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

September 6, 2019

Matthew N. Henry  
2123 North Keeneland Circle  
Wichita, KS 67206

MKEC Engineering, Inc.  
Attn: Brian Lindebak  
411 North Webb Road  
Wichita, KS 67206

**RE: BZA2019-00029** - City Variance to reduce required off-street parking for a tank museum on property zoned LI Limited Industrial located ¼ mile east of North Broadway on north side of East 33<sup>rd</sup> Street North (502 East 33<sup>rd</sup> Street North)

Dear Applicant:

At its regular meeting on August 22, 2018, the Wichita - Sedgwick County Board of Zoning Appeals (BZA) considered the above captioned request. The action of the BZA was to **APPROVE** the request by a vote of 11 to 0 in accordance with the attached resolution.

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

Sincerely,

David L. Yearout, AICP  
Principal Planner

Copies to: MABCD

**BZA RESOLUTION NO. 2019-00029**

**WHEREAS**, Mathew N. Henry (Owner), and MKEC – Brian Lindebak (Agent); pursuant to Section 2.12.590.B, Code of the City of Wichita, requests the following variance to the Unified Zoning Code of the City of Wichita:

1. Variance to Section IV.A.4 of the Unified Zoning Code to decrease the number of required off-street parking spaces from 68 to 9.

on property zoned “GI” General Industrial District (GI) legally described as follows:

A tract of land situated in the Northwest Quarter of Section 33, Township 26 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas, within the corporate limits of the City of Wichita, Sedgwick County, Kansas, being a part of that certain tract of land described in deed dated December 31, 1928, from Bridgeport Machine Company to The Atchison, Topeka and Santa Fe Railway Company, filed for record in Volume 419, Page 407, Register of Deeds Records of Sedgwick County, Kansas, more particularly described as follows: Beginning at the intersection of the North line of 33rd St. No., an 80.0 foot wide street right-of-way (as established by the recorded plat of Santa Fe Industrial District at Wichita, Kansas) and the center-line of St. Francis Circle, a 70.0 foot wide street right-of-way (as established by Condemnation Case No. C-22052); thence west (with an assumed bearing) N 90( W, along the North line of said 33rd St. No., 35 feet to the West line of said St. Francis Circle right-of-way; thence continuing N 90( W, along the last described line, 292.24 feet to the East line of Emporia Avenue, a 60.0 foot wide street right-of-way (as established by Easement Agreement dated August 15, 1958, between said Railway Company and the Board of County Commissioners of Sedgwick County, Kansas), and being the extended East line of Emporia Avenue, (as established by the Original Town of North Wichita, Sedgwick County, Kansas); thence continuing N 90( W, along the last described line, 30 feet to the center-line of said Emporia Avenue; thence N 00°18'51" W, along the center-line of said Emporia Avenue 98.32 feet; thence S 89°35' E, 30 feet to a point on the East line of said Emporia Avenue, said point being 98.10 feet north of the North line of said 33rd St. No., as measured along the East line of Emporia Avenue, (said point also being 8.5 feet south and perpendicularly distant from the center-line of the present location of said Railway Company's Industry Track No. 89); thence continuing S 89°35' E, 292.37 feet to a point on the West line of said St. Francis Circle, said point being 95.98 feet north of the North line of said 33rd St. No., as measured along the West line of said St. Francis Circle, (said point being 8.5 feet south and perpendicularly distant from the center-line of the present location of said Railway Company's Industry Track No. 89); thence continuing S 89°35' E, 35 feet to the center-line of said St. Francis Circle; thence S 00°14'44" E, along the center-line of said St. Francis Circle, 95.73 feet to the place of beginning, EXCEPT the east 35 feet thereof condemned for street, generally located at 502 East 33<sup>rd</sup> Street North.

