

**EXCERPT MINUTES OF MARCH 23, 2017 WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION MEETING**

Case No.:CON2017-00007 – John W. McKay, III request a County Conditional Use to allow a one vehicle RV Campground on RR Rural Residential zoned property described as:

A tract of land in the North half of the Northeast Quarter of Section 35, Township 25 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at the Northwest corner thereof; thence East along the North line of said Northeast Quarter 330.8 feet; thence South parallel with the West line of said Northeast Quarter 653.5 feet; thence West parallel with the North line of said Northeast Quarter 330.8 feet; thence North 653.5 feet to the point of beginning, except the North 40 feet for road.

BACKGROUND: The applicant is seeking Conditional Use approval for a “recreational vehicle campground” (RV campground) on the approximately 4.61-acre, RR Rural Residential (RR) zoned unplatted subject site. It is the applicant’s intention to place a single recreational vehicle on the site and use it in lieu of a permanent structure. In short, the RV will substitute for a building and will be used as a residence. A recreational vehicle campground is permitted in the RR district with Conditional Use approval.

The site is located one-half mile west of North Oliver Street (47th Street East) on the south side of East 85th Street North. Access to the site is from a gravel drive from 85th Street. RR zoned county properties completely surround the 4.61-acre tract. Large lot residential sites, pasture and agriculture uses are predominant within a two-mile radius of the property.

Two similar cases for a Recreational Vehicle (RV) Park with one RV have been approved in the county (CON2012-00028 and CON2016-00011) by the Metropolitan Area Planning Commission.

CASE HISTORY: The site’s “RR” zoning was established in 1985.

ADJACENT ZONING AND LAND USE:

NORTH: RR	40-acre single-family residence with agricultural outbuilding and agricultural land
SOUTH: RR	Large lot single-family residence
EAST: RR	Large lot single-family residence
WEST: RR	Quarter Section with single-family residence with agricultural outbuilding and agricultural land

PUBLIC SERVICES: No public sewer is available to the site. The property is located in Sedgwick County Rural Water District #2. As already noted, access to the site is from a gravel drive from 85th Street. The site will have a gray water wetland filtration system and a compostable solid waste system approved by the Sedgwick County Waste Water Manager.

CONFORMANCE TO PLANS/POLICIES: *The 2035 Community Investments Plan* identifies this area as “Rural” which encompasses land outside the 2035 urban growth areas for Wichita and the small cities. Agricultural uses, rural-based businesses, and larger lot residential exurban subdivisions likely will be developed in this area. Such development should occur in accordance with the Urban Fringe Development Standards for Wichita and Sedgwick County.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the Conditional Use request be APPROVED, subject to the following conditions:

1. The Conditional Use permits a recreational vehicle campground for one recreational vehicle.
2. The site will have a gray water wetland filtration system and a compostable solid waste system approved by the Sedgwick County Waste Water Manager.
3. Tent camping is not permitted.
4. The recreational vehicle campground shall be developed and maintained in general compliance with the approved site plan. All improvements and the operation of the recreational vehicle campground shall be in compliance with applicable regulations and codes.
5. The Conditional Use for a recreational vehicle campground for one recreational vehicle shall be declared null and void upon issuance of a certificate of occupancy for a permanent structure on the approved site; or, after the Recreational Vehicle has been removed from the site for a period of 30 days.
6. If the Zoning Administrator finds that there is a violation of any of the conditions of approval 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 the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site is located one-half mile west of North Oliver Street (47th Street East) on the south side of East 85th Street North. Access to the site is from a gravel drive from 85th Street. RR zoned county properties completely surround the 4.61-acre tract. Large lot residential sites, pasture and agriculture uses are predominant within a two-mile radius of the property.
2. The suitability of the subject property for the uses to which it has been restricted: The RR zoning district primarily permits single-family residences on two acres, specific

agritourism and agricultural uses. Recreational vehicle campground means the use of land designed for occupancy by recreational vehicles for temporary or transient living purposes, including the use of camping spaces for tents.” Condition of approval is restricted to one R.V and no tent camping. A recreational vehicle campground is permitted in the RR district with Conditional Use approval.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will introduce a use that is not currently in the area; however, the scale requested and the recommended conditions of approval should mitigate any detrimental impacts.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The public’s health and safety should not be impacted by the request. Denial of the request could represent a loss in use and enjoyment to the applicant’s property.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: *The 2035 Community Investments Plan* identifies this area as “Rural” which encompasses land outside the 2035 urban growth areas for Wichita and the small cities. Agricultural uses, rural-based businesses, and larger lot residential exurban subdivisions likely will be developed in this area. Such development should occur in accordance with the Urban Fringe Development Standards for Wichita and Sedgwick County.
6. Impact of the proposed development on community facilities: None identified.

