



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

September 14, 2007

Ken & Susan Lockwood,  
PO Box 9481  
Wichita, KS, 67277

**RE: CON2007-00014** – Amendment #1 CON2004-10, a Conditional Use for Community assembly (a birds of prey rehabilitation and educational facility, i.e., raptor center), to allow the expansion of the site, to allow more structures on the site, to raise the maximum number of people allowed on the site at any one time.

Dear Ladies and Gentlemen:

At its regular meeting on **June 20, 2007** the Sedgwick County Board of County Commissioners voted to **APPROVE** CON2007-14, with an approved site plan and the following conditions, with approved amended conditions shown in bold:

1. The approximately 5.05-acre site shall be developed and maintained in accordance with a revised site plan approved by the Planning Director, showing screening, lighting, landscaping, parking, setbacks, easements and all buildings in conformance with the UZC. Buildings, structures and activity areas allowed on the site shall be limited to; (a) The applicants' residence, a 16-ft (x) 32-ft education building (allowed per amendment #1), a 40-ft (x) 50-ft educational building (allowed per amendment #1), a 12-ft (x) 20-ft bathroom & a 24-ft (x) 36-ft pavilion; (b) a 20-ft (x) 100-ft exhibit pen(s) with seating, a 26-ft (x) 32-ft eagle pen with seating (allowed per amendment #1), a 10-ft (x) 10-ft rehab pen (allowed per amendment #1), a 10-ft (x) 20-ft rehab pen (allowed per amendment #1), & two (2) 24-ft (x) 24-ft bird pens; (c) a 195-ft (x) 70-ft parking area, an eagle nest model (allowed per amendment #1), walking paths (one additional allowed per amendment #1), and an educational area with seating and a campfire located by the creek (allowed per amendment #1) as shown on the approved site plan.
2. All outdoor facilities will be located a required 200 feet from any neighboring residences and 50-foot from adjoining properties.
3. Cleaning of the facility shall be performed as often as necessary to maintain sanitary conditions, in such a manner as to minimize odors and disease hazard. A "suitable method" of eliminating excess water and feces from the facilities

uses that are no more offensive than normal agricultural uses, and larger lot residential subdivisions (with lot sizes of 2-acres or more) with provisions for individual or community water & sewer services. The UZC lists "community assembly" as a Conditional Use in multiple zoning districts, including the sites "RR" zoning, but gives no specific conditions to apply to it.

**RECOMMENDATION:** Although the site is located in far west, rural Sedgwick County, this particular area has, from 2003 to the present, had three Conditional Use cases considered, on two abutting properties. These cases ran somewhat counter to the two most recent (1970s and 2000) development trends of the area: large tract single-family residences. CON2003-42, abutting the applicants' western property line, proposed a 118-acre development with large single-family lots, each with hangers for private aircraft and access to a private airstrip. This request was denied by the MAPC (5-5), as recommended by staff. The property owners in the area protested CON2003-42, expressing concern over public safety issues associated with incoming and out going aircraft, aircraft noise, fires, the impact of the proposed use on cattle, horses and wildlife in the area, drainage and a loss of property value and privacy. The applicants were one of the protesters. CON2004-10, is current applicants' original 3.25-acre raptor center, which (as previously stated) was recommended by Staff, and approved by the MAPC, without protest. The intent of CON2004-10 (as is any approved Conditional use) was to integrate a unique nonprofit educational use into rural Sedgwick County, with a minimum of negative impact in the area. As approved the center's activities are almost entirely outside.

CON2004-10, an amendment to CON2004-10, is the latest and current case. The amendment proposes an expansion of the 3.25-acre raptor center to the applicants' full 20-acres, to allow five structures for the raptor center, to expand the hours of operation to allow camping, and to increase the maximum number of people allowed on the site at any one time to 45-55 people. Based upon information available prior to the public hearings, planning staff recommends that (a) the expansion of the raptor center to the applicants' property's full 20-acres and (b) the proposed expansion of hours and camping be DENIED. Staff also recommends APPROVAL of (a) the maximum number of people allowed on the site at any one time be limited to 45 people and (b) that two additional rehab pens, an additional eagle pen, two future educational buildings be permitted, as shown on the proposed site plan. The applicants would be required to obtain all permits and inspections for structural additions to the property, and to check with the County to insure that its current septic system is adequate for the 10 additional people allowed on site at any one time. A revised site plan will be presented, reflecting the area of the raptor center to be located as generally outlined by staff on the applicants' site plan and including additional tree plantings along south sides of the proposed educational facilities.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The zoning of the subject property and all properties surrounding it is "RR." Uses and the character of the surrounding area are primarily agricultural with established large tract single-family residences and farmsteads. Since 2001 there have been five single-family

residences built in the area, including the applicants' residence.

