



Wichita-Sedgwick County Metropolitan Area Planning Department

September 22, 2008

Robert and Sherri Gerety
1065 N Topeka St
Wichita, KS 67214

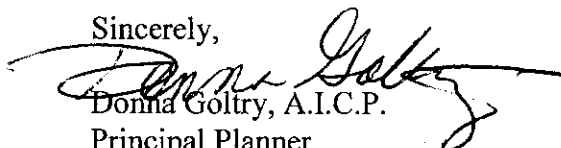
RE: CON2008-00033 - City Conditional Use for Group Residence, Limited in NO Neighborhood Office zoning, generally located on the southwest corner of Topeka Avenue and 10th Street North (1065 N Topeka).

Dear Ladies and Gentlemen:

At its regular meeting on August 21, 2008, 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 stated in the enclosed resolution.

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

Sincerely,


Donna Goltry, A.I.C.P.
Principal Planner
Current Plans Division

DJG:mc
Attachment

Copies to: Carla Hobbs, 340 S 162nd St. W, Wichita, KS 67052
Coldwell Banker, Attn: Tony Utter, 10300 W. Maple, Wichita, KS 67209
Historic Midtown Citizens Assoc., Dan Fitzgerald, 1150 N. Broadway, Wichita, KS 67214
McAdams, Paula Givens, 1228 N. Mathewson St., Wichita, KS 67214
WCC VI, Sharon Fearey, Mail Stop 1-13
N.A. VI, Terri Dozal, Mail Stop 1-135
Julianne Kallman, Engineering, Mail Stop 1-72
Kurt Schroeder, Office of Central Inspection, Mail Stop #1-72
Randy Sparkman, Office of Central Inspection, Mail Stop #1-72
Paul Hays, Office of Central Inspection, Mail Stop #1-72

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CONDITIONAL USE RESOLUTION NO. CON2008-00033

WHEREAS, Robert and Sherri Gerety (owner); and Carla and Michael Hobbs (applicant); pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), request a Conditional Use to allow a Group Residence, Limited, for children on property zoned NO Neighborhood Office (“NO”) described as:

All of Lots 1 and 3 and the North 10 feet of Lot 5, Topeka Avenue, Stone’s Addition to the City of Wichita, Kansas, Sedgwick County, Kansas, together with the East Half of the vacated alley adjoining on the West. Generally located on the southwest corner of Topeka Avenue and 10th Street North (1065 North Topeka).

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 August 21, 2008, 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 Metropolitan Area Planning Commission that this application be approved to allow a Conditional Use to allow a Group Residence, Limited, for children on property zoned NO Neighborhood Office (“NO”) described as:

All of Lots 1 and 3 and the North 10 feet of Lot 5, Topeka Avenue, Stone’s Addition to the City of Wichita, Kansas, Sedgwick County, Kansas, together with the East Half of the vacated alley adjoining on the West. Generally located on the southwest corner of Topeka Avenue and 10th Street North (1065 North Topeka).

Approved subject to the following conditions:

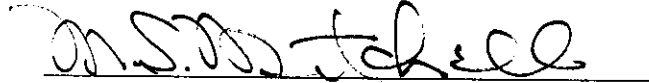
1. The Group Residence, Limited, shall be required to be licensed by KDHE as a Group Boarding Home under K.A.R. 28-4-268 to 28-4-280 (or equivalent requirements if amended at a future time).
2. The Group Residence, Limited, shall meet all conditions of K.A.R. 28-4-268 to 28-4-280 as contained therein; any exceptions or modifications resulting in less stringent conditions than otherwise specified herein or as stated in attached Exhibit shall be considered as violating this Conditional Use.
3. The maximum number of residents shall be limited to the number and age permitted by licensure as a Group Boarding Home under KDHE regulations or a maximum of ten (10) youth, aged six to 17 years of age, whichever is more stringent.
4. All residents shall be under protection of SRS as Children In Need of Care and meeting standards and procedures of SRS/KDHE for care of these children.
5. Children shall be supervised at all times by minimum of two (2) staff persons.
6. On-site parking must be available for everyone functioning in a staff position (paid and/or volunteer) at the site.
7. Signs for the Group Residence, Limited, shall be limited to signs permitted in the SF-5 district.
8. All changes to the interior of the residence must be approved in conformance with KSA 75-2714-

2729.

