



Wichita-Sedgwick County Metropolitan Area Planning Department

March 28, 2011

KE Miller Engineering,
C/O Kirk Miller
516 S Market Wichita, KS, 67202

RE: CON2011-00005 - City Conditional Use request for a "Day Care, General" on property zoned SF-5 Single-Family Residential, generally located west of Arkansas Avenue and north of 25th Street North.

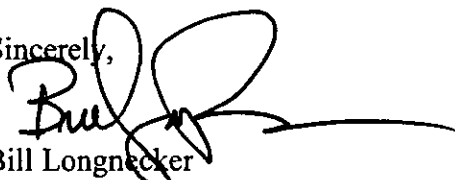
Dear Ladies and Gentlemen:

At its regular meeting on **February 24, 2011**, 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 on the attached resolution.

This action was not accompanied by valid appeals of protest petitions. Therefore, the action of the Planning Commission is **FINAL**. If you have any questions concerning this case, please contact our office.

This is a reminder that the zoning notification signs should now be removed from the property. If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,


Bill Longnecker
Senior Planner
Current Plans Division

WL: mc
Enclosure

Copies to: WCC VI, Janet Miller, Mail Stop 1-13
N.A. VI, Terri Dozal, Mail Stop 1-135
Julianne Kallman, Engineering, Mail Stop 1-71
John Philbrick, Property Management, Mail Stop 1-135
City Hall • 10th Floor • 455 North Main • Wichita, Kansas 67202-1688

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Board of Park Commissioners, c/o Doug Kupper, Mail Stop 1-111
Benjamin Hills NA, c/o Tim Devine, 2020 W 21st St., N #201, Wichita, KS, 67203
El Pueblo NA, c/o Rudy Reyes, 1820 Sedgwick, Wichita, KS, 67203
Kurt Schroeder, Office of Central Inspection, Mail Stop 1-72
Paul Hays, Office of Central Inspection, Mail Stop 1-72
J.R. Cox, Office of Central Inspection, Mail Stop 1-72

CONDITIONAL USE RESOLUTION NO. CON2011-00005

WHEREAS, the Board of Park Commissioners(Owner), c/o John Philbrick (Agent); 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 "Day Care, General," on approximately 1.3-acres zoned SF-5 Single-Family Residential ("SF-5") described as:

A PORTION OF LOT 1, EVERGREEN PARK, WICHITA, SEDGWICK COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE NORTH 00°56'27" WEST (BASIS OF BEARING IS NAD83 GRID KANSAS SOUTH ZONE) ALONG THE EAST LINE OF SAID LOT 1 A DISTANCE OF 175.00 FEET; THENCE NORTH 13°05'44" EAST ALONG THE EAST LINE OF SAID LOT 1 A DISTANCE OF 41.25 FEET FOR THE POINT OF BEGINNING; THENCE SOUTH 88°58'20" WEST PARALLEL WITH THE SOUTH LINE OF SAID LOT 1 A DISTANCE OF 270.50 FEET TO THE WEST LINE OF SAID LOT 1; THENCE NORTH 00°59'14" WEST ALONG THE WEST LINE OF SAID LOT 1 A DISTANCE OF 68.85 FEET TO THE NORTHEAST CORNER OF THE SOUTH EXCEPTION AS SHOWN ON SAID EVERGREEN PARK; THENCE SOUTH 88°59'21" WEST ALONG THE SOUTH LINE OF SAID LOT 1 A DISTANCE OF 160.34 FEET; THENCE NORTH 01°00'40" WEST 256.51 FEET; THENCE NORTH 50°17'05" EAST 231.32 FEET; THENCE NORTH 88°58'20" EAST PARALLEL WITH THE SOUTH LINE OF SAID LOT 1 A DISTANCE OF 265.86 FEET TO THE EAST LINE OF SAID LOT 1; THENCE SOUTH 00°56'27" EAST ALONG THE EAST LINE OF SAID LOT 1 A DISTANCE OF 410.04 FEET; THENCE SOUTH 13°05'44" WEST ALONG THE EAST LINE OF SAID LOT 1 A DISTANCE OF 61.83 FEET TO THE POINT OF BEGINNING, **EXCEPT THE EAST 250.00 FEET**, ; generally located west of Arkansas Avenue and north of 25th 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 February 24, 2011, 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 MAPC that this application be approved to allow a Conditional Use for a "Day Care, General," on approximately 1.3-acres zoned SF-5 Single-Family Residential ("SF-5") described as:

A PORTION OF LOT 1, EVERGREEN PARK, WICHITA, SEDGWICK COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE NORTH 00°56'27" WEST (BASIS OF BEARING IS NAD83 GRID KANSAS SOUTH ZONE) ALONG THE EAST LINE OF SAID LOT 1 A DISTANCE OF 175.00 FEET; THENCE NORTH 13°05'44" EAST ALONG THE EAST LINE OF SAID LOT 1 A DISTANCE OF 41.25 FEET FOR THE POINT OF BEGINNING; THENCE SOUTH 88°58'20" WEST PARALLEL WITH THE SOUTH LINE OF SAID LOT 1 A DISTANCE OF 270.50 FEET TO THE WEST LINE OF SAID LOT 1; THENCE NORTH 00°59'14" WEST ALONG THE WEST LINE OF SAID LOT 1 A DISTANCE OF 68.85 FEET TO THE

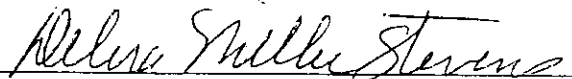
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Approved subject to the following conditions:

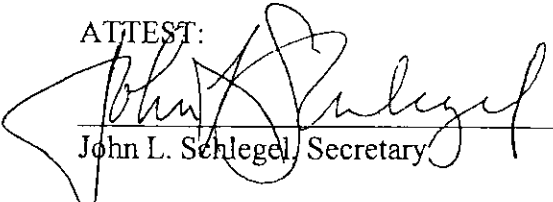
1. All applicable requirements of Art III, Sec III-D.6.i of the Unified Zoning Code shall be met.
2. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
3. The applicants will provide a site plan, showing proposed landscaping, screening, signage and lighting. Signage will be per the LC zoning district and a monument type.
4. The height of the day care building will be 35 feet, which is the maximum height allowed in the SF-5 zoning district. Pole lighting on the site will be no taller than the existing pole lights in the parking lots of Evergreen Park.
5. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
6. 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 Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

Adopted this 24 Day of February 2011

METROPOLITAN AREA PLANNING COMMISSION


Debra Miller Stevens, Chair MAPC

ATTEST:


John L. Schlegel, Secretary

BACKGROUND: The applicant is requesting a Conditional Use to operate a “day care, general.” The applicant proposes to build an approximately 28,000-square foot, single story building for a day care/Pre-K TOP Learning Center (2 ½ years old - school age) that will house 200 children at any one time. The Unified Zoning Code (UZC, Art II, Sec II-B., 4a & b) defines a day care, general as an establishment that allows for the care, protection and supervision of more than 10 individuals at one time on a regular bases away from their primary residence for less than 24 hours per day. The day care will be located on approximately 1.3-acres of the 26.8-acre Evergreen public park. Evergreen is zoned SF-5 Single-family Residential (“SF-5”), with the exception of a 250-foot wide portion running the length (25th to 27th Streets North) of its Arkansas Avenue frontage and an east portion of its 25th Street North frontage. These frontages are zoned LC Limited Commercial (“LC”). Most of the proposed day care building is located within the LC zoned portion of the park, but the west (back) portion of the building is located in the SF-5 zoned portion of the park. A day care, general is permitted by right in the LC zoning district and it can be considered as a Conditional Use in the SF-5 zoning district, thus the request.

The conditions for a day care, general in the in the SF-5 zoning district, per Art III, Sec III-D 6.i of the UZC are: (a) Day care centers shall comply with all applicable state regulations; (b) When located in the residence of the care provider in a residential zoning district, day care centers shall comply with the general home occupation standards of Sec IV-E-3; (c) Outdoor play shall be limited to the hours of 7:30 a.m to 6:30 p.m., if located within 100 feet of a lot containing a dwelling unit, and; (d) Provisions of parking spaces in Art IV, Sec IV-A, 4 may be provided by shared parking when the day care is located within an existing church or place of worship, however the day care shall provide convenient off-street loading facilities as required.