2. The suitability of the subject property for the uses to which it has been restricted: The "RR" Rural Residential zoning district is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and larger lot residential development. The site's current 3.25-acre, non-profit birds of prey rehabilitation and educational facility (community assembly) was permitted by CON2004-10, with conditions. Until recent complaints CON2004-10 seemed to be working.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The intent of CON2004-10, was to integrate a unique nonprofit educational activity into rural Sedgwick County, with a minimum of negative impact in the area. The raptor's center's relative small size (3.25-acres out of 20-acres), its location within the applicants' 20-acre property, approved landscaping, spacing requirements and other conditions provided a buffer between its mostly outdoor activities and its neighbors. This was thought to benefit the birds within the center as well as the neighbors. The proposed expansion to the property's full 20-acres removes any buffering space between the raptor center and its neighbors. The proposed camping effectively makes the center open 24-hours per day, 7 days a week, thus no down time for the neighbors in regards to relief from activity at the raptor center. Although the applicant has checked with Sedgwick County Fire (which contacted staff), it is possible that the proposed camping could increase the chances for a fire to breakout in the area. The proposed increase from a maximum of 35 people allowed on the site at one time to 45-55 people could potentially make the existing parking insufficient and lead to an increase of traffic in the area. The proposed additional structures don't seem much different than what is allowed by right on a farm in "RR" zoning, with the possible exception of the proposed educational facilities. The two proposed educational facilities could add to the raptor center's ability to continue to educate, a positive, but demand for them could push and possibly exceed the current or even proposed maximum number of people allowed on the site at any one time. As proposed the increase in time permitted on the site and increase in the number of people, at its high end off 55 people allowed on the site at any one time, decreases the neighbors' chance to enjoy their part of rural Sedgwick County. These parts of the proposed amendment to the original Conditional Use, CON2004-10, do not seem to match the intent of the original Conditional Use, as understood by staff.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The proposed increase in the size of the site, the possible 24-hour, 7-day a week operations time as a result of the proposed camping, the increase in the number of people allowed at any one time on the site, does not met the intent of the original Conditional Use.
5. Impact of the proposed development on community facilities: An increase in the number of people allowed on the site at any one time could lead to an increase of

traffic in the area. Proposed camping on the site could likely increase the demand for safety services to the site, including the sheriff, fire and EMS.



**RE: CON2007-00014** – Amend CON2004-10, a Conditional Use for community assembly, to allow the expansion of the site, to allow more structures on the site, to raise the maximum number of people allowed on the site at any one time.

