



Department of Planning + Urban Design

Unified Government of Wyandotte County • Kansas City, Kansas

701 N 7th Street, Suite 423
Kansas City, Kansas 66101
www.wycokck.org/planning

Phone: (913) 573-5750
Fax: (913) 573-5796
Email: planninginfo@wycokck.org

To: Board of Zoning Appeals
From: Planning and Urban Design Staff
Date: October 10, 2022
Re: **Petition BOZA2022-043**

GENERAL INFORMATION

Applicant:

Andrea Weishaubt

Status of Applicant:

Representative
Atlas Land Surveyors
2300 Hutton Road, Suite 108
Kansas City, Kansas 66109

Requested Actions:

Approval of a Variance.

Date of Application:

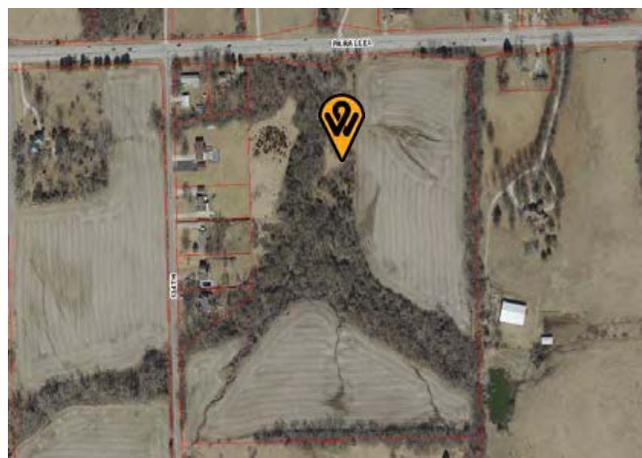
July 29, 2022

Purpose:

This appeal has been filed for to grant variance from the maximum depth-to-width ratio for a lot. Section 27-280(b) states that the depth of a lot shall not exceed three (3) times the width. The new Lot 4 created by PLAT2022-032 has a depth to width ratio of 3.61:1, a violation of 17%.

Property Location:

13205 Parallel Parkway



Commission Districts:	Commissioner At Large District #1: Melissa Bynum District #5 Commissioner: Mike Kane
Existing Zoning:	R Rural Residential and A-G Agriculture Districts (WYCO)
Adjacent Zoning:	North: A-G Agriculture District South: R Rural Residential District East: A-G Agriculture District (WYCO) West: R-1 Single-Family (WYCO) and A-G Agriculture Districts (WYCO)
Adjacent Uses:	North: Agricultural lot and single-family residence South: Single-Family Residence East: Agricultural lot and single-family residence West: Single-Family Residence
Total Tract Size:	35.11 Acres
Master Plan Designation:	The Prairie-Delaware-Piper Master Plan designates this property as Planned Mixed Residential District, which allows a variety of residential densities and unit types. These areas could be developed with patio (zero lot line) homes, townhouses, condominiums, garden apartments, housing for seniors, and other multifamily uses.
Major Street Plan:	The Major Street Plan designates Parallel Parkway as a Class A Thoroughfare.
Parking Requirement:	R Rural Residential District (WYCO): Parking in the R Rural Residential District (WYCO) are the same as that of the AG Agriculture District, in which the applicant is proposing to change the zoning to. Sec 27-452(e) states "Two off-street parking spaces shall be provided on the premises for each single-family dwelling". While there is no plan provided for this district, as the Change of Zone is a result of a change to the property, there is more than enough space for uses to provide ample parking.
Advertisement:	<u>The Wyandotte Echo</u> – August 18, 2022 Letters to Property Owners – August 19, 2022

Public Hearing: October 10, 2022

Public Support: None to date.

Public Opposition: None to date.