9. The site plan shall be revised to indicate parking and other site development regulations per the Unified Zoning Code or conditions of this Conditional Use.
10. 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.

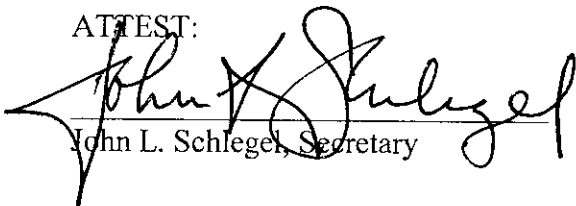
Adopted this 11th Day of September 2008.

METROPOLITAN AREA PLANNING COMMISSION



M.S. Mitchell, Chair MAPC

ATTEST:



John L. Schlegel, Secretary

****REVISED REVISED****
STAFF REPORT

MAPC August 7, 2008/August 21, 2008
DAB VI August 4, 2008/August 20, 2008

CASE NUMBER: CON2008-00033

APPLICANT/OWNER: Robert and Sherri Gerety (owner); Carla and Michael Hobbs (contract purchaser); Coldwell Banker c/o Tony Utter (agent)

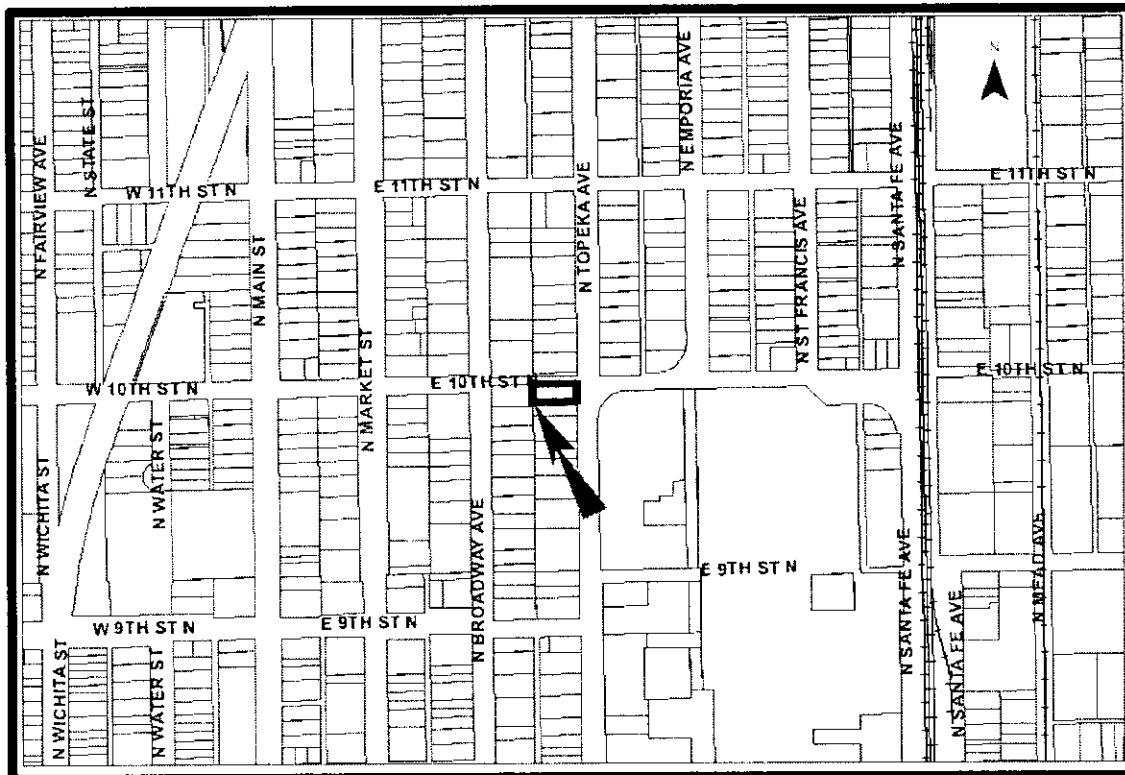
REQUEST: Conditional Use for Group Residence, Limited, for children

CURRENT ZONING: NO Neighborhood Office ("NO")

SITE SIZE: 0.2 acres

LOCATION: West of Topeka Avenue and south of 10th Street North

PROPOSED USE: Youth residential center for girls



BACKGROUND: The applicant is requesting a Conditional Use for Group Residence, Limited, to operate a group residential center for girls on property zoned NO Neighborhood Office (“NO”) and located west of Topeka Avenue and south of 10th Street North (1065 North Topeka Avenue).