September 14, 2007

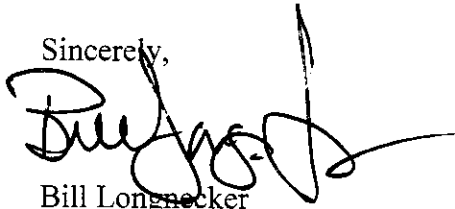
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- shall be provided as determined by Sedgwick County Code Enforcement. The facility shall be maintained in a sanitary manner as required by applicable codes (e.g. Chapter 14 of the Sedgwick County Code).
4. The applicant shall obtain all applicable permits including, but not limited to building, health and zoning. The applicant shall keep his registration with the US Department of Interior, Fish and Wildlife Service and the Kansas Department of Wildlife and Parks current and on site at all times.
  5. No refreshment stands or food and beverage sales. Alcoholic beverages are prohibited
  6. No gift shops.
  7. No sound projecting devices or loudspeakers shall be used so as to be heard beyond the property line.
  8. All lights shall be shielded to direct light away from the adjoining properties. No string type lighting permitted.
  9. All driveways, parking, loading and vehicle circulation areas shall be surfaced with asphalt, asphalt millings, crushed gravel, or an all weather surface as recommended and approved by the Sedgwick County Fire Department.
  10. On site operations shall be limited between 10:00 am and 9:00 pm. The maximum number of people allowed on site at any one time is 45 (per amendment #1).
  11. The applicant shall receive any required approval from the appropriate county and state agencies for any on site drinking water.
  12. The raptor center shall comply with all the necessary fire prevention procedures and equipment as required by the Sedgwick County Fire Department.
  13. One sign allowed; a maximum of 18- square feet in size.
  14. A minimum of two chemical portable toilets shall be provided, one for females and one for males. The applicant must provide proof of an ongoing maintenance contract for the removal of the waste from the site to the Sedgwick County Health Department. The disposal of solid waste shall be in accordance with Sedgwick County's Sanitation Codes.
  15. The facility shall be open to the unannounced inspection by Sedgwick County of Code Enforcement personnel during reasonable daylight hours to insure continued compliance with the above requirements.
  16. The number of full time employees will not exceed two, including the applicants.
  17. 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.

**RE: CON2007-00014** – Amend CON2004-10, a Conditional Use for community assembly, to allow the expansion of the site, to allow more structures on the site, to raise the maximum number of people allowed on the site at any one time.  
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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 'Bill Longnecker', with a long horizontal flourish extending to the right.

Bill Longnecker  
Senior Planner  
Current Plans Division

Copies to: Tom Winters, BOCC 3, Mail Stop, County Room, 320  
Bill Buchanan, County Manager, Mail Stop, County Room, 343  
Bob Parnacott, County Law, Mail Stop, County Room 359  
Glen Wiltse, County Code Enforcement, 1144 S. Seneca, Wichita, KS, 67213  
Jim Weber, County Public Works, 1144 S. Seneca, Wichita, KS, 67213

RESOLUTION NO    225-07

A RESOLUTION FOR A CONDITIONAL USE TO DEVELOP COMMUNITY ASSEMBLY ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D AS ADOPTED BY RESOLUTION NO. 84-01, AS SUBSEQUENTLY AMENDED.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS

**SECTION I.** That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-D of the Wichita Sedgwick County Unified Zoning Code, Amendment #1 to CON2004-10, a Conditional Use for community assembly (a birds of prey rehabilitation and educational facility, i.e., raptor center) to allow the expansion of the original approximately 3.25-acre site to approximately 5.05-acres, to allow additional buildings, structures, activity areas and to increase the number of people allowed on the site at any one time.

**Case No. CON 2007-00014**

Generally described as an approximately 5.05-acre site (per approved site plan) located within the following legally described property below:

Part of the North Half of the Southeast Quarter of the Northeast Quarter of Section 15, Township 27 South, Range 4 West of the 6th P.M., Sedgwick County Kansas, described as follows: Beginning at the Northeast Corner of the North Half of the Southeast Quarter, common to the Southeast corner of the Northeast Quarter; thence South 00 degrees 01'23" East on an assumed bearing along the east line of said North half of said Southeast Quarter 608.37 feet; thence South 90 degrees 00' West 1278.90 feet; thence North 0 degrees 36'05" East, 714.42 feet; thence North 90 degrees 00 East 1271.16 feet on the east line of said Northeast Quarter; thence South 0 degrees 00' West along the East line of said Northeast Quarter, 106.02 feet to the point of beginning, except the east 40 feet for road. Generally located midway between 13th Street North and 4th Street North, on the west side of 343rd Street West.

**SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The approximately 5.05-acre site shall be developed and maintained in accordance with a revised site plan approved by the Planning Director, showing screening, lighting, landscaping, parking, setbacks, easements and all buildings in conformance with the UZC. Buildings, structures and activity areas allowed on the site shall be limited to; (a) The applicants' residence, a 16-ft (x) 32-ft education building (allowed per amendment #1), a 40-ft (x) 50-ft educational building (allowed per amendment #1), a 12-ft (x) 20-ft bathroom & a 24-ft (x) 36-ft pavilion; (b) a 20-ft (x) 100-ft exhibit pen(s) with seating, a 26-ft (x) 32-ft eagle pen with seating (allowed per amendment #1), a 10-ft (x) 10-ft rehab pen (allowed per amendment #1), a 10-ft (x) 20-ft rehab pen (allowed per amendment #1), & two (2) 24-ft (x) 24-ft bird pens; (c) a 195-ft (x) 70-ft parking area, an eagle nest model (allowed per amendment #1), walking paths (one additional allowed per amendment #1), and an educational area with seating and a campfire located by the creek (allowed per amendment #1) as shown on the approved site plan.
2. All outdoor facilities will be located a required 200 feet from any neighboring residences and 50-foot from adjoining properties.

3. Cleaning of the facility shall be performed as often as necessary to maintain sanitary conditions, in such a manner as to minimize odors and disease hazard. A "suitable method" of eliminating excess water and feces from the facilities shall be provided as determined by Sedgwick County Code Enforcement. The facility shall be maintained in a sanitary manner as required by applicable codes (e.g. Chapter 14 of the Sedgwick County Code).
4. The applicant shall obtain all applicable permits including, but not limited to building, health and zoning. The applicant shall keep his registration with the US Department of Interior, Fish and Wildlife Service and the Kansas Department of Wildlife and Parks current and on site at all times.
5. No refreshment stands or food and beverage sales. Alcoholic beverages are prohibited
6. No gift shops.
7. No sound projecting devices or loudspeakers shall be used so as to be heard beyond the property line.
8. All lights shall be shielded to direct light away from the adjoining properties. No string type lighting permitted.
9. All driveways, parking, loading and vehicle circulation areas shall be surfaced with asphalt, asphalt millings, crushed gravel, or an all weather surface as recommended and approved by the Sedgwick County Fire Department.
10. On site operations shall be limited between 10:00 am and 9:00 pm. The maximum number of people allowed on site, at any one time, is 45.
11. The applicant shall receive any required approval from the appropriate county and state agencies for any on site drinking water.
12. The raptor center shall comply with all the necessary fire prevention procedures and equipment as required by the Sedgwick County Fire Department.
13. One sign allowed; a maximum of 18- square feet in size.
14. A minimum of two chemical portable toilets shall be provided, one for females and one for males. The applicant must provide proof of an ongoing maintenance contract for the removal of the waste from the site to the Sedgwick County Health Department. The disposal of solid waste shall be in accordance with Sedgwick County's Sanitation Codes.
15. The facility shall be open to the unannounced inspection by Sedgwick County of Code Enforcement personnel during reasonable daylight hours to insure continued compliance with the above requirements.
16. The number of full time employees will not exceed two, including the applicants.
17. 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.

**SECTION II.** That upon the taking effect of this Resolution, the notation of such Conditional Use shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director of the Wichita-Sedgwick County Metropolitan Area Planning Department.

**SECTION III.** That this Resolution shall take effect and be in force from and after its adoption by the Governing Body.

Commissioners present and voting were:

DAVID M. UNRUH  
TIM R. NORTON  
THOMAS G. WINTERS  
KELLY PARKS

No  
Aye  
Aye  
Aye

GWEN WELSHIMER

Agc

DATED this 24th day of September, 2007

BOARD OF COUNTY COMMISSIONERS OF  
SEDGWICK COUNTY, KANSAS

David M. Unruh  
DAVID M. UNRUH, CHAIRMAN  
First District

ATTEST:  
Don Brace  
DON BRACE  
County Clerk



APPROVED AS TO FORM ONLY:

Robert W. Parnacott  
ROBERT W. PARNACOTT  
Assistant County Counselor

County of Kansas  
County of Sedgwick  
County Clerk of said County, do hereby  
certify this to be a true and correct copy of the  
original instrument which is on file or of record  
in my office.  
Done this 25 day of Sept, 2007  
DON BRACE, County Clerk  
By Evelyn Good, Deputy

## STAFF REPORT

MAPC May 17, 2007

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**CASE NUMBER:** CON2007-00014

