



Department of Planning + Urban Design

Unified Government of Wyandotte County • Kansas City, Kansas

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Kansas City, Kansas 66101
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To: Board of Zoning Appeals
From: Planning and Urban Design Staff
Date: November 14, 2022
Re: Appeal BOZA2022-055

GENERAL INFORMATION

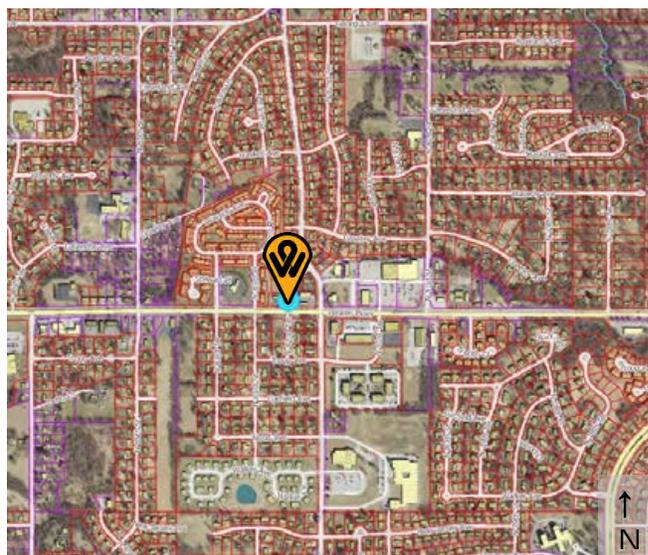
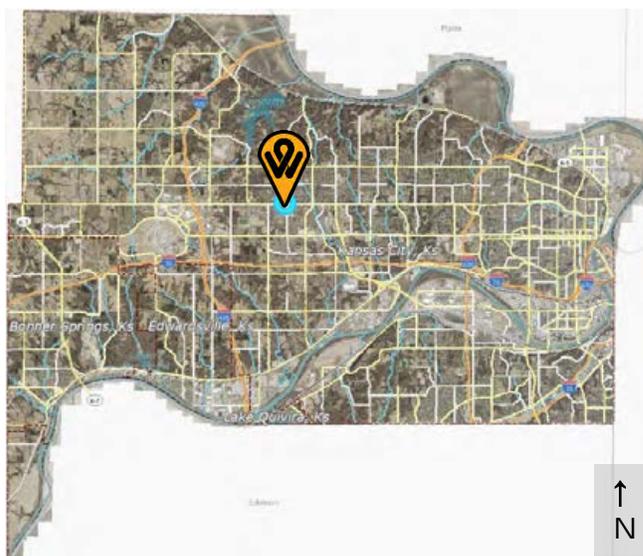
Applicant:
David Cunningham

Status of Applicant:
Business Owner
Parkway Liquors
8222 Parallel Parkway
Kansas City, Kansas 66112

Requested Actions:
Approval of a variance request.

Date of Application:
September 30, 2022

Purpose:
This appeal has been filed to grant a variance from the minimum allowed distance between a new liquor store and any existing or proposed liquor store location, place of worship, school, or public park. Section 27-593(b)(18) states that there must be a minimum separation distance of 1,300 feet between any new liquor store location and any existing or proposed liquor store location, church, school, or public park.



Purpose (cont.): The applicant is requesting the expansion of an existing liquor store that is 263 feet and 278 feet from two (2) separate places of worship, and 1,046 feet from a school, a violation of 1,037 feet, 1,022 feet, and 254 feet, respectively.