The proposed day care’s operation schedule is Monday-Friday, 7:30 a.m. to 5:30 p.m., all year round except for one week in August and the December holiday season. Besides the maximum 200 children on site at any one time, there will also be an average 26 staff members present at any one time, depending on the time of year, time of day and enrollment. The proposed playground area is located on the west side of the site, behind the day care building, approximately 300 feet from the nearest (east across Arkansas Avenue) lots with single-family residences. The playground will be separated from the rest of the park by a six-foot tall chain link fence. The applicant proposes 30-foot tall parking lot lights, as well as six security lights, with those on the west side of the building directed out onto the playground. Elevations of the proposed facility were provided. The site plan shows a proposed parking lot with 131 parking spaces. The proposed parking appears to attempt to provide enough spaces for parents to park for pick up and drop off of their children, and to eliminate the need for a queuing area. The proposed parking exceeds (by more than double) the standards required for a day care general; UZC, Art.IV, Sec.IV, A.4. A contract with USD 259 may provide bussing to the day care. The site plan appears to show existing trees overlaid by the day care building and its parking lot.

Evergreen Park, the abutting (south) USD 259 Cloud Elementary school site, and the adjacent (south across 25th Street North) Schell Park are the largest land uses in the area. All are zoned SF-5, with the noted exception of Evergreen’s Arkansas Avenue and 25th Street North frontages’ being zoned LC. Evergreen has a community building complex located in its western third, with common parking connecting it to the park’s swimming pool, basketball court and tennis court.

Another stand alone community building is located at the northwest corner of Arkansas and 25th, with a playing field located above it, in the northeast portion of the park. The proposed day care site is located between the stand alone community building (closest) and the playing field. The area's LC zoned properties located along Arkansas and 25th are relatively small in size and are developed as retail, a meat market, a restaurant, a couple of garages and a car sales lot. SF-5 and TF-3 Two-Family Residential zoned Single-family residential neighborhoods surround the parks and elementary school site. There is also an SF-5 zoned electric power generator located against the north side of the park, off of 27th Street North.

CASE HISTORY: The subject site is part of the Evergreen Park Addition, which was recorded with the Register of Deeds July 21, 1976.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5, LC, TF-3	Parkland with playing fields, electric power generator, single-family residences
EAST:	LC, TF-3, GO	Retail, meat market, garage, single-family residences, duplex, apartment
SOUTH:	B, LC, SF-5	Parkland with community building, retail, restaurant, garage, car sales lot, parkland with playing fields and playground
WEST:	SF-5	Parkland with swimming pool, tennis court, basketball court, community center, elementary school with playing fields

PUBLIC SERVICES: The site has direct access onto Arkansas Avenue, a paved two-lane, minor arterial with 50-foot of half street right-of-way along the Evergreen side. The right-of-way expands to 75 feet for a future turn lane onto 25th Street North. 25th is a paved two lane minor arterial, with a turn lane on the west side of the intersection. The 2030 Transportation Plan shows no change to these streets' status. All services/utilities are available to serve the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Functional Land Use Guide classifies the site, the SF-5 and LC zoned Evergreen Public Park, as "park and open space." It defines "park and open space" as land meant to accommodate parks, golf courses, public open space, private development reserves and recreational facilities/corridors (including natural drainage channels, easements, abandoned railway corridors, etc.). The UZC classifies day cares as a "public and civic" use. The policies of the UZC allow consideration of day care general as a Conditional Use in the SF-5 zoning district, with application of the standards of Art III, Sec III-D.6.i and on a site by-site consideration. The "Public/Institutional Location Guidelines of the Comprehensive Plan" states that these uses that serve residential areas should be grouped together along with the neighborhood commercial centers and located near parks or along intersections of greenways/recreational corridors. It also states that they should have convenient access to arterial streets and public transportation. The proposed Conditional Use is located immediately next residential neighborhoods that it can serve. The proposed day care/learning center will be located in a public park and in close proximity to a public school, thus extending a complimentary use to these established uses. The proposed daycare/learning center is not out of

character with the existing uses in the area. The site has direct access to a minor arterial, which in turn connects to another minor arterial, keeping most traffic out of the surrounding residential neighborhoods. If not for the site's western portion being in SF-5 zoning the site's eastern LC zoning would have permitted it by right.

