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RESOLUTION NO. 166-1991

A RESOLUTION CHANGING THE ZONING CLASSIFICATIONS FOR CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED IN SECTION 17.C OF THE ZONING REGULATIONS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, DECEMBER 12, 1984, AND SUBSEQUENTLY AMENDED.

BE IT RESOLVED BY THE GOVERNING BODY 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 17.C of the Zoning Regulations, the zoning district of the lands legally described below are hereby changed as follows:

Case No. SCZ-0628
Zone change request from the "R" Rural Residential District to the "R 1" Suburban Residential District

West 680.25 feet of Southwest Quarter, Section 35, Township 28 South, Range 1 East of the 6th P.M. lying south of Riverside Levee right-of-way in Sedgwick County, Kansas. Generally located on the northeast corner of Hillside and 7th Street South.

SECTION II. That upon the taking effect of this Resolution, the notation of such zone change shall be entered in the official zoning atlas on file in the Office of the County Zoning Administrator and in the Office of the Wichita-Sedgwick County Metropolitan Area Planning Department.

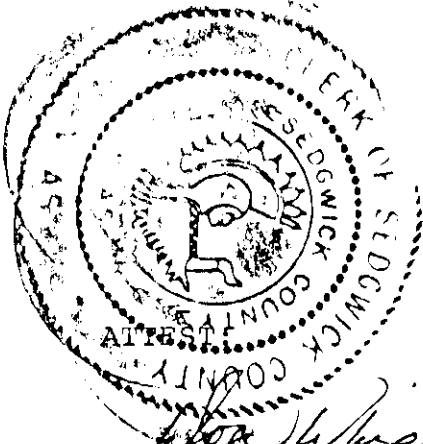
SECTION III. That this Resolution shall take effect and be in force from and after its adoption and publication in the official county paper.

Commissioners present and voting were:

BETSY GWIN	<u>Aye</u>
PAUL W. HANCOCK	<u>Aye</u>
BERNARD A. HENTZEN	<u>Aye</u>
BILLY Q. McCRAY	<u>Aye</u>
MARK F. SCHROEDER	<u>Aye</u>

*sent to City Clerk
to record 11/9/94*

DATED this 17th day of July, 1991.



BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS

Billy Q. McCray
BILLY Q. McCRAY, Chairman

Betsy Gwin
BETSY GWIN, Chair Pro Tem

Don Wright
DON WRIGHT, County Clerk

Paul W. Hancock
PAUL W. HANCOCK, Commissioner

APPROVED AS TO FORM ONLY:

Bernard A. Hentzen
BERNARD A. HENTZEN, Commissioner

Henry H. Hesse
County Counselor/Assistant

Mark F. Schroeder
MARK F. SCHROEDER, Commissioner

STAFF REPORT

CASE NUMBER: SCZ-0628 & CU-345

OWNER/APPLICANT/AGENT: Smith and Company, Inc. (owner/applicant)
Municipal Engineers (agent)