Property Location: 8222 Parallel Parkway
Kansas City, Kansas 66112

Commission Districts: Commissioner At-Large, District #1: Melissa Bynum
District #5 Commissioner: Mike Kane

Existing Zoning: C-1 Limited Business District

Adjacent Zoning:
North: R-1 Single-Family and
R-2 Two-Family Districts
South: R-1 Single Family District
East: C-1 Limited Business District
West: C-1 Limited Business District

Adjacent Uses:
North: Single-family residences and duplexes
South: Single-family residences
East: Fueling station and convenience store
West: Drive-thru restaurant

Neighborhood Characteristics: The subject property is within the Victory Hills Statistical Neighborhood and is not within a neighborhood group. The neighborhood is mixed-use, including small-scale retail centers, small lot single-family and multi-family residences, as well as institutions, such as churches, schools, and libraries. The subject property is located in one of several commercial nodes along Parallel Parkway, most of which are located at or near major intersections. The subject property is smaller than some of the surrounding commercial properties, which feature much larger lots, with an abundance of parking; The property does, however, match the character of the single-family residences that are adjacent to it.

Total Tract Size: 0.46 Acre

Master Plan Area: The subject property is within the City-Wide Master Plan.

Master Plan Designation: The City-Wide Master Plan designates this property as Low-Density Residential. The Low-Density Residential Land Use District is for single family

detached residences, institutional uses such as elementary and middle schools, small places of worship (less than 50,000 square feet), libraries, and parks and open space.

Major Street Plan: The Major Street Plan classifies Parallel Parkway as a Class A Thoroughfare.

Required Parking: Section 27-464(e) requires paved off-street parking spaces at a ratio of not less than four (4) spaces per 1,000 square feet of floor area in the building. The subject property is within a multi-tenant commercial building, the total floor area of which does not meet the required parking minimums. The proposed expanded liquor store has a floor area of 2,665 square feet, which requires 11 parking spaces. There are a total of 18 parking spaces (one (1) of which is ADA-compliant) for the subject property. So long as the requisite number of parking spaces are designated for Parkway Liquors employees and guests, then the subject property meets Section 27-464(e).

Advertisement: The Wyandotte Echo – October 20, 2022
Letters to Property Owners – October 21, 2022

Public Hearing: November 14, 2022

Public Support: None to date.

Public Opposition: None to date.

RELATED ENFORCEMENT AND ACTION ITEMS

Noise or Disturbance Complaints:

1. The property owner has not received several calls for police service. There was a report of burglary & criminal damage (2017-121682) in 2017, reports of theft (2018-38402) and battery & theft (2018-46466) in 2018, a report of theft (2019-46804) in 2019, and a report of theft & criminal damage (2020-107528) in 2020.

Building or Code Enforcement Complaints:

1. The property owner has not received any code violations.

Outstanding or Related Permits and Cases:

1. The property owner does not have any outstanding Building Permits.

2. The property owner does not have any outstanding Code Inspection.

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 minimum allowed distance between a new (or expanded use of a) liquor store and any existing or proposed liquor store location, place of worship, school, or public park. The subject property is a legally non-conforming liquor store, Parkway Liquors, located within a commercial tenant space addressed at 8218 Parallel Parkway. The liquor store use is considered legal non-conforming because it has been in operation before the Special Use Permit requirement was applied to liquor store used. The proposed expansion of the liquor store's floor space into the adjacent tenant space addressed as 8222 Parallel Parkway. This creates a condition that is unique to the subject property.

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

There is currently a liquor store operating on the subject property. As there is no new use being added to the property, the adjacent neighbors are already aware of and have co-existed with any and all uses that the variance would allow. Therefore, the granting of the variance will not adversely affect the rights of adjacent property owners or residents.

- 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.***

Strict application of the provisions of the zoning ordinance would require the liquor store to continue to operate in the existing tenant space with no ability to expand the footprint. Parkway Liquors has been in operation for more than 40 years. The inability for the business to physically expand, therefore, would unnecessarily stifle growth and development of a long-time Wyandotte County business. Furthermore, one (1) of the three (3) uses that triggered this variance—Arrowhead Middle School—is on a parcel within 1,300 feet as measured directly but is realistically further away from the subject property when the layout of the streets and sidewalks are taken into account. Therefore, strict application of the provisions of the zoning ordinance will constitute unnecessary hardship upon the property owner.