Group Residence is defined in the Unified Zoning Code (“UZC”) as: “a residential facility providing cooking, sleeping and sanitary accommodations for a group of people, not defined as a family, on a weekly or longer basis.” Children’s homes are cited as a typical group residence by the UZC. Group Residence, Limited is further defined as: “occupied by six to 15 persons, including the staff members who reside at the facility.”

This request is seeking to establish a youth residential center for six to eight girls ages 6 to 17 year of age. See attached information from the contract purchaser/operator of the facility. Placement at the residence would be for up to 90 days, with possible 60-day extensions. Two staff members would be onsite at all times.

The property is listed on the National, State and Local Historic Register as a contributing structure to the North Topeka Avenue/10th Street Historic District. The structure is a three story house built in the 1800s, with living room/dining/kitchen on the main level, bedrooms on the second floor and a finished third floor, possibly acceptable as living quarters. The applicant has stated that the structure would be used without any significant modifications. Most recently, it was occupied as a single-family residence. Prior to that, it was converted from multi-family residential use to office use.

A concrete parking area with at least five parking spaces is located on the rear of the lot, which provides off-street parking for the structure. The parking requirements for a group residence are one space per house parent/staff, plus one for each resident who is permitted to drive. This parking area would be sufficient, so long as most of the residents (girls) are too young or not allowed to drive.

The property to the north and northeast is a mix of residential, medical office clinics, and office uses and a community center, on property zoned NO, GO General Office (“GO”) and B Multi-Family (“B”). Via Christi Saint Francis Campus, located on property zoned GO, is to the east. A parking lot and more medical facilities are located to the south and a fast-food restaurant is located to the southwest. A vacant office is located to the west and another fast-food restaurant is located to the northwest. The properties to the south and west are located on property zoned B or LC Limited Commercial (“LC”).

CASE HISTORY: The property is platted as Stone’s Addition, recorded May 7, 1884. BZA 40-83 granted two variances to this property in combination with two structures north of 10th Street North. It eliminated the screening requirement and restricted signage on the 1109 North Topeka (the same sign restrictions were placed on 1103 by a previous variance, BZA6-83). BZA40-83 also reduced parking requirements for the three properties (1065, 1103 and 1109 North Topeka) but only so long as they were held in the same ownership and kept in general office use. While these variances

remain valid, the condition of "same ownership" is no longer met; presumably each use should now meet its own parking needs. An earlier variance, BZA51-82, eliminated the screening requirement between 1065 North Topeka (the application area) and its adjoining B-zoned parking lot. The property is located in the North Topeka Avenue/10th Street Historic District.

ADJACENT ZONING AND LAND USE:

NORTH:	NO, GO, B	Office, residential, medical clinics
SOUTH:	B, NO, LC	Parking lot
EAST:	GO	Via Christi Saint Francis Hospital campus
WEST:	LC	Restaurants, vacant office

PUBLIC SERVICES: The property has access onto 10th Street North, a local street. The property abuts Topeka Avenue but does not have a driveway on this frontage. Topeka Avenue is classified as a collector street. It carries two-way traffic between Murdock and 10th Street North, and has four through lanes and one left-turn center lane. Topeka Avenue splits at 10th Street North, with the two northbound lanes bending and jogging a block eastward to Emporia Avenue. Topeka Avenue becomes a one-way, three lane southbound street north of 10th Street North. In 2007, the traffic volume (Average Daily Traffic) on Topeka between 10th and 13th Street North was 2,124 vehicles per day, and the volumes increased south of 10th to Murdock to 4,953 vehicles per day. All normal utility services serve the site.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide", 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identifies the site as "local commercial". The Midtown Neighborhood Plan, adopted by the City and County in 2004, identifies halfway houses, correctional facilities and group homes (group residence as technically defined in the UZC was considered in the same category as these other uses) as future uses of concern to the neighborhood (see pgs 21, 46 and 64-65). Retaining existing residential uses and encouraging home ownership is also a priority (pg 39). The *Historic Midtown 2020 Future Land Use Concept Map* identifies the property as for "Mixed Use-Multi-Unit/Commercial." The plan supports commercial use or residential use, but not institutional types of residential housing arrangements like group residences. The historic landmark designation of the property does not regulate land use, but affects the types of changes made to the physical structure to maintain its historic integrity. Alterations would require review by the Historic Preservation Board.