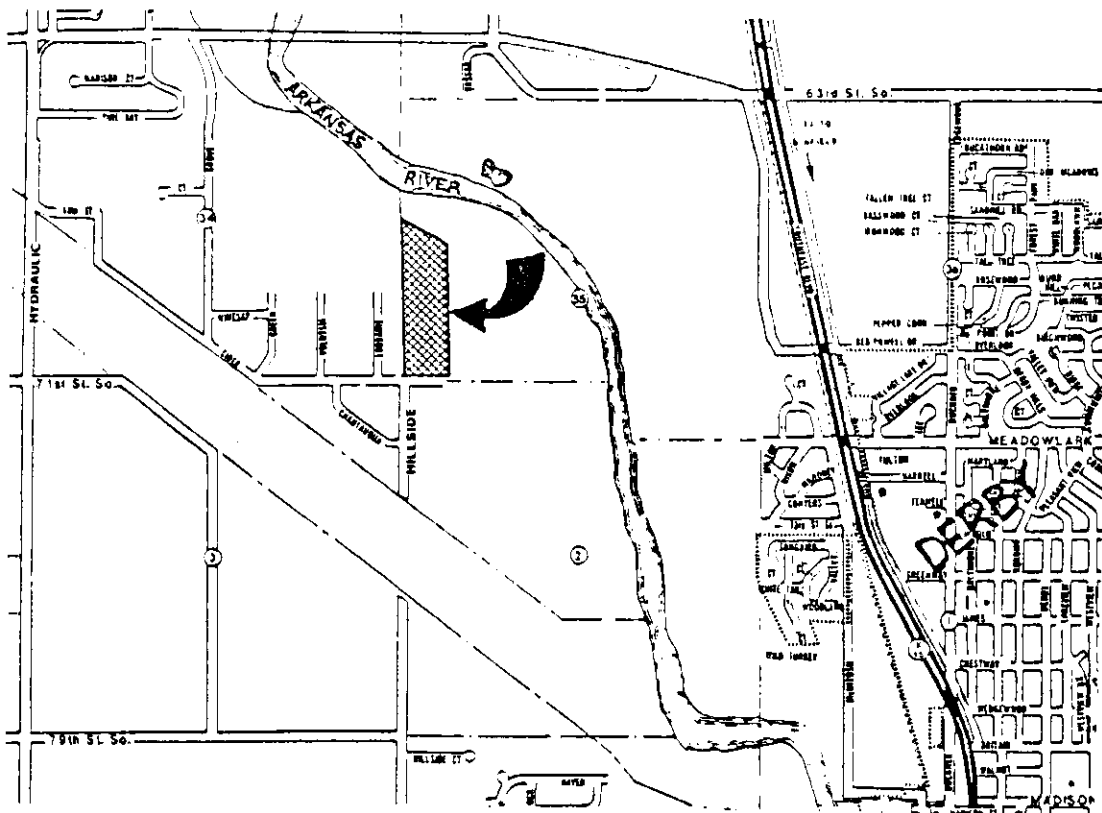
REQUEST: Zone change to the "R-1" Suburban Residential District, with an associated conditional use to establish a mobile or manufactured home subdivision.

CURRENT ZONING: "R" Rural Residential District

SITE SIZE: 33.8 acres (approx. 680 ft. x 2,000 ft.)

LOCATION: Northeast corner of Hillside and 71st St. So.

PROPOSED USE: Subdivision of the property into 40,000-square-foot lots for mobile or manufactured home use.



BACKGROUND: The applicants are requesting a zone change from the "R" Rural Residential District to the "R-1" Suburban Residential District for a 33.8-acre unplatted tract located at the northeast corner of Hillside and 71st Street South. The property is currently undeveloped and used for agricultural purposes. Associated with the zone change case is a conditional use request to establish a mobile or manufactured home subdivision. A field check of the property has verified the existence of mobile and manufactured homes in this unincorporated area of Sedgwick County.

In February of 1990, certain changes were made to the County Zoning Resolution regarding where and under what procedure manufactured housing and mobile homes may be placed in unincorporated areas of Sedgwick County. One of the changes provided for the establishment of a manufactured home/mobile home subdivision in the "R", "R-1" and "AA" districts by way of a conditional use permit. This request represents the MAPC's third conditional use permit case to establish a manufactured home subdivision and its first to establish a subdivision for mobile homes.

A manufactured home is defined by the County Zoning Resolution as "a structure consisting of one or more components manufactured to the standards embodied in the Federal Manufactured Home Construction and Safety Standards Act, generally known as the HUD Code. Such units shall provide all of the accommodations necessary to be a dwelling unit and shall be connected to all utilities in conformance with applicable regulations." In addition to the placement of manufactured homes on the property, the applicant is also requesting permission to place mobile homes on the site. Mobile homes are different from manufactured homes. A mobile home is partially defined by the County Zoning Resolution as "a moveable detached single-family dwelling unit that was manufactured prior to 1976 or is not in conformance with the HUD Code", as is now required for a manufactured home. The applicant is advised that Section 1(D)(9)(a) of the County Zoning Code requires that any mobile home proposed to be placed in Sedgwick County after February 7, 1990, shall have been manufactured after September 1, 1973, or refitted to be in compliance with the "Uniform Standards Code for Mobile Homes" established in K.S.A. 75-1211 or any amendments thereto.