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

The subject property has been operating as a liquor store and may continue to do so within the current footprint of the existing tenant space. Although legal non-conforming status will be lost when the current liquor store expands its floor space, in actuality there is effectively no change to the use of the property as a current liquor store compared to a new liquor store that has expanded within the same building. Granting this variance will not have any different effect on the public health, safety, morals, order, convenience, prosperity, or general welfare than the effect the existing liquor store currently has. If there is no different effect, then such an effect cannot be adverse; therefore, the variance requested will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

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

The spirit of 27-593(b)(18) is to maintain a buffer between liquor stores and presumably incompatible uses (i.e., schools, parks, and places of worship), as well as prevent the grouping of liquor stores themselves. This ordinance is designed to prevent the introduction of new liquor stores into such buffers, not necessarily to push existing liquor stores out of such buffers. The actual distance of the buffer is not as important as is the effective separation of use. While the subject property is with a 1,300-foot radius of two (2) places of worship and a middle school, the middle school is not simply “down the street”. Both places of worship are across at least one (1) major street (North 82nd Street, and North 82nd Street and Parallel Parkway, respectively), which has the effect of reducing pedestrian traffic from the liquor store past the places of worship. Furthermore, the gas station-convenience store at the northwest corner of the North 82nd Street-Parallel Parkway intersection generates much more vehicle and pedestrian traffic, noise, lights, and congestion than does the liquor store in the adjacent parcel. Therefore, the granting of the variance desired will not be opposed to the general spirit and intent of the zoning ordinance.

PREVIOUS ACTIONS

- MPL2022-018, a simultaneous Master Plan Amendment from Low-Density Residential (City-Wide) to Community Commercial (City-Wide)
- SP2022-086, a simultaneous Special Use Permit for the expansion of an existing liquor store

NEIGHBORHOOD MEETING

The applicant received neighborhood comments by receiving letters or phone calls through the date of October 31, 2022. Attached is the list of persons who attended the meeting, minutes, affidavit and/or submitted comments to the applicant.

KEY ISSUES

Distance from Places of Worship and Schools
Landscaping and Screening
Pedestrian Connectivity
Signage
Trash Enclosure

STAFF COMMENTS AND SUGGESTIONS

Planning and Urban Design Comments:

General

1. This Board of Zoning Appeals case is being heard in conjunction with MPL2022-018 and SP2022-086. Any approval by the Board of Zoning Appeals of this case, and the conditions of approval contained herein, are contingent, and shall only go into effect, upon the approval of Petitions MPL2022-018 and SP2022-086 by the Unified Government Board of Commissioners and upon any ordinance publications required by law.
2. Traffic from the adjacent QuikTrip utilizes the subject property. Does the property owner have an access agreement with QuikTrip?

Applicant Response: The property owner, Patricia Quinlan, has an access agreement with QuikTrip for vehicles entering and exiting the property onto Parallel Parkway.

3. After the expansion, what will be the total floor area for Parkway Liquors (retail space, behind-the-counter, storage, offices, etc.)?

Applicant Response: Please see attached drawing below.

Staff Response: A floor plan demonstrating an expanded floor area of 2,665 square feet has been submitted by the applicant and can be found under "Floor Plan of 8218 and 8222 Parallel Parkway" within the *Attachments* section of this report. Per Section 27-464(e), the expanded liquor store requires 11 parking spaces. The subject property provides a total of 18 parking spaces (one (1) of which is ADA-compliant) for the subject property.

4. Per Section 27-699(b)(5), the on-site trash receptacle shall be repaired and completely screened by a fence/gate that is of a height no less than the trash receptacle.

Applicant Response: The fencing and architectural screening around the trash receptacle is being bid on by fencing contractors and is expected to be completed next couple weeks.