RELATED ENFORCEMENT AND ACTION ITEMS

Noise or Disturbance Complaints:

1. There have been no Notice of Violation on the subject property.

Building, Zoning, or Code Enforcement Complaints:

1. The property has had a history of Code Violations regarding weed and tall grass.
 - a. 2022 - CAC22-1624 – Administrative Citations – Grass and Weeds
 - b. 2022 – ABT22-1633 – Weeds and Tall Grass
 - c. 2021 – ABT21-1778 - Weeds and Tall Grass
 - d. 2020 – 20299-01548 – Administrative Citations - Weeds and Tall
 - e. 2020 – 20225-02688 – Weeds and Tall Grass
 - f. 2019 – 19225-04705 - Weeds and Tall Grass

Outstanding or Related Permits and Cases:

1. 2022 – COZ2022-029 – Change of Zone
2. 2022 – PLAT2022-032 - Plat

STATUTORY REQUIREMENTS/FACTORS TO BE CONSIDERED

1. ***The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and which is not created by an action or actions of the property owner or the applicant.***

This appeal has been filed to grant a variance from the three (3) to one (1) lot depth to width ratio. The requested variance arises from a condition that is unique to the subject property, as the lot has been previously subdivided in a way, which left the current lot with an odd shape, making it impossible to create more than two (2) lots, without having to obtain a variance for depth to width ratio.

2. ***The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.***

The granting of this variance will not adversely affect the rights of adjacent property owners, as currently there are currently no plans for development, rather, just a subdivision of the subject property. Any proposed development

would have to adhere to the zoning code designation, which the applicant proposes to change to the A-G Agriculture District, which would require development that matches the character of the existing surrounding properties.

3. *The strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.*

The strict application of the zoning ordinance would constitute an unnecessary hardship upon the property owner, as the property owner would only be able to subdivide the land and create two (2) lots, rather than the proposed four (4) lots. If denied, the applicant can still subdivide the property into two (2) lots.

4. *The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.*

The granting of this variance will not adversely affect the public health, safety, or welfare, as currently there are currently no plans for development, rather, just a subdivision of land. Any proposed development would have to adhere to the zoning code designation, which the applicant proposes to change to the A-G Agriculture District, which would require development that matches the character of the existing surrounding properties.

5. *The granting of the variance desired will not be opposed to the general spirit and intent of the zoning ordinance.*

The spirit of Section 27-280(b) and Section 27-280(f) is to keep the dimensions of parcels proportionate in order to maintain buildability and marketability. While proposed lot 4 has a depth-to-width ratio that exceeds the maximum allowed ratio by 17%, the overall sizes of the parcels are large enough that constraints on buildability imposed by the parcel dimensions is not a concern. While the lot could be subdivided into only two (2) lots, rather than the proposed four (4), this would create an ineffective use of the land, which is an undesirable outcome, not within the intent of the zoning code. Therefore, the granting of the variance is within the spirit of the zoning ordinance.

PREVIOUS ACTIONS

None to date.

NEIGHBORHOOD MEETING

The applicant held a neighborhood meeting on August 30, 2022. Attached is the list of persons who attended the meeting, minutes, affidavit and/or submitted comments to the applicant.

STAFF COMMENTS AND SUGGESTIONS

Planning and Urban Design Comments:

1. What plans, if any, does the applicant have to develop the site?

Applicant Response: The applicant does not propose to develop the site, rather, sell the parcels individually.

2. If necessary, is the applicant able to reduce the number of lots from four (4) down to three (3)?

Applicant Response: The applicant would rather not downsize the number of lots, to three (3).

Staff Response: In the event that the associated variance, BOZA2022-043 is denied, the applicant must redraw their plats and lots.

3. All future development shall meet UG Zoning Code requirements. No future development may violate the setback requirements or other design requirements.

Applicant Response: Acknowledged.

4. When the mylars are submitted to Staff to be recorded, submit the following fees:
 - a. \$32.00 per page payable to the register of deeds; and,
 - b. \$7.00 per lot payable to the Unified Treasurer.

Applicant Response: Acknowledged.

Conservation District Comments:

1. The site has eroded in the past;
2. If there is major grading, there will need to be an Erosion Control Plan; and,
3. Drainage coming through lot 1 and onto lot 2 will need to be protected from soil siltation during grading work.

Planning Engineering Comments:

- A) Items that require plan revision or additional documentation before engineering can recommend approval:
 - 1) None.
- B) Items that are conditions of approval:
 - 1) Detailed engineering comments are made by separate technical review of the plans and submitted directly to the applicant. Provide revised plans and responses in accordance with the engineering comments.

