farmstead, while the property to the south is developed with a church.

CASE HISTORY: The applicant's property is platted as the Walls Addition to Clonmel, which was recorded on April 9, 1907. The Walls Addition included unimproved platted roads, Cashel and Washington; they are currently going through the process of vacation (VAC2008-00024) to be included within the area of the proposed cemetery.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Farmstead
SOUTH:	RR	Church
EAST:	RR	Agricultural Land
WEST:	RR	Farmstead

PUBLIC SERVICES: The site is located approximately 450 feet from 71st Street South and K-42. 71st Street South is a paved two lane major rural collector and K-42 is a paved two lane minor arterial. (Source: Federal Roadway Functional Classification Map, WAMPO) The most recent traffic count for K-42 occurred in 2006 with a count near this location of 9,090 Average Daily Trips ("ADTs"). The most recent traffic count on 71st Street near this location occurred in 2007 with a count of 714 ADTs. The site is served by Rural Water District #4 and a lagoon.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Rural" development. 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 (normally with lot sizes of 2 acres or more) with provisions for individual, or community water and sewer services. Since the proposed use is a cemetery, that is considered a public and institutional use. The Public/Institutional Locational Guidelines of the Comprehensive Plan recommend that public and institutional facilities should have convenient access to arterial streets, public transportation and major utility trunk lines. However, the authors were probably not thinking of cemetery uses when that guideline was recommended.

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

1. The site shall be developed in general conformance with the approved site plan.

2. Development and use of the subject property shall be in accordance with all applicable federal, state, and local rules and regulations, including building and construction codes, health codes, and operational standards.
3. 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 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 surrounding properties are primarily developed with other church facilities, a farmstead and agricultural uses. The surrounding property is zoned RR. The property to the north, west and east is developed as a farmstead, while the property to the south is developed with a church.
2. **The suitability of the subject property for the uses to which it has been restricted:** The property is zoned RR Rural Residential ("RR"). With a Conditional Use, a cemetery is permitted in the RR zone district. Part of the application area is already used as a cemetery owned by the nearby church. This application is to expand, and to bring in to conformance, the existing cemetery. This site will continue to be used as such in the future.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The development standards of the Unified Zoning Code should limit any detrimental affects of the proposed cemetery on nearby property.
4. **Conformance of the requested change to adopted or recognized Plans/Policies:** The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Rural" development. 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 (normally with lot sizes of 2 acres or more) with provisions for individual, or community water and sewer services. Since the proposed use is a cemetery, that is considered a public and institutional use. The Public/Institutional Locational Guidelines of the Comprehensive Plan recommend that public and institutional facilities should have convenient access to arterial streets, public transportation and major utility trunk lines. However, the author of that guideline was probably not thinking of a cemetery use when that guideline was recommended. A cemetery use at this location is consistent with adopted land use practices.
5. **Impact of the proposed development on community facilities:** The proposed cemetery will have significantly less impact on community facilities than other uses permitted by right on the applicant's property.