5. Per Section 27-464(g), trees are required at not less than one (1) per 7,000 square feet of site area. The subject property has 21,000 square feet, requiring three (3) trees be provided on the site plan.

Applicant Response: Three trees have been planted.

Staff Response: Per Section 27-703, the owner, developer, their agents and successors shall be responsible for all maintenance. All landscaping must be maintained in a healthy and orderly appearance, and kept free of debris and dead plant material. Plant material that has died or has been severely damaged by insects, diseases, vehicular traffic, acts of God, vandalism, etc., must be replaced by the next planting period. Architectural screening shall be maintained in good repair.

6. Signage, including window signage, that does not comply with Section 27-464(f) or other sections within the Sign Code shall be removed.

Applicant Response: Window signage will be removed.

7. A revised plot plan (see "Plot Plan of 8218, 8222, and 8226 Parallel Parkway" within the *Attachments* section of this report) must be submitted. This revised plot plan must demonstrate a marked pedestrian pathway from the sidewalk on Parallel Parkway to the front doors of the commercial building. All parking spaces designated for the subject property to be in compliance must be restriped.

Applicant Response: Revised plot plan is attached below. Revised to include pedestrian pathway.

Staff Response: A plot plan demonstrating a pedestrian pathway has been submitted by the applicant and can be found under "Plot Plan of 8218, 8222, and 8226 Parallel Parkway" within the *Attachments* section of this report.

Planning Engineering Comments:

1. Items that require plan revision or additional documentation before engineering can recommend approval:
 - a. None
2. Items that are conditions of approval:
 - a. None
3. Comments that are not critical to engineering's recommendations for this specific submittal, but may be helpful in preparing future documents:
 - a. None

STAFF RECOMMENDATION

Staff recommends that the Board of Zoning Appeals **APPROVE** Appeal **BOZA2022-055** subject to all comments and suggestions outlined in this staff report, and summarized by the following conditions:

1. This Board of Zoning Appeals case is being heard in conjunction with MPL2022-018 and SP2022-086. Any approval by the Board of Zoning Appeals of this case, and the conditions of approval contained herein, are contingent, and shall only go into effect, upon the approval of Petitions MPL2022-018 and SP2022-086 by the Unified Government Board of Commissioners and upon any ordinance publications required by law;
2. The property owner is maintaining an active access agreement with QuikTrip;
3. Per Section 27-699(b)(5), the on-site trash receptacle shall be repaired and completely screened by a fence/gate that is of a height no less than the trash receptacle;
4. The property owner must continue to designate 11 non-ADA-compliant parking spaces for use of the Parkway Liquors;
5. Per Section 27-699(b)(5), the on-site trash receptacle shall be repaired and completely screened by a fence/gate that is of a height no less than the trash receptacle;
6. Trees and landscaping must be planted and maintained per Sections 27-464(g) and 27-703;
7. Section 27-464(g) requires that trees are required at not less than one (1) per 7,000 square feet of site area. The subject property has 21,000 square feet, requiring three (3) trees be provided on the site plan;
8. Signage, including window signage, that does not comply with Section 27-464(f) or other sections within the Sign Code shall be removed;
9. The on-site parking lot must be maintained in compliance with the Zoning Code and with the amenities demonstrated in the submitted plot plan;
10. Alcoholic liquor, CMB, non-alcoholic malt beverage, and any other goods or services may be sold in a retail liquor store. Lottery tickets and cigarette and tobacco products with proper licensure may be sold in a retail liquor store. Sales of other goods and services must not exceed 20% of total gross sales. The 20% excludes lottery, CMB and cigarette and tobacco product sales. If sales of other goods and services from a licensed retailer premise exceeds 20% of total gross sales, all sales of other goods and services exceeding 20% will have to be made from a separate, unlicensed premises. If each premise does not have a separate outside entrance, a vestibule is required;
11. 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;
12. Per Section 27-723(a), no sign (including the structure or sign surface) shall be erected, installed, altered, relocated, rebuilt, or refaced until the unified government issues a sign permit. Only those signs permitted in this division shall be granted a sign permit. Contact the Department of Planning and Urban Design at (913) 573-5750 or signpermits@wycokck.org to begin this process;
13. If approved, the Applicant may need additional licenses or permits for safe and proper operation. The approval of this application does not mitigate