KATHY MORGAN, Planning Staff presented the Staff Report.

J JOHNSON asked how it was being allowed presently.

MORGAN responded that it was put in before they got a building permit for water and electricity and before it was realized that it would be a recreational vehicle. Currently the County has not issued the turn on of utilities to that location, pending the outcome of today’s hearing.

DAILEY asked if it was a little house on a trailer not self-propelled.

MORGAN responded yes, that it was not a motorized recreational vehicle.

DAILEY asked if it was a stick build home it could be built anywhere, since it would be a single family residence.

MORGAN responded yes.

RICHARDSON- mentioned that the background information states that it is the applicant's intent to place. It was not mentioned that it was already there, information that would have been helpful to know. Asked when it was placed there.

Morgan responded that she did not know. When she got the application and went out to take the photos it was there and does not know when it was placed.

CHAIR FOSTER noted for the record that the applicant was not present and would be looking for referral of the item and as agreed upon, it would be open for public comment.

TERRESIA DUBOIS, 7319 S. SPENCER ROAD; NEWTOWN, KS said she was speaking on behalf of her husband Glenn DuBois and herself who are co-owners of the 168 acres of rural property located diagonally across from the land involved in the proposed change. Terresia summarized a letter submitted. Since the purchase of the property in the fall of 2014 her entire family has poured thousands of labor hours clearing the land to restore it to a prime rural property, including the demolition and total clearing of an abandoned farmstead to the cutting of trees by chain saw and recent pasture burn in an effort to restore the grassland area. Their goal is to develop a prime residential site similar to the homesites already established in the area. Investing in the property because of the physical characteristics and recreational opportunities offered by the area. Terresia includes a letter from a Kansas Certified Residential Appraiser that explains how several qualities and environmental factors impact the market value. Terresia states that the tiny house does not fit into aesthetics of the surrounding neighborhood. After researching the tiny house movement she found that owners are encouraged to look for "loopholes" or "fly under the radar" regarding existing building and zoning codes. Terresia referred to Exhibit 3 and four of the handouts and would like the board members to look at the proposal and research to find out what the recommendation was. She is aware of the tiny house movement and feels that Sedgwick County has been lax to provide appropriate guidelines. Referring to Kathy Morgan's argument on the approval of the request because of precedent establish approval of two other conditional zoning changes for tiny houses and believes is absurd. Asking the board to look at the two prior proposals submitted and approved because they are nothing like what is being set up. She believes that it is time to take a stance and admit that there need to be guidelines. (Minute granted to speaker) She would and proceed to mention exhibit 5 and 6 as examples of already establish codes and regulations for tiny houses in Missouri and Nebraska. She concludes by asking the commission to vote no and regrets conflict and any hardship created with the neighbors. She feels some blame needs to be put on the commission for the lack of leadership addressing the tiny house issue.

RANDI MARK 4120 E 85th St N. Said he lives across from the area requesting zoning and opposes granting zoning variance for the set property or an RV park in a rural residential area. Because it will negatively affect property values in the area and may lead to more request that don't fit with the character of the neighborhood. Randi explains the rural feel of the neighborhood despite the proximity to the Wichita metro area and worries this will open the door to additional zone changes that would destroyed the tranquility currently attracting home owners.

He understands that it only one tiny home but is concerned of other request made in the area because of the precedence set. Understanding the money and time the applicant has spent on the tiny home but he has also put considerable time and money developing his home and property.

RICHARDSON asked Randi Mark to point to the map where his property is located.

