



AGENDA ITEM NO.

STAFF REPORT

MAPC, 2/8/01

CASE NUMBER: CON 2001-00002

OWNER/APPLICANT: L&D Real Estate LLC (owner); Dan Classen (applicant)

AGENT: Dan Classen

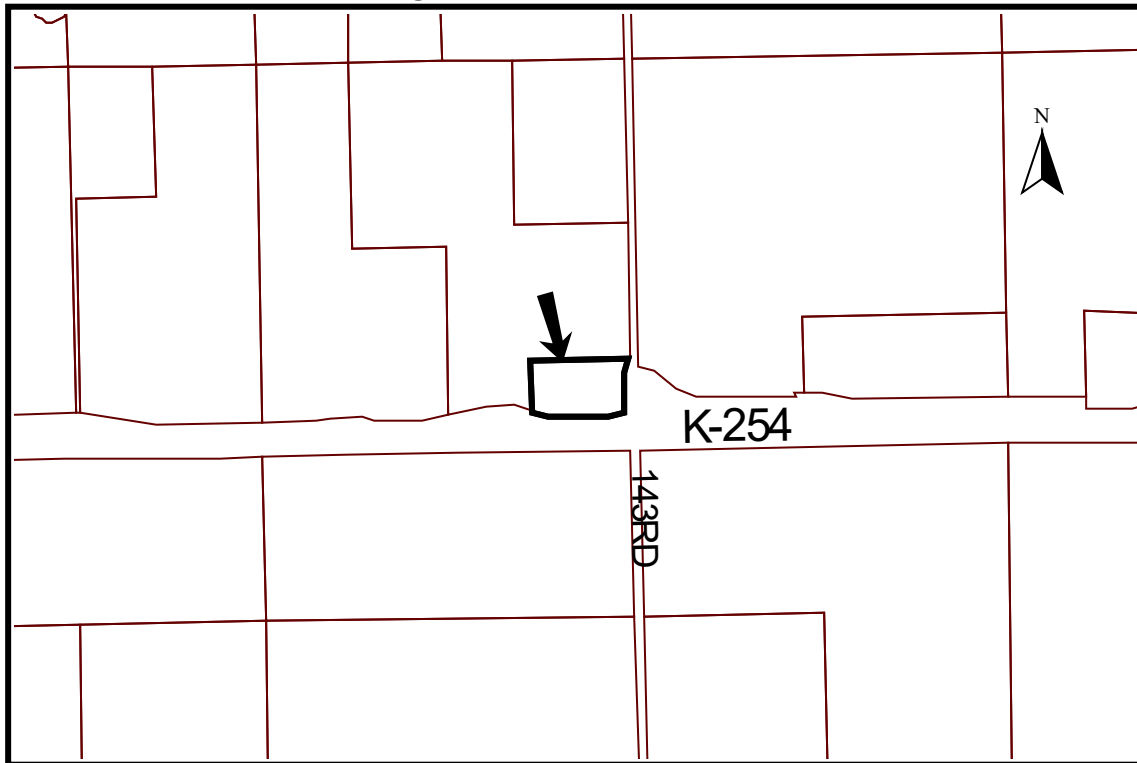
REQUEST: Conditional Use for agricultural sales and service

CURRENT ZONING: "RR" Rural Residential

SITE SIZE: 6.14 acres

LOCATION: Northwest corner of Highway 254 and 143rd Street North (14300 E. 61st Street North)

PROPOSED USE: Agricultural Sales and Service (propane sales)



BACKGROUND: The applicant is leasing with option to buy 6.14 acres located at the northwest corner of 143rd Street North and Highway 254. He would like to offer propane fuel for sale at this location. The site was originally developed as a gasoline service station prior to adoption of countywide zoning. With the adoption of Countywide zoning in 1985, the site was zoned "RR" Rural Residential. After countywide zoning went into effect in 1985, the service station was identified as a legal non-conforming use in the "RR" Rural Residential district. In the opinion of the County Zoning Administrator, propane sales would be an increase in intensity of use on this site that is not allowed under the site's current non-conforming use status. Therefore, the applicant is seeking a Conditional Use to permit agricultural sales and service (propane sales).

The applicant's site plan depicts the old service station building as the office and shop with a 44-foot propane tank located in front. The old gasoline pumps have been removed. Both State and County fire officials have approved the location shown on the site plan for the propane tank. Access to the site is via 143rd Street, a two-lane sand and gravel road. The drive is a combination of concrete and all weather service. Individual residential sized propane tanks would be also be located on the site and offered for sale or rent or lease. These smaller tanks are located west and south of the office building.

The closest residence is approximately 1200 feet to the northwest. Another residence is located to the north approximately 1400 feet away. All of the surrounding property is zoned "RR" Rural Residential and is either used for large lot residential or agricultural uses.

Agricultural sales and service is an establishment primarily engaged in the sale or rental of farm tools and implements, feed and grain, tack, animal care products, propane, butane, anhydrous ammonia, farm supplies and the like.... The Unified Zoning Code permits agricultural sales and service as a Conditional Use in the "RR" Rural Residential district.

CASE HISTORY: The site has legal non-conforming status for a gasoline service station.

ADJACENT ZONING AND LAND USE:

NORTH: "RR" Rural Residential; large lot residential, agricultural
SOUTH: "RR" Rural Residential; agricultural

EAST: "RR" Rural Residential; agricultural and large-lot residential
WEST: "RR" Rural Residential; agricultural and large-lot residential

PUBLIC SERVICES: Municipal sewer and water services are not available. The site is currently served by on-site services.

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan depicts this site as "rural". Rural areas consist of land outside the 30 year Wichita urban service boundary and small city growth areas. This category of use is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services. Strategy III.B4 states that in those portions of rural unincorporated Sedgwick County located outside the projected urban growth area, commercial development should be limited to those activities that are agriculturally oriented or provide necessary convenience services to residents in the immediate area, or provide highway-oriented services at interchange areas.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED. However if the Planning Commission feels the request is appropriate, the application should be subject to the following conditions:

- A. The site shall be developed, maintained and utilized in general conformance with the approved site plan, and shall apply only to the area depicted on the site plan.
- B. The Health Department must approve the on-site sewage system, and all other applicable permits shall be obtained prior to the commencement of operations.
- C. Permitted uses shall be restricted to those permitted by the base zoning district plus agricultural sales and services as defined in the Unified Zoning Code.
- D. Any violation of these conditions shall render this Conditional Use Permit null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. All land surrounding the site is zoned "RR" Rural Residential and used for agricultural or large lot residential uses.
2. The suitability of the subject property for the uses to which it has been restricted. The site is zoned "RR" Rural Residential, but has

nonconforming use rights for a gasoline service station. The applicant could operate the site as a gasoline service station as a nonconforming use. The "RR" district restricts uses to agriculture, other very low intensity non-residential uses and large lot residences. Those uses could also be developed here. However, since the site is already developed for gasoline sales, and the "RR" district limits the opportunity for many other nonresidential uses, this site is difficult to reuse. "Agricultural sales and services" is a use that is permitted in the "RR" district with a Conditional Use, and sale of propane is specifically listed in the agricultural sales and services definition.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Compared to a gasoline service station, the proposed use will not detrimentally affect nearby properties to a greater degree.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: Strategy III.B4 states that in those portions of rural unincorporated Sedgwick County located outside the projected urban growth area, commercial development should be limited to those activities that are agriculturally oriented or provide necessary convenience services to residents in the immediate area, or provide highway-oriented services at interchange areas. Propane fuel is a product used primarily by rural residents.
5. Impact of the proposed development on community facilities: None identified.