- the need for additional licenses as this application is for Zoning approval only;
14. The applicant has filed and maintained a current business occupation tax application;
 15. 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;
 16. All existing and future driveways must feature curb cuts that are constructed to UG standards;
 17. Section 27-699(b)(5) states that all outside bins or trash container areas must be completely enclosed by an architectural screen to a height not less than the height of the bin or container. No trash enclosures may be located in required yards adjacent to street right-of-way. In commercially and industrially zoned areas where the trash container will not be visible from off the property due to other screening or topographic conditions and will not be visible from public parking or pedestrian areas on the site, such trash bin screening need not be provided. In industrially zoned areas where the trash container will not be visible from residential property and where such containers are kept directly alongside the building and in a well-kept manner, such screening need not be provided; and,
 18. Any business in Wyandotte County that is required to obtain any Special Use Permit shall be responsible to ensure that all vehicle parking or vehicle storage must occur entirely on private property of the same land parcel and be at all times be compliant with all applicable local ordinances [27-463 through 27-470; 27-592 through 27-616; 27-667 through 27-676; 35-468 through 35-492]. No such business shall use the public right of way for any business operation. Any shared parking with another property is only allowed by a properly executed legal document that has been filed with the Unified Government and ratified by the City Planning Commission. Failure to comply at all times with parking regulations will result in municipal summons, administrative citation, or revocation of the Special Use Permit.

ATTACHMENTS

Aerial Map
Zoning Map
Land Use Map
Five Statutory Requirements Answered by the Applicant
Neighborhood Meeting Materials
Plot Plan of 8218, 8222, and 8226 Parallel Parkway
Floor Plan of 8218 and 8222 Parallel Parkway
Photos of 8218 and 8222 Parallel Parkway Provided by the Applicant
Site Visit Photographs by Staff, Dated October 18, 2022

REVIEW OF INFORMATION AND SCHEDULE

Action Board of Zoning Appeals
Public Hearing
Variance November 14, 2022

STAFF CONTACT: **Michael Farley**
 mfarley@wycokck.org

MOTIONS

I move the Kansas City, Kansas Board of Zoning Appeals **APPROVE** Appeal **BOZA2022-055** 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 of the Kansas City, Kansas Board of Zoning Appeals:

1. _____
2. _____; AND
3. _____

OR

I move the Kansas City, Kansas Board of Zoning Appeals **DENY** Appeal **BOZA2022-055**, as it is not in compliance with the City Code, 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.

AERIAL MAP



ZONING MAP



LAND USE MAP



City-Wide Master Plan Land Uses

- Utilities
- Right-of-Way
- Urban Density
- Agricultural
- Neighborhood Commercial
- Community Commercial
- Business Park
- Floodway
- Regional Commercial
- Future Residential
- Rural-Density Residential
- Employment
- High-Density Residential
- Medium Density Residential
- Low-Density Residential
- Mixed-Use
- Parks/Open Space
- Public/Semi-Public

FIVE STATUTORY REQUIREMENTS ANSWERED BY THE APPLICANT

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.*

The building is designed to be a commercial strip mall building with sections of the building so they can be expanded or contracted.

We are planning to remove a non-load bearing wall to expand an existing business by approximately 800 square feet. Also, according to the landlord there has been a liquor store in this location for over 40 years.

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

We are not changing the existing footprint of the building, the parking lot or any surrounding area. The rights of adjacent property owners or residents will not be adversely affected. Anyone passing the building would not be able to see any changes to the building. The only way one would see or be affected by the changes would be by entering the store. There are no anticipated additional parking or traffic issues expected.