STEPHANIE BOWEN 8455 N. Oliver said her husband and her own and reside in ten acres approximately half a mile from the proposed RV camp ground. She wants to express her opposition to the rezoning of the land and explained that her land was bought land ten years ago and over the years has made a significant investment in the property. Investment on location was made on the fact that there were multiple homes in the area with similar range of property value and quality. She stated that within two miles radius of the requested zoning change there are more than 25 home s with property tax values ranging from \$300,000 to half a million dollars and an incremental ten homes with property tax values ranging from \$500,000 to a million information gathered form the Sedgwick county property tax appraisal districts website . She expressed that her investment represents a significant portion of their life savings and as such they cannot afford to put at risk. If rezone potential buyers, land developers and builders would be discouraged from purchasing the property. An RV camp would put property values at risk while degrading the value and character of area. (Speaker granted a minute) She said that the RV has been located in area for one month without proper facilities in place that an RV park requires for example a sewer. She wonders how gray water another waste are being disposed and what the implications of such disposal have on the environment and public health and safety. She mentions that there are other places that are already zoned and stablished for such uses. The area is not suitable for RV area the area is rural residential and she request that the commission based on golden rule #5 which indicates that it is the City's responsibility to its citizens . She said that while one applicant may gain from the rezoning many stand to lose and pleads to the commission make a decision in the best interest of the many.

CHAIR FOSTER asked her if she mentioned of another similar home in the area.

BOWEN responded no, just the one.

JEAN RICHERT 61222 W. 85TH ST. N said she lives in the area which is Agricultural and residential. For the last 18 years she has own 60acres and like others she has tried to improve the area and be an asset to the neighborhood. She stated that she had photos on her phone dated February 12, after the home had been there for a week referring to the question made earlier of since when has the home been there? A mail box and driveway was immediately added which cause alarm because there had no zoning for it. She describes that there have been two cars parked there continuously and the lights on way into the night. To her that speaks volume of character of owner if she was there prior to zoning. It also alarms her that it appeared out of nowhere and wonders if approved what would keep others from coming along. After doing some research she found that there are RV parks very near, two to be exact one that already has ten tiny homes, the other said they would welcome the tiny home and make all the facilities needed for example electricity, sewer and water hookups would be there. She feels that would be appropriate for the applicant. She respects the applicant's desire to live green but the applicant

wants zoning to accommodate her instead of going somewhere where there already is zoning. Property owners have made financial investments and are appreciative of the time in considering their words and plead to keep the neighborhood and area as it should be.

CHAIR FOSTER commented for the record that the commission has not look at this item previously and has not provided approval.

STAN COCHRAN 8450 N. 44TH ST E said he moved in fourteen years ago and build his dream home and the majority of the homes in area are high end homes with manicure landscapes. He strongly objects of the proposal to have this type of zoning nears his house for trailers believing it would greatly devalue property. He adds that the trailer is near creek, with no permanent septic system, gray water being dumped on the ground that would eventually get in the creek causing problems later. Driving by every day he has notice trash and an un-manicured ground. He believes this is not fair since he and the neighbors have been taking care of their lawns. He does not understand how the applicant has a water meter without an approval and is hoping for the request to be denied.

RICHARDSON asked Stan Cochran to point on the map where he lives.

COCHRAN said he has a pond behind his property and spent a lot of money on fixing it and on the property as well spending his life savings building a home.

DAN PARSONS 4201 E. 84th St. N he wanted to point out a letter dated February 13th received from the applicant clarifying that the tiny home was already on the property. He knows he can't just go build a home on a piece of property without a building permit and then just finding out what happens later. He understands the value of the homes in the area and the plans of future developments. He acknowledges that the area is an asset to County and as much as he likes camping he does not think it is not safe because even in some state parks there are signs that say no grey water dumping. He hopes the board does not let this go on.

RICHARDSON asked Parsons to point on the map where he lives.

RICHARDSON said he thought Parsons said he said his address was on Oliver.

PARSONS replied that his house is a little over 2000 sq. ft., not very big compared to other houses in the area. He also mentioned that several homes have grounded swimming pools and nice pool houses.

DAILEY asked Parson if he was referring to the question he asked if it was stick built.

PARSONS answered no

DAILEY only asked that assuming they get a permit and did not want him to think that was what he meant.