C) Comments that are not critical to engineering's recommendations for this specific submittal, but may be helpful in preparing future documents:

- 1) None

STAFF RECOMMENDATION

Staff recommends that the Board of Zoning Appeals **APPROVE** case **BOZA2022-043** subject to all comments and suggestions outlined in this staff report.

1. **This Board of Zoning Appeals case is being heard in conjunction with PLAT2022-032 and COZ2022-029, heard by the City Planning Commission, on October 10, 2022;**
2. **All future development shall meet UG Zoning Code requirements. No future development may violate the setback requirements or other design requirements;**
3. **Proposed development(s) within this preliminary plat or plans review will require drawings to be submitted with additional information. These additional plans may result in additional comments, changes, or conditions before final approval;**
4. **Approval of this case by the Board of Zoning Appeals, and the conditions of approval contained herein, has been granted independent of any and all covenants, conditions, and restrictions (CC&R) of the plat or subdivision within which the subject property is located. It is the responsibility and duty of the applicant and/or landowner to ensure that the exercise of variance(s) approved, or any portion thereof, do(es) not violate the applicable and enforceable CC&R of the plat or subdivision within which the subject property is located;**
5. **All future development shall meet UG Zoning Code requirements. No future development may violate the setback requirements or other design requirements;**
6. **Any future development shall work with the Wyandotte County Conservation District and develop a Conservation Plan to address concerns noted by the Conservation District;**
7. **A building permit is required for the construction of a permanent structure greater than 120 square feet, for the expansion of or addition to an existing structure, and/or a change in the use of (i.e., change of occupancy) an existing structure. The applicant is required to contact the Building Inspections Division at (913) 573-8620 or by buildinginspection@wycokck.org to confirm if they need a building permit, and if so, must take it upon themselves to initiate the building permit process accordingly;**
8. **All exterior lighting on the building must be hooded or controlled to direct light 90 degrees downward. No light may cast light or glare off the property or onto the public street;**
9. **Site improvements that include land disturbance activity on greater than one (1) acre of surface area of land shall require a land disturbance permit issued by the Unified Government and shall be compliant with all applicable local ordinances and State Statutes and Regulations (Article**

- XIV, Sections 8-610 through 8-618). Land disturbance fees shall be processed by UG Public Works during the Land Disturbance/Site Development application. The Land Disturbance permit and all applicable Public Works permits can be obtained from the Public Works Department, 701 North 7th Street, Kansas City, KS 66101, (913) 573-5700. With the issuance of the Land Disturbance Permit, a grading permit is required and issued by the Building Inspections Division, Neighborhood Resource Center, 4953 State Avenue, Kansas City, KS 66102, (913) 573-8620;
10. All existing and future driveways must feature curb cuts that are constructed to UG standards; and,
 11. The applicant, contractors, subcontractors, and related third parties shall comply with Planning Engineering Comments for General Engineering, Erosion Control, Sanitary Sewer, Storm Drainage, Stormwater Quality, Streets and Retaining Walls, as applicable.

ATTACHMENTS

Aerial Imagery
 Zoning Map
 Land Use Map
 Preliminary Plat
 Final Plat
 Conservation District Comments, Dated August 16, 2022
 Site Photos, Provided by Staff, Dated August 11, 2022

REVIEW OF INFORMATION AND SCHEDULE

<u>Action</u> Public Hearing Appeal	<u>Board of Zoning Appeals</u> October 10, 2022
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STAFF CONTACT: **James Molloy**
 jlmolloy@wycokck.org

MOTIONS

I move the Board of Zoning Appeals **APPROVE** Case **BOZA2022-043** as meeting all the requirements of the City code and being in the interest of the public health, safety and general welfare subject to such modifications as are necessary to resolve to the satisfaction of City Staff all comments contained in the Staff Report; and the following additional requirements:

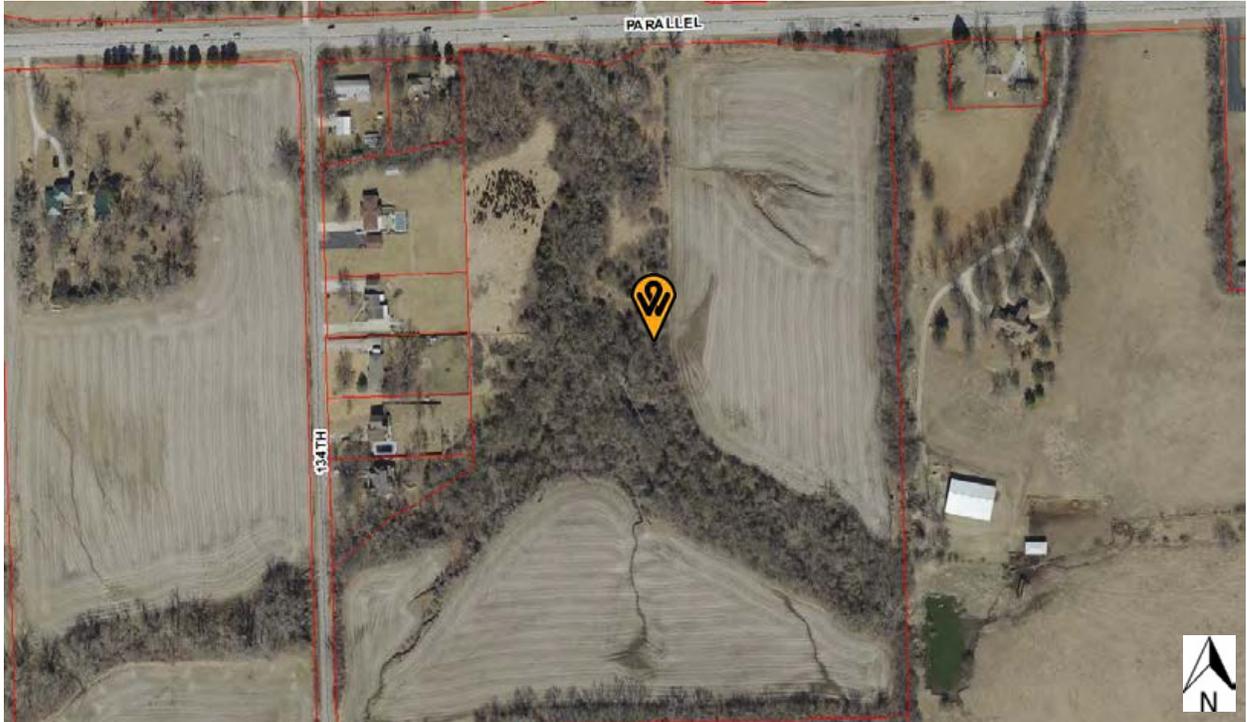
1. _____;
2. _____; And
3. _____.