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.*

Due to increasing sales we need to expand to add additional products counter space for check out.

Also, not being able to expand would limit our ability widen the aisles which will improve the shopping experience for our physically challenged customers.

We cannot afford to break our lease and move to a different location for additional space and the 8222 space would remain vacant.

Also, a new liquor store was built at the corner of N 98th St & Parallel Pkwy and another store is being planned for 94th & Leavenworth Rd from what I have been told.

FIVE STATUTORY REQUIREMENTS ANSWERED BY THE APPLICANT, CONT.

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

We are wanting to expand our current business to the adjacent space by 800 sq ft.

A main goal of expansion is to create a safer, more open space in order to help all customer's whether able bodied or those requiring canes, walkers or wheel chairs. The current business has not adversely affected the public health, safety, morals, order, convenience, prosperity, or general welfare.

Our goal has always been to improve the property and the business.

We always strive to be a good steward for the community.

Our business is also used as a drop off site for the Wyandotte Angels charity.

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

The building is designed to have more than one business and the expansion of the current business will not oppose the general spirit and intent of the zoning ordinance.

The only real change would be the need to remove a non-weight bearing wall to connect the two spaces.

The liquor store, while it has changed ownership a couple times over the decades has been part of the neighborhood for over 40 years.

NEIGHBORHOOD MEETING MATERIALS

10/19/2022

Burnett H. Ambler
2007 N 83rd Place
Kansas City, KS 66109

SUBJECT: Neighborhood Notice

This notice is to update a previous notice sent on 9/15/22 to include Variance Petition BOZA2022-055. This variance petition has been filed along with the Master Plan Amendment MPL2022-018 and Special Use Permit SP2022-086. The purpose of this:

- Master Plan Amendment
- Special Use Permit
- Variance Petition

is for an 800 sq/ft expansion into the adjacent space (formally Boost Mobile) of Parkway Liquor at the following address: 8222 Parallel, Parkway Kansas City, KS. The expansion will only require the removal of a non-weight bearing wall inside the building. There will be no changes to the outside of the building. The variance petition is for the expansion of the existing store within 1300ft of a place of worship and school.

To respect everyone's COVID 19 concerns I have included my email and direct phone number if you have any questions, comments, or concerns of the proposed expansion.
Email – parkwayliquorkck@gmail.com
Phone – 913-999-8011

I will also be hosting a neighborhood meeting on Oct 31, 2022, at 4pm at the West Wyandotte Library in the lounge area across from the front desk.
West Wyandotte Library
1737 N 82nd St.
Kansas City, KS 66112

All correspondence must be received by October 31, 2022, by 5pm.

The purpose of this notice is to explain the proposal and to answer any questions/concerns you may have. I look forward to hearing from you and providing any additional information that you may require.

Sincerely,

David C. Cunningham
913-999-8011
parkwayliquorkck@gmail.com

NEIGHBORHOOD MEETING MATERIALS, CONT.

October 31, 2022

Sign in Sheet

Name Printed	Signature	Address
1. _____	<u>NO ONE SHOWED UP FOR MEETING - DC</u>	

Neighborhood Meeting MINUTES:

Application Number: Variance – Appeal BOZA2022-055

Date and Location: Oct. 31, 2022, at Wyandotte Library West

Meeting called to order at: 4:00pm

Names of people in attendance: 0 – No one showed up for the meeting.

Introductions:

Along with holding the neighborhood meeting in person, I provided my personal phone number and business email address in the letter that was sent out to those on the contact list.

I received no phone calls or emails from anyone on the list.

Questions and answers (include the following):

Since no one showed up at the public meeting, no presentation was given.

Meeting adjourned at: 4:34pm

Minutes taken by: David C. Cunningham, presenter of the meeting

NEIGHBORHOOD MEETING MATERIALS, CONT.

AFFIDAVIT – NEIGHBORHOOD MEETING

STATE OF Kansas) SS