RECOMMENDATION: Based on the information available prior to the public hearing, planning staff recommends that CON2011-00005 be APPROVED subject to the following conditions:

1. All applicable requirements of Art III, Sec III-D.6.i of the Unified Zoning Code shall be met.
2. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
3. The applicants will provide a site plan, showing proposed landscaping, screening, signage and lighting. Signage will be per the LC zoning district and a monument type.
4. The height of the day care building will be 35 feet, which is the maximum height allowed in the SF-5 zoning district. Pole lighting on the site will be no taller than the existing pole lights in Evergreen Park. *Parking lot lighting*
5. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
6. 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 Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

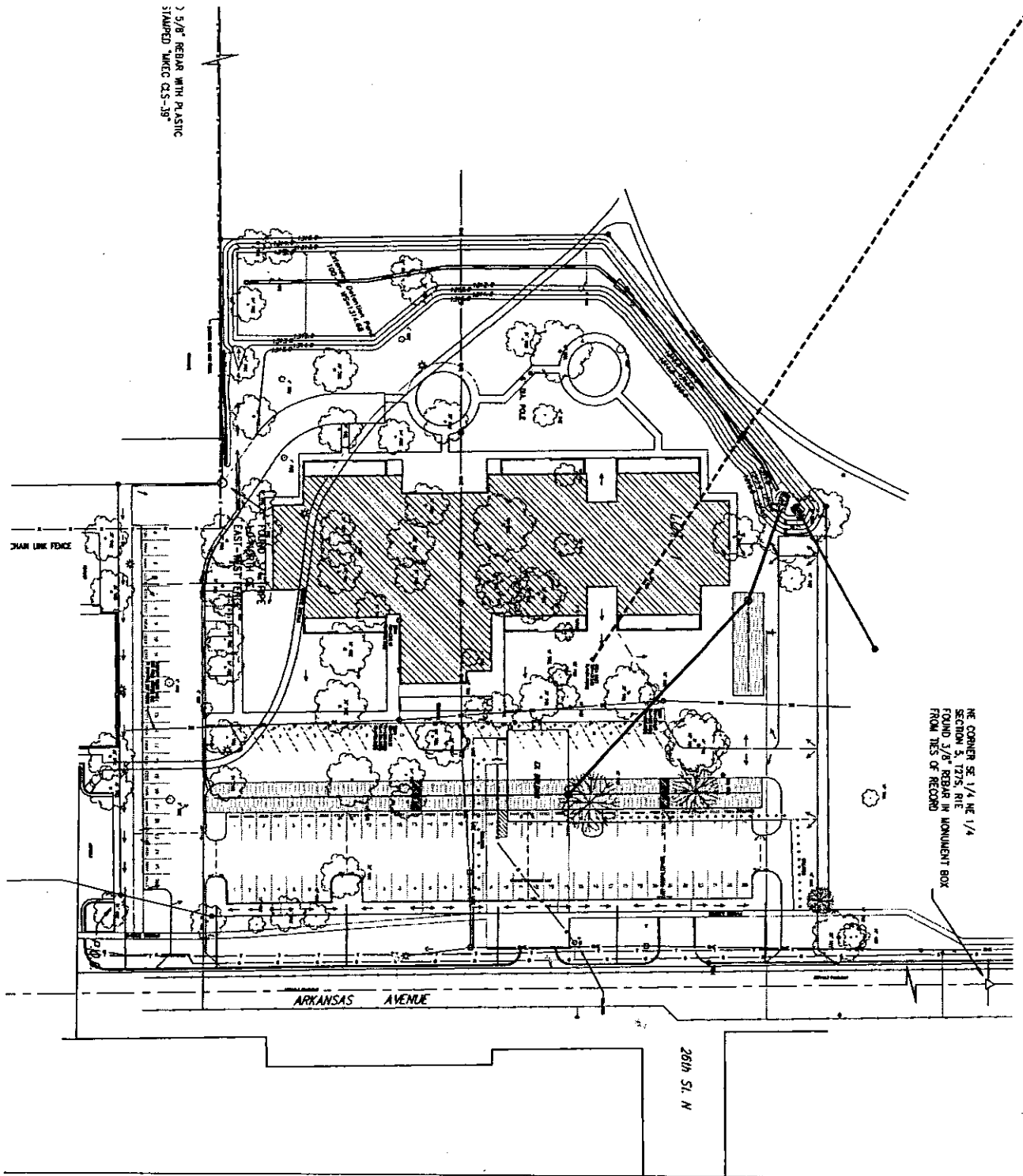
This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Evergreen Park, the abutting (south) USD 259 Cloud Elementary school site, and the adjacent (south across 25th Street North) Schell Park are the largest land uses in the area. All are zoned SF-5, with the noted exception of Evergreen's Arkansas Avenue and 25th Street North frontages' being zoned LC. Evergreen has a community building complex located in its western third, with common parking connecting it to a swimming pool, a basketball court, and tennis court. Another stand alone community building is located at the northwest corner of Arkansas and 25th, with a playing field located above it, in the northeast portion of the park; the proposed day care site is located between the stand alone community building (closest) and the playing field. The area's LC zoned properties located along Arkansas and 25th are relatively small in size and are developed as retail, a meat market, a restaurant, a couple of garages, and a car sales lot. SF-5 and TF-3 Two-Family Residential zoned Single-family residential neighborhoods surround the parks and elementary school site. There is also an SF-5 zoned electric power generator located against the north side of the park, off of 27th Street North.
2. The suitability of the subject property for the uses to which it has been restricted: The site is part of Evergreen Public Park and is now open space. The site could continue