**WHEREAS**, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

**WHEREAS**, the Board of Zoning Appeals did, at the meeting of August 22, 2019, consider said application; and

**WHEREAS**, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Section 2.12.590.B, Code of the City of Wichita; and

**WHEREAS**, the Board of Zoning Appeals has found that the variance arises from such condition which is unique. It is the opinion of the Board that this property is unique in that it is a location which is heavy industrial in nature with an existing building with adequate area to house the military equipment and machinery associated with the proposed use.

**WHEREAS**, the Board of Zoning Appeals has found that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents, inasmuch as none of the surrounding property creates a traffic or parking demand that will be harmed by the proposed use.

**WHEREAS**, the Board of Zoning Appeals has found that the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as imposing the UZC standards of off-street parking is unreasonable given the nature of the unique use, which would be unreasonable at this location. The applicant believes the parking provided at the site is adequate for the use as proposed.

**WHEREAS**, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, inasmuch as it is in the public interest to support continued use of existing buildings and add to the cultural interests of the community.

**WHEREAS**, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Zoning Appeals, pursuant to Section 2.12.590.B, Code of the City of Wichita, that a variance be granted to the Unified Zoning Code Code of the City of Wichita:

1. Variance to Section IV.A.4 of the Unified Zoning Code to decrease the number of required off-street parking spaces from 68 to 9.

on property zoned "GI" General Industrial District (GI) legally described as follows:

A tract of land situated in the Northwest Quarter of Section 33, Township 26 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas, within the corporate limits of the City of Wichita, Sedgwick County, Kansas, being a part of that certain tract of land described in deed dated December 31, 1928, from Bridgeport Machine Company to The Atchison, Topeka and Santa Fe Railway Company, filed for record in Volume 419, Page 407, Register of Deeds Records of Sedgwick County, Kansas, more particularly described as follows: Beginning at the intersection of the North line of 33rd St. No., an 80.0 foot wide street right-of-way (as established by the recorded plat of Santa Fe Industrial District at Wichita, Kansas) and the center-line of St. Francis Circle, a 70.0 foot wide street right-of-way (as established by Condemnation Case No. C-22052); thence west (with an assumed bearing) N 90( W, along the North line of said 33rd St. No., 35 feet to the West line of said St. Francis Circle right-of-way; thence continuing N 90( W, along the last described line, 292.24 feet to the East line of Emporia Avenue, a 60.0 foot wide street right-of-way (as established by Easement

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**The variance is hereby GRANTED, subject to the following conditions:**

1. The approval shall be to require the nine off-street parking spaces shown on the proposed site plan, provided the parking spaces are on private property. A revised site plan with property lines and proper dimensions shall be submitted and approved by the Planning Director confirming the nine spaces are on private property.
2. The applicant shall submit and comply with the requirements of the Wichita Public Works – Environmental Health concerning activity in the North Industrial Corridor Groundwater Pollution Area.
3. The applicant shall obtain all permits necessary from the Metropolitan Area Building and Construction Department
4. The resolution authorizing this variance may be declared null and void upon findings by the Zoning Board of Appeals that the applicant has failed to comply with any of the foregoing conditions.

**ADOPTED AT WICHITA, KANSAS, this 22<sup>nd</sup> DAY of AUGUST, 2019.**

  
Cindy Miles, BZA Board Chair

ATTEST:

  
David L. Yearout, BZA Secretary

**SECRETARY'S REPORT**

CASE NUMBER: BZA2019-00029

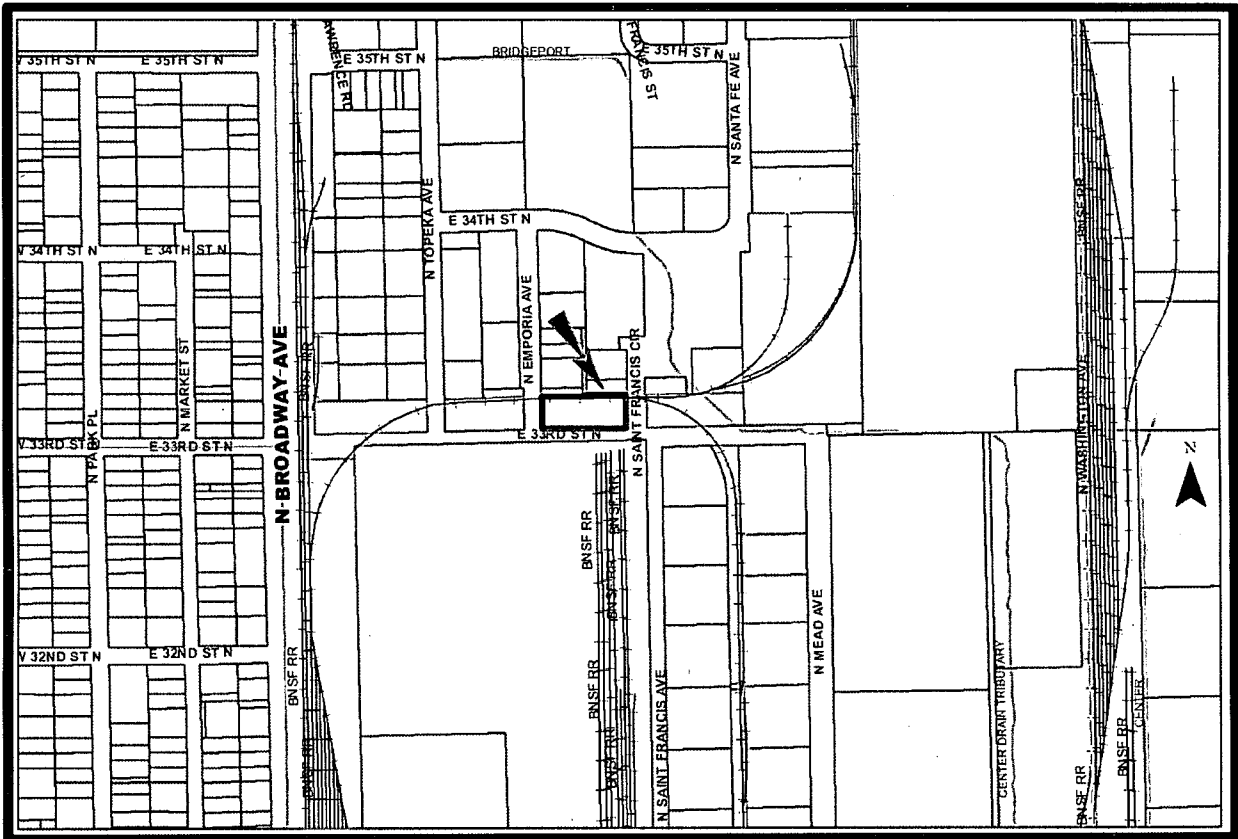
APPLICANT: Matthew N. Henry (Owner) / MKEC Engineering, Inc. – Brian Lindebak (Agent)

REQUEST: Variance to reduce the required parking from 68 spaces to 3 spaces for a tank museum

CURRENT ZONING: GI General Industrial

SITE SIZE: 0.72 acres

LOCATION: Generally located on the north side of East 33<sup>rd</sup> Street North approximately 900 feet east of North Broadway Avenue (502 East 33<sup>rd</sup> Street North)



**JURISDICTION:** The Board has jurisdiction to consider the variance request under the provisions Section V-G of the Unified Zoning Code for Wichita/Sedgwick County, and as outlined in Kansas Statutes Annotated 12-759 *et. seq.* The Board may grant the request when all five conditions, as required by the statutes, are found to exist.

**BACKGROUND:** The applicant is requesting a variance to reduce the parking requirement for the conversion of this property to a Tank Museum from 68 spaces to 3 spaces. The former occupant of the subject property was E.E. Vliet Company which apparently was a carpet warehousing facility, based on a variance that was granted in 1993 to said company to reduce the parking for that business from 35 spaces to 9 spaces. The BZA Resolution for Case No. BZA-23-93 reduced the parking to 11 spaces, provided the use as a wholesale carpet warehouse did not change. This use change imposes the parking requirements of the Unified Zoning Code, which in Section IV-A requires a museum/galley to provide parking spaces of 1 per 333 square feet of building area.