OR

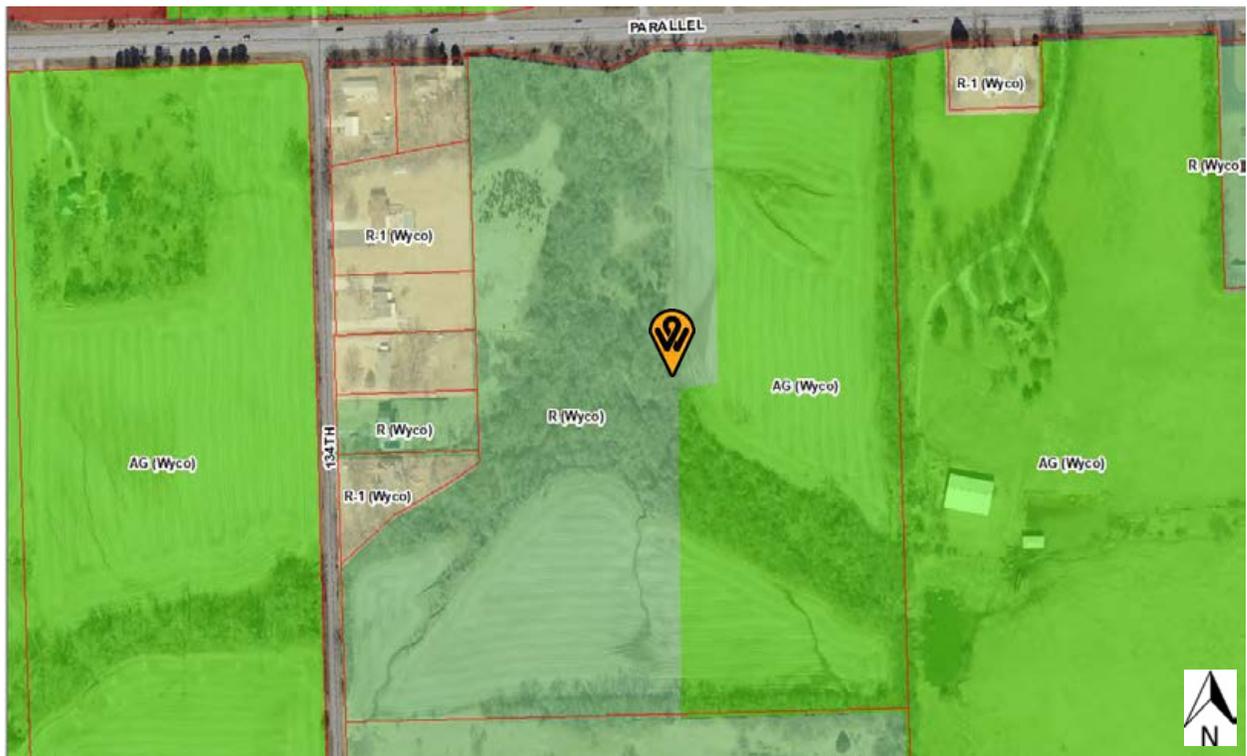
I move the Board of Zoning Appeals **DENY** Case **BOZA2022-043**, as it is not in compliance with the City Ordinances as it will not promote the public health, safety and general welfare of the City of Kansas City, Kansas; and other such reasons that have been mentioned.