PARSONS said that it was just the fact that it was already there and are barely talking about getting a zoning.

DIANE MARK 4120 E. 85th St N. thanks the Commission for hearing what she has to say and said she lives one the property right across the street. She is there to represent Aaron Mark residing at 124 W. 60th St 42C; New York, NY, owner of a home and the property located on the northwest corner of Oliver and 85th street. She reads a letter where Marks states he works and resides outside of Kansas but authorizes her to represent him in the matter and speak on his behalf. In his letter Marks is concerned with the potential financial harm to the value of his property. He writes that the community and surrounding areas is comprised of Agricultural land and permanent single family residential homes with the currently zoning supporting the property value. Attracting buyer with values, similar and ideals willing to pay a premium to live in this type of community. He requests that the commission does not approve the proposed zoning.

CHAIR FOSTER mentioned that after obtaining the publics information needed and as discussed earlier the item is deferred to April 6 or April 20.

Dailey asked if they have a choice not to deferred it and just make a decision.

CHAIR FOSTER stated that they've made a motion already to deferred and respect the request of the applicant.

RICHARDSON does not see a reason why it should be past the next meeting on April 6, 2017.

MOTION: To continued item to April 6, 2017

RICHARDSON moved, **J Johnson** seconded the motion, and it carried (8-0-1).

Person from audience asked a question (inaudible)

CHAIR FOSTER asked that the question be directed to staff.

KATHY MORGAN answered the question, that it is her understanding that the county has not issued an occupancy permit for the site. At this point it would be an enforcement issue and has nothing to do with the process here.

Person from audience asked a question (inaudible)

KATHY MORGAN said the county attorney will address that.

CHAIR FOSTER reinstates that a motion has been made Richardson moved, J Johnson seconded the motion.

J JOHNSON for the record wants to express his concern about cases being brought up to the Commission without DAB recommendation as he served on DAB for eight years. A lot people attended DAB meetings who were intimidate about attending a meeting with a large group. He believes it provides a means for people to talk and express their feelings. He would love to have a policy for cases to not be scheduled for hearing until there is a DAB recommendation clarifying that not a DAB recommendation but at least a DAB meeting.

RICHARDSON wanted to know if the item goes to County Commission for final approval.

MORGAN explained if there are enough protest petitions submitted and with the item being deferred until April 6 the protest period ends April 20th. At that time if there are sufficient protest filed with the County Clerk then it would be scheduled for a Board of County Commission Meeting.

RICHARSON asked if denied it would end at the meeting.

KNEBEL explained unless the applicant appeals to the County commission.

RICHARDSON comments that the applicant can appeal to the county commission.

D MILLER comments that it only takes one to appeal or protest there is no minimum number.

RICHARDSON comments that it is not just a minimal protest and if one person protest then they can

D MILLER explained that the $\frac{3}{4}$ majority vote still relies on the twenty percent rule but as far as forcing the county commission to hear it only takes one protest

RICHARDSON understood.

DAILEY asked if the people he people who testified today would they be able to testify again or will it be that be part of the record.

D MILLER explained that it would be up to the commission to decide at the next meeting.

JON VAN ACHEN explained that part of the motion made earlier involved taking this testimony into the minute's providing to the applicant and the commissioners who are not present. It would be the commission's choice the next meeting if additional testimony will be taken. Testimony will also need to be taken on April 6th meeting.

CHAIR FOSTER asked if there is record of the testimony from the public who spoke today.

KATHY MORNGAN answered yes.

CHAIR FOSTER asked if there is any thought or discussion on Mr. J. Johnsons' earlier comment and does not know if they can go back a change the continuance to April 6, 2017.

RICHARDSON asked about DAB meeting in the County and how it works

JON VAN ACHEN replied no, only in District 3 and this item is in District 4 therefore it does not apply to case. Explaining that as of yesterday's meeting they have been approved for District.

B JOHNSON wanted to know if staff knows what sewer arrangement are with the public that spoke at the meeting.

KNEBEL commented that just from looking at the aerial it looks like most people have lagoons.

The Metropolitan Area Planning Commission adjourned at 3:04 p.m.

DRAFT