The subject property has a building with an area of 22,344 square feet on a lot area the application states is 31,363 square in area, which equates to a required off-street parking space count of 68 spaces. The intended use will feature military tanks and some other memorabilia in a “private museum” setting. The applicant indicates the clientele demand will be very low making the need for the large number of parking spaces unnecessary. In the event an activity generated a larger number of patrons, the applicant plans to provide a shuttle service from a remote parking location, but does not indicate where that location would be located.

The applicant has submitted documentation addressing the standards supporting the requested variance. A copy of that information is provided along with the proposed site plan for the proposed museum facility. The proposed site plan shows space for nine parking spaces, even though it is unclear of whether the parking spaces are on private property or encroach into the public right-of-way. Unless the spaces are on private property they will not comply with the off-street parking requirements.

The entire area is zoned GI General Industrial in all directions. There is a commercial building operation to the northwest and a grain elevator to the south. Most of the remainder of land is owned by the railroad and vacant. The neighborhood to the west is dominated by the railroad tracks extending to Broadway.

**ADJACENT ZONING AND LAND USE:**

NORTH:	GI	Vacant/Railroad
SOUTH:	GI	Grain Elevator
EAST:	GI	Vacant/Railroad
WEST:	GI	Vacant/Railroad

**CASE HISTORY:** As noted above, this property was granted a Variance (Case No. 23-93) to reduce the parking spaces when this building was occupied by a carpet warehouse. The subject property is not platted. The subject property was included in the proposed Bridgeport Industrial Area Protective Overlay District (DER2010-00009), which was subsequently not adopted and deferred indefinitely by the City Council on November 2, 2010. The subject property is included within the North Industrial Corridor Redevelopment District, which is managed by the Environmental Health Division of Wichita Public Works. That district will impose specific requirements that will be applicable to all activity associated with the establishment of the new use as specific in comments from Public Works. A copy of that communication is attached.

**UNIQUENESS:** It is staff's opinion that this property is unique in that it is a location which is heavy industrial in nature with an existing building with adequate area to house the military equipment and machinery associated with the proposed use.

**ADJACENT PROPERTY:** It is staff's opinion that, in essence, renewing the parking variance for the subject property will not adversely affect the rights of adjacent property owners. None of the surrounding property creates a traffic or parking demand that will be harmed by the proposed use.

**HARDSHIP:** The applicant states imposing the UZC standards of off-street parking is unreasonable given the nature of the unique use, which would be unreasonable at this location. The applicant believes the parking provided at the site is adequate for the use as proposed.

**PUBLIC INTEREST:** It is staff's opinion that the strict application of the provisions of the parking standards would constitute an unnecessary hardship upon the applicant and that it is in the public interest to support continued use of existing buildings and add to the cultural interests of the community.

**SPIRIT AND INTENT:** It is staff's opinion that granting the requested variance for a reduction in parking as outlined herein is adequate to meet the spirit and intent of accommodating parking demand based on the unique use and will support the continued productive use of an existing building that would otherwise potentially go used.

**RECOMMENDATION:** Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that the variance to reduce the off-street parking of the proposed private museum as proposed be GRANTED, subject to the following conditions:

1. The approval shall be to require the nine off-street parking spaces shown on the proposed site plan, provided the parking spaces are on private property. A revised site plan with property lines and proper dimensions shall be submitted and approved by the Planning Director confirming the nine spaces are on private property.
2. The applicant shall submit and comply with the requirements of the Wichita Public Works – Environmental Health concerning activity in the North Industrial Corridor Groundwater Pollution Area.
3. The applicant shall obtain all permits necessary from the Metropolitan Area Building and Construction Department
4. The resolution authorizing this variance may be declared null and void upon findings by the Zoning Board of Appeals that the applicant has failed to comply with any of the foregoing conditions.

**Report Attachments:**

Applicant's Narrative  
Proposed Site Plan  
Communication from Wichita Public Works