RECOMMENDATION: The proposed use for Group Residential, Limited, conflicts with the neighborhood policies and proposed land use contained in the Midtown Neighborhood Plan. Group Residence is regulated more stringently than all other residential uses except perhaps Assisted Living by the UZC. In terms of intensity based on being allowed by right or by Conditional Use, Group Residence is on par with institutional uses such as Cemetery and Community Assembly, and considered of higher intensity than Group Homes, Limited and General. Group Residence is seen as

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: The property to the north and northeast is a mix of residential, medical office clinics, and office uses and a community center, on property zoned NO, GO and B. Via Christi Saint Francis Campus, located on property zoned GO, is to the east. A parking lot and more medical facilities are located to the south and a fast-food restaurant is located to the southwest, a vacant office is located to the west and another fast-food restaurant is located to the northwest. These uses are located on property zoned B or LC. The property is located on the edge of one of the oldest neighborhoods in the city, with a number of properties and several historic districts located within the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The site is suited for low intensity types of office use, which is similar to the use of the other structures in the North Topeka Avenue/10th Street Historic District. Most recently, the property was occupied as a single-family dwelling. Before this, it was an office facility. Both previous uses are uses encouraged by the Midtown plan.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Group Residence is seen as creating more potential impacts on surrounding properties because of the greater activity level associated with it compared to conventional dwelling units. More people tend to reside in it than conventional dwellings, more people other than residents (staff, visitors, etc.) tend to be coming and going from it, individuals live shorter lengths of time, which leads to a sense of flux of the occupants, more cars tend to be parked at it compared to a conventional dwelling unit, etc. Allowing a group residence could increase traffic, noise and activity compared with a low intensity office use or conventional residential use. The recommended conditions are tailored to reduce the scope and impact of the Group Residence, Limited, to reduce these potential impacts on the surrounding properties.
4. The length of time the subject property has remained vacant as zoned: Most recently, the property was occupied as a single-family dwelling. It has been on the real estate market for a few months. Prior to this occupant, it was a small-scale office facility. Both previous uses are encouraged by the Midtown plan.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide", 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identifies the site as "local commercial". The Midtown Neighborhood Plan,

adopted by the City and County in 2004, identifies halfway houses, correctional facilities and group homes (group residence as technically defined in the UZC was considered in the same category as these other uses) as future uses of concern to the neighborhood (see pgs 21, 46 and 64-65). Retaining existing residential uses and encouraging home ownership is also a priority (pg 39). The *Historic Midtown 2020 Future Land Use Concept Map* identifies the property as for "Mixed Use-Multi-Unit/Commercial." The plan supports commercial use or residential use, but not institutional types of residential housing arrangements like group residences. The historic landmark designation of the property does not regulate land use, but affects the types of changes made to the physical structure to maintain its historic integrity. Alterations would require review by the Historic Preservation Board. The recommended conditions are tailored to reduce the scope and impact of the Group Residence, Limited, to make it in better conformance with the plans and policies of the Midtown Neighborhood Plan.

6. Impact of the proposed development on community facilities: The site will have minimal impact on traffic.
7. Opposition or support of neighborhood residents: This cannot be fully known prior to the public input, but input from the Midtown Plan tends to point to opposition of the neighborhood, as expressed by the needs analysis at Midtown Community Resource Center Park-It (May 9, 2002) to keep out additional halfway houses, correctional facilities and group homes. In contrast, the testimony received at the District VI Advisory Board tended to support the placement of a modified and less intensive group residence.