**APPLICANT/OWNER:** Ken & Susan Lockwood

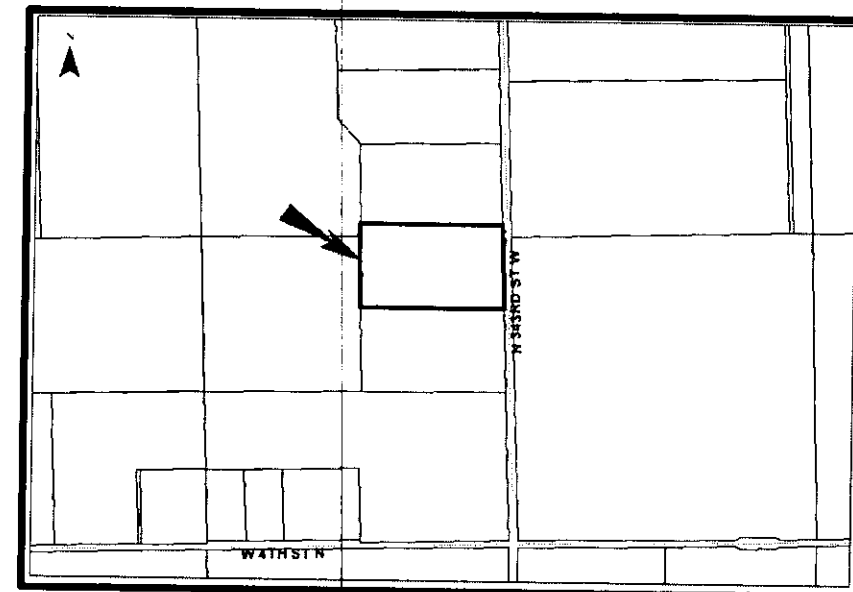
**REQUEST:** Amend CON2004-10, a Conditional Use for community assembly, to allow the expansion of the site, to allow more structures on the site, to raise the maximum number of people allowed on the site and to extend the hours of operation to allow camping.

**CURRENT ZONING:** "RR" Rural Residential

**SITE SIZE:** 20-acres

**LOCATION:** Midway between 13<sup>th</sup> Street North & 4<sup>th</sup> Street North, on the west side of 343<sup>rd</sup> Street West.

**PROPOSED USE:** Larger site area and more structures for birds of prey rehabilitation and educational facility, more people allowed to assemble on facility site and 24-hour operation to allow an associated campground



**BACKGROUND:** The applicants are requesting an amendment to a Conditional Use for "community assembly"; CON2004-10, a nonprofit birds of prey rehabilitation and educational facility (raptor facility) currently located on approximately 3.25-acres of their "RR" Rural Residential zoned 20-acre tract. As defined in the Unified Zoning Code (UZC) "an establishment that provides meeting, recreation, educational, cultural or social facilities for a membership or non-profit association..." is a community assembly. The "RR" zoning district permits "community assembly" with the approval of a Conditional Use.

The raptor facility appears to be recognized by the state and IRS as a nonprofit corporation. The applicants have provided numerous certifications and testimonies from the state and federal governments, various seminars, both Friends and KSU universities, schools, groups and individuals in regards to the raptor facility's and the applicants' good standing in regards to operational status, rehabilitation expertise and educational merits; see applicants' binder and letters of support. The applicants have stated to Staff that recent, more stringent changes in the standards to operate a raptor rehabilitation center have caused a decline in these centers and subsequently an increase in the demand for their services. This increased demand has motivated them to expand their facility, through the proposed amendment to CON2004-10. The requested amendment has also moved the three abutting southern, western and northern neighbors and one of the two adjacent east neighbors, across 343<sup>rd</sup> Street West, to send letters of protest; see attached letters.