to be used in this matter or be developed as playing fields or another community building. The proposed day care/learning center is not out of character with the park's existing development or with the nearby (and abutting the park) USD 259 Cloud Elementary school site.

3. Extent to which removal of the restrictions will detrimentally affect nearby property:
The proposed day care/learning center is not out of character with the park's existing development or with the nearby (and abutting the park) USD 259 Cloud Elementary school site. The conditions of the Conditional Use will help to minimize negative impact on the area, which is largely confined to an increase of traffic in the area. However the site has direct access to a minor arterial, Arkansas Avenue, which in turn connects to another minor arterial, 25th Street North, thus keeping most traffic out of the surrounding residential neighborhoods. This type of street access is recommended by the Location Guidelines of the Comprehensive Plan.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The 2030 Functional Land Use Guide classifies the site, the SF-5 and LC zoned Evergreen Public Park, as "park and open space." It defines "park and open space" as land meant to accommodate parks, golf courses, public open space, private development reserves and recreational facilities/corridors (including natural drainage channels, easements, abandoned railway corridors, etc.). The UZC classifies day cares as a "public and civic" use. The policies of the UZC allow consideration of day care general as a Conditional Use in the SF-5 zoning district, with application of the standards of Art III, Sec III-D.6.i and on a site by-site consideration. The "Public/Institutional Location Guidelines of the Comprehensive Plan" states that these uses that serve residential areas should be grouped together along with the neighborhood commercial centers and located near parks or along intersections of greenways/recreational corridors. It also states that they should have convenient access to arterial streets and public transportation. The proposed Conditional Use is located immediately next to residential neighborhoods that it can serve. The proposed day care/learning center is located in a public park and in close proximity to a public school, thus extending a complimentary use to these established uses. The daycare/learning center is not out of character with the existing uses in the area. The site has direct access to a minor arterial, which in turn connects to another minor arterial, keeping most traffic out of the surrounding residential neighborhoods. If not for the site's western portion being in SF-5 zoning the site's eastern LC zoning would have permitted it by right.
5. Impact of the proposed development on community facilities: There will be traffic increases onto Arkansas Avenue, Mondays – Fridays, 7:30 a.m. to 5:30 p.m.

CON 2011-05



SITE PLAN

APPROVED March 14 BY *Bull Conner*