ATTACHMENTS

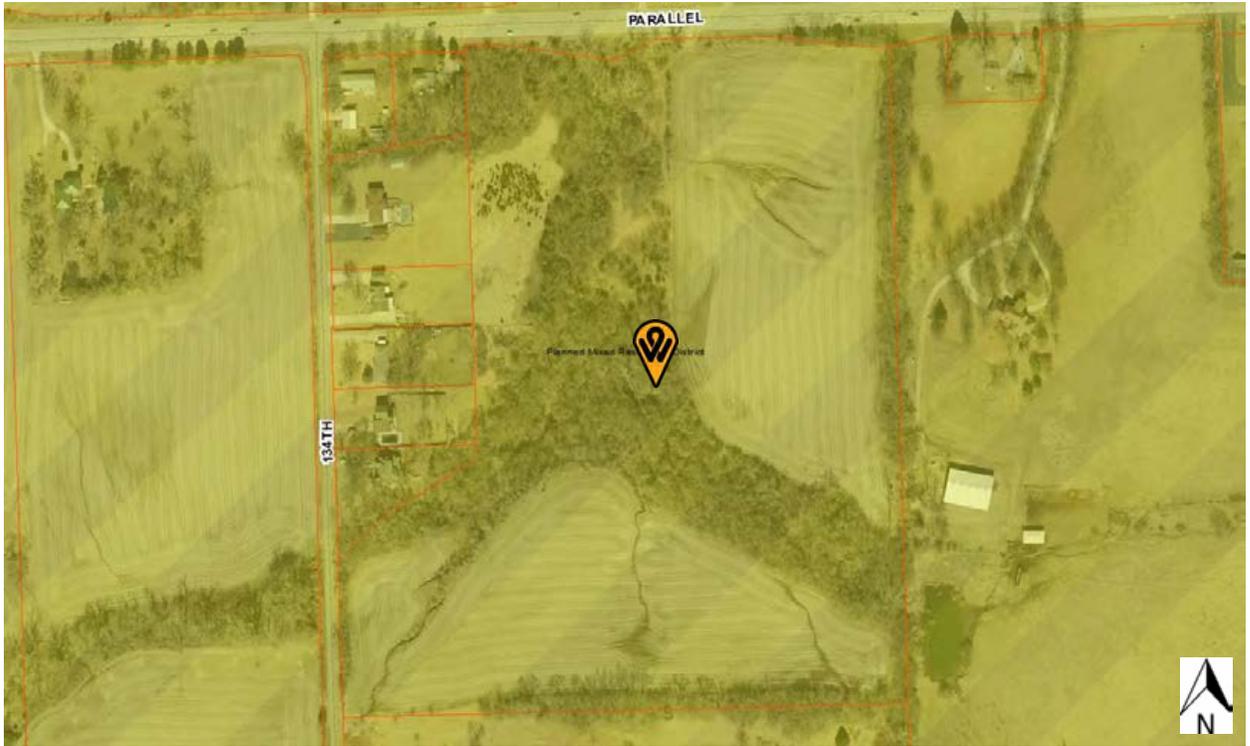
AERIAL IMAGERY



ZONING MAP



LAND USE MAP



CONSERVATION DISTRICT COMMENTS, DATED AUGUST 16, 2022



Wyandotte County Conservation District
1204 N. 79th Street - Kansas City, KS 66112 - Phone (913)-334-6329 -
wyco.conservation@gmail.com

Gunnar H. Hand
Director of Planning
701 North 7th Street Rm. 423
Kansas City, KS 66101
913-573-5750

August 16, 2022

RE: COZ2022-029, BOZA2022-043 and PLAT2022-032 Andrea Weishaupt with Atlas R to A-G to subdivide into 4 lots at 13205 Parallel Parkway

Dear Mr. Hand:

The Wyandotte County Conservation District has completed an environmental review of the: COZ2022-029, BOZA2022-043 and PLAT2022-032 Andrea Weishaupt with Atlas R to A-G to subdivide into 4 lots at 13205 Parallel Parkway.

In addition to the site review the following reports were generated from the Wyandotte County Soil Survey to assess the limitations for development and/or natural resources concerns for this site.

MAPS AND REPORTS

Soils Map
Soils Inventory Report
Map Unit Description (Brief)
Dwellings and Small Commercial Buildings
Soil Features

In summary, the following limitations and resource concerns were noted for this COZ:

- There are three major soil types identified: Pawnee clay loam, 4 to 8 percent slopes, eroded, Sharpsburg silty clay loam, 4 to 8 percent slopes, eroded and Shelby Loam, 3 to 7 percent slopes. These soil types are considered highly erodible when the surface is denuded of a protective cover.
- This sight has been eroded in the past.
- If there is to be major grading there will need to be an Erosion Control Plan developed for the area. The street and other properties can be impacted by siltation.

- The drainage way coming through lot 1 and next to lot two will need to be protected from soil siltation during any grading work.
- Assistance with these concerns is available from this office.

Technical assistance is available from our office. Limitation maps, detail soil reports and a conservation plan can also be requested for this site from our office.

The ratings and other information in these reports are based on estimated engineering properties of the soils, on available test data and on field experience. The soil is ordinarily examined to a depth of about 6 feet. At a greater depth, additional geological investigation may be needed. The natural soils and drainage pattern may have been changed in this area due to previous urban development. Therefore, the physical composition influencing the structure of the natural soil has already been altered; however, some generalities can still be applied for these soils. On site investigation is needed for detail planning as some delineation on the maps includes soils that differ from the named soil. Soil lines may not be exact therefore; on site investigation is needed for site specific planning.

If you have any comments or questions, please do not hesitate to call me.

Sincerely,

Cheri Miller
District Manager

enclosures



ALC

ATLAS LAND CONSULTING
SURVEYING | ENGINEERING | DRONE | CAD
913-702-5073
606 Jefferson Hills Court, Lawrence, Kansas 66044

Stimac Addition

BOZA2022-043

1. *The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and which is not created by an action or actions of the property owner or the applicant.*

This appeal has been filed to grant a variance from the three (3) to one (1) lot depth to width ratio. The requested variance is arises from a condition that is unique to the subject property, as the lot has been previously subdivided in a way, which left the current lot with an odd shape, making it impossible to create more than two (2) lots, without having to obtain a variance for depth to width ratio. **The current width to depth ratio for Lot 4 is 3.06:1 which makes it very close to that actual 3:1. We agree is would be very difficult to make this happen without a variance.**