The conditions for CON2004-10 are attached, with conditions #1 and #10 being the conditions the applicants wish to amend. The applicants' request that the facility's approved 3.25-acre site plan (#1) be allowed to expand to their property's full 20-acres, as shown on their proposed site plan(s). As shown on the proposed site plan, the expanded 20-acre site would add two additional rehab pens, an additional eagle pen, two future educational buildings, and a walking path to a proposed campsite, with the path then continuing through mostly the eastern and southern portions of the proposed 20-acre site. Condition #10 states that the hours of operation are between 10AM – 9PM, with a maximum of 35 people at any one time allowed on the site for educational programs. Currently as permitted, the raptor center is open 7-days a week. As proposed, allowing a campsite potentially means the site would be open 24-hours, 7-days a week. The applicants propose a maximum of 45-55 people at one time allowed on the site, for educational programs and/or camping. The applicants intend to integrate the proposed camping into the birds of prey educational programs. The campsite and a portion of the proposed path are located in a north to south drainage path, classified as a FEMA flood zone, with an average depth of 1-3-feet and some ponding. No structures should be put in this area, but it could be used as a temporary campsite. The provided site plan also shows the existing parking, pavilion, bathrooms, exhibit building/pen, sitting area, two pens for eagles and the applicants' residence. The site plan also shows existing plantings of trees, including pines planted along the north 2/3<sup>rd</sup> of the applicants' property line, between the raptor center and the abutting northern neighbor.

The subject site is located midway between 13<sup>th</sup> Street North and 4<sup>th</sup> Street North, on the west side of 343<sup>rd</sup> Street West. The subject site and the area around it are in an unincorporated, rural, far western portion of Sedgwick County. All properties in the area

are zoned "RR." The character of the surrounding area is primarily agricultural with scattered farmsteads and large tract single-family residences. There are at least 15 single-family residences/farmsteads, including the site, located between the section defined by 13<sup>th</sup> Street North-359<sup>th</sup> Street West-4<sup>th</sup> Street North-343<sup>rd</sup> Street West. Five of these residences, including the applicants' residence, were built between 2001 and 2004. These five newest residences are located within the southeastern portion of the section. The closest residence (built 2004) to the site is on the abutting northern property, located approximately 360-feet north of the applicants' property. Agricultural land abuts the site's west side and is also adjacent, across 343<sup>rd</sup>, to its east side. A possible (see Loyd's protest letter) undeveloped 20-acre home site abuts the site's south side.

**CASE HISTORY:** The site contains CON2004-10, a Conditional Use for "community assembly" for a 3.25-acre nonprofit birds of prey rehabilitation and educational facility. CON2004-10 was recommended by staff and approved by the MAPC (9-0), with conditions, at their March 25, 2004 meeting. There were no protests received or filed against CON2004-10. The facility's activities/programs are for the most part conducted outside. Beginning earlier this year County Code Enforcement began receiving complaints about the raptor center from the neighbors. One of the complaints from the neighbors was that the applicants were in violation of a private restrictive covenant (see protest letters) attached to their land. Alleged violations against the restrictive covenant include the raptor center being a business, having signs and having drainage issues. The restrictive covenant's enforcement clause, directs action against any violator(s) to a "court of competent jurisdiction." The private restrictive covenant was not presented during the MAPC's consideration of CON2004-10 and staff was not aware of it. Because this is a private restrictive covenant the MAPC has no jurisdiction over it; resolution of disputes in regard to it are a civil matter. Earlier this year County Code Enforcement, County Law and Planning Staff met with the applicants to discuss the complaints and the applicants' current operation and its future. The meeting resulted in the attached letter from County Code Enforcement directing the applicant to apply for an amendment to CON2004-10 or to operate within the conditions of CON2004-10.

**ADJACENT ZONING AND LAND USE:**

|        |      |                                                |
|--------|------|------------------------------------------------|
| NORTH: | "RR" | Large tract residence, agricultural, farmstead |
| SOUTH: | "RR" | Undeveloped tract, agricultural, farmstead     |
| EAST:  | "RR" | Agricultural/wheat                             |
| WEST:  | "RR" | Agricultural/wheat                             |

**PUBLIC SERVICES:** The subject property has direct access onto 343<sup>rd</sup> Street West, a two-lane paved Sedgwick County highway. No traffic volume information is available for this road. The subject property is outside any Rural Water service area and public sewer service is not available to serve the site. The site is served by well and septic, including those services to the raptor center's men's and women's bathrooms.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide identifies this area as "Rural." The "Rural" category is outside the City of Wichita and small cities' growth areas. It is intended to accommodate agricultural uses, rural based