The Kansas planning statutes have recently been amended to be effective January 1, 1992. The new law will preempt local home rule. The law provides that "residential-design manufactured homes" -- homes built not to local codes, but to a 1976 federal code and which are at least 22 feet wide, have pitched roofs, roofing and siding materials comparable to site-built housing, and are placed on a permanent foundation -- cannot be excluded from zoning districts where single-family homes are allowed solely because they are manufactured homes. Additional architectural or aesthetic standards may be established for these manufactured homes to ensure their compatibility with site-built housing. It is unclear whether or not this will allow for continued

use of conditional uses to determine "compatibility" on a case-by-case basis. Both City and County zoning regulations will need to be amended to recognize this new provision. Valid restrictive covenants prohibiting manufactured housing are not preempted by the Act.

In May of 1990, the applicant submitted a preliminary plat for this property named "Southriver Addition". On May 31, 1990, the Subdivision Committee of the MAPC approved the preliminary plat subject to a number of conditions, including this zone change request and a requirement for interior streets to be paved to a suburban pavement standard. A copy of the preliminary plat is attached to this report.

Given the fact that 1) this property abuts "R-1" zoning to the east, which has been developed with lots comparable in size to those being proposed by the applicant; and 2) this property is located between the cities of Haysville, Derby and Wichita and is therefore within an urbanizing area; and 3) inasmuch as mobile homes and manufactured housing already exist on building sites adjacent to and near this property, staff supports this rezoning request for "R-1" zoning and it is recommended that the associated conditional use permit be approved, subject to appropriate conditions.

CASE HISTORY: None.

ADJACENT ZONING AND LAND USE:

NORTH	"R"	Arkansas River
SOUTH	"R"	Undeveloped (agricultural use)
EAST	"R"	Single-family dwelling & undeveloped (agricultural use)
WEST	"R-1" & "R"	Single-family dwellings & undeveloped
SOUTHWEST	"R-1"	Single-family dwellings

PUBLIC SERVICES: This property is not served with either sanitary sewer or municipal water. Adjacent Hillside is an unpaved, two-lane section line road with inadequate right-of-way. Section 7-201(H) of the Subdivision Regulations requires a minimum of 50 feet of half-street right-of-way for all section line roads.

CONFORMANCE TO PLANS/POLICIES: The Land Use Element of the Comprehensive Plan depicts this general unincorporated area of the county for agricultural use. In January 1990, the MAPC adopted Policy Statement #14, which "looks with favor on applications for additional manufactured and mobile home parks and subdivisions within the area of its jurisdiction, where adequate sewer, water and roads can reasonably be made available for the density being proposed, and when the proposed development will be compatible with surrounding uses."

This property is within the City of Haysville's area of zoning influence.

RECOMMENDATION: It is recommended that "R-1" zoning be approved, subject to the site being platted within one year after County Commission approval, or this case shall be marked "denied and closed".

AND

It is recommended that the associated conditional use request to establish a mobile and/or manufactured home subdivision on property to be zoned "R-1" be approved, subject to the following conditions:

- A. Only one manufactured dwelling, mobile home or site-built dwelling may be placed on a platted lot.
- B. All manufactured homes placed on the application area shall have been manufactured to the standards embodied in the Federal Manufactured Home Construction and Safety Standards Act, generally known as the HUD Code.
- C. All mobile homes placed on the application area shall have been constructed after September 1, 1973, or refitted to be in compliance with the "Uniform Standards Code for Mobile Homes" established in K.S.A. 75-1211 or any amendments thereto.
- D. All manufactured or mobile homes located on the application area shall be placed on a permanently enclosed perimeter foundation or shall provide skirting around the perimeter of the home in accordance with specifications contained in Section 1(D)(9)(b) of the County Zoning Resolution.
- E. All outside stairs which access the manufactured or mobile home and which have a rise of more than 30 inches from grade to finished floor elevation shall be provided with handrails. Any stairs, porches and handrails attached to or serving the manufactured home shall be constructed so as to be structurally sound.
- F. No manufactured or mobile home or accessory structure thereto shall be located on a lot so as to encroach into any utility easement.
- G. Prior to the placement of any manufactured or mobile home on the application area, the property shall be platted. Said platting shall occur within one year after County Commission approval of this conditional use, or the application shall be considered denied and closed. The conditional use resolution shall not be published until the required plat has been recorded.