2. *The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.*

The granting of this variance will not adversely affect the rights of adjacent property owners, as currently there are currently no plans for development, rather, just a subdivision of the subject property. Any proposed development would have to adhere to the zoning code designation, which the applicant proposes to change to the A-G Agriculture District, which would require development that matches the character of the existing surrounding properties. **The property owner has made no indication of developing this property, rather looking to sell the parcels.**

3. *The strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.*

The strict application of the zoning ordinance would constitute an unnecessary hardship upon the property owner, as the property owner would only be able to subdivide the land and create two (2) lots, rather than the proposed four (4) lots. If denied, the applicant can still subdivide the property into two (2) lots. **This is true, but economically this does not**

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make sense for the property owner. Lot 4 is bound to the width to depth ratio due to the creek running along the northerly line.

4. *The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.*

The granting of this variance will not adversely affect the public health, safety, or welfare, as currently there are currently no plans for development, rather, just a subdivision of land. Any proposed development would have to adhere to the zoning code designation, which the applicant proposes to change to the A-G Agriculture District, which would require development that matches the character of the existing surrounding properties. **Agree.**

5. *The granting of the variance desired will not be opposed to the general spirit and intent of the zoning ordinance.*

The spirit of Section 27-280(b) and Section 27-280(f) is to keep the dimensions of parcels proportionate in order to maintain buildability and marketability. While proposed lot 4 has a depth-to-width ratio that exceeds the maximum allowed ratio by 17%, the overall sizes of the parcels are large enough that constraints on buildability imposed by the parcel dimensions is not a concern. While the lot could be subdivided into only two (2) lots, rather than the proposed four (4), this would create an ineffective use of the land, which is an undesirable outcome, not within the intent of the zoning code. Therefore, the granting of the variance is within the spirit of the zoning ordinance. **Agree, without creating the 4 lots, this is a undesirable outcome with wasted land.**

Planning and Urban Design Comments:

1. What plans, if any, does the applicant have to develop the site? **No current development planned. The applicant is looking to sell of some of the parcels.**
2. If necessary, is the applicant able to reduce the number of lots from four (4) down to three (3)? **From an economic standpoint the applicant would rather not. They are trying to maximize the property currently. Lots 1-3 all meet width to depth ratio and frontage requirements.**
3. All future development shall meet UG Zoning Code requirements. No future development may violate the setback requirements or other design requirements. **Acknowledge**
4. When the mylars are submitted to Staff to be recorded, submit the following fees:
 - a. \$32.00 per page payable to the register of deeds; and,
 - b. \$7.00 per lot payable to the Unified Treasurer – **Acknowledge**

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Conservation District Comments:

1. The site has eroded in the past; **Noted**
2. If there is major grading, there will need to be an Erosion Control Plan; **Acknowledge**
3. Drainage coming through lot 1 and onto lot 2 will need to be protected from soil siltation during grading work. **Acknowledge**

Planning Engineering Comments:

1. Final Plat should be sealed, signed, and dated by a professional land surveyor registered in the state of Kansas; **Acknowledge**
2. The final plat shall incorporate County surveyor comments. Typically, the county surveyor makes a separate technical review of the plat and will submit comments directly to the preparer of the plat. **Acknowledge**
3. Final plat must be approved before going to the Planning Commission with approval to obtain permits. The Plat must meet the requirements of UG standards and criteria. **Acknowledge**

Standard Conditions:

1. This Board of Zoning Appeals case is being heard in conjunction with PLAT2022-032 and COZ2022-029, heard by the City Planning Commission, on September 12, 2022; **October 10th**
2. Approval of this case by the Board of Zoning Appeals, and the conditions of approval contained herein, has been granted independent of any and all covenants, conditions, and restrictions (CC&R) of the plat or subdivision within which the subject property is located. It is the responsibility and duty of the applicant and/or landowner to ensure that the exercise of variance(s) approved, or any portion thereof, do(es) not violate the applicable and enforceable CC&R of the plat or subdivision within which the subject property is located; **Acknowledge**
3. All future development shall meet UG Zoning Code requirements. No future development may violate the setback requirements or other design requirements; **Acknowledge**
4. Any future development shall work with the Wyandotte County Conservation District and develop a Conservation Plan to address concerns noted by the Conservation District; **Acknowledge**
5. A building permit is required for the construction of a permanent structure greater than 120 square feet, for the expansion of or addition to an existing structure, and/or a change in the use of (i.e., change of occupancy) an existing structure. The applicant is required to contact the Building Inspections Division at (913) 573-8620 or by buildinginspecton@wycokck.org to confirm if they need a building permit, and if so, must take it upon themselves to initiate the building permit process accordingly; **Acknowledge**
6. All exterior lighting on the building must be hooded or controlled to direct light 90 degrees downward. No light may cast light or glare off the property or onto the public street; **Acknowledge**

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7. All existing and future driveways must feature curb cuts that are constructed to UG standards; **Acknowledge**
8. Site improvements that include land disturbance activity on greater than one (1) acre of surface area of land shall require a land disturbance permit issued by the Unified Government and shall be compliant with all applicable local ordinances and State Statutes and Regulations (Article XIV, Sections 8-610 through 8-618). Land disturbance fees shall be processed by UG Public Works during the Land Disturbance/Site Development application. The Land Disturbance permit and all applicable Public Works permits can be obtained from the Public Works Department, 701 North 7th Street, Kansas City, KS 66101, (913) 573-5700. With the issuance of the Land Disturbance Permit, a grading permit is required and issued by the Building Inspections Division, Neighborhood Resource Center, 4953 State Avenue, Kansas City, KS 66102, (913) 573-8620; and, **Acknowledge**
9. The applicant, contractors, subcontractors, and related third parties shall comply with Planning Engineering Comments for General Engineering, Erosion Control, Sanitary Sewer, Storm Drainage, Stormwater Quality, Streets and Retaining Walls, as applicable. **Acknowledge**

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SITE PHOTOS, PROVIDED BY STAFF, DATED AUGUST 11, 2022



EXHIBIT B

13205 Parallel Pkwy Kansas City, KS 66109
COZ2022-029, PLAT2022-032, BOZA2022-043

Kathy S Holm
1845 N 134th Street
Kansas City, KS 66109
kathyh@milesexcavating.com

Question:

"Good afternoon, Austin-

I received a letter in the mail today regarding the address named above and had just a few questions.

Can you explain to me (as in zoning for dummies because I have no clue) what this letter means and why we received it? I know this property is just East of our property; leaving several questions and concerns regarding this letter.

With all of the new development happening in Wyandotte County lately, my concern of course is that the new developments are moving out our way."

Answer:

Kathy,

Thank you for reaching out. Attached in the letter, is the proposed plat our client is looking to create. Currently the property is about 35+/- acres, and our client is looking to create 4 new agricultural parcels. Looking at the plat, 3 parcels (Lot 1, Lot 2, Lot 3) will be facing Parallel Parkway. These parcels are about 6.5 Acres +/- . Lot 4 is a larger 15.65 Acre parcel that will face N 134th Street.

The reason for the rezoning is currently the property is zoned R (WYCO) and AG (WYCO).. Due to us trying to create these new parcels, the client wanted to create all new Agricultural properties. So instead of having multiple zonings on the property, we are just creating 4 Agricultural lots. This is the reason for the letter you received, we are required by the Unified Government to have a "neighborhood meeting" with property owners within 200 feet of our proposed site.

The letter is just to make you aware of what we are doing with the property. The owner has given no indication for development moving on to their property. They are really looking to sell off pieces of the larger parcel!

Please let me know if you have any other comments, questions or concerns

AFFIDAVIT – NEIGHBORHOOD MEETING

STATE OF Kansas)
COUNTY OF Johnson) SS:

Comes now Andrea Weishacht, of lawful age, sound mind and upon his/her oath states as follows:

1. That I am the petitioner for Petition # CO22022-029 (Plat 2022-032 / BOZM 2022-023)
2. That I conducted a neighborhood meeting on via letter (email or call)
3. Attached are the minutes/summary of the meeting and a copy of the notice mailed to the property owners on the list provided by the Urban Planning and Land Use Department.

Further affiant saith not.



Affiant

SUBSCRIBED IN MY PRESENCE AND SWORN to before me this 30th day of August, 2022.

My commission expires 20th of December, 2022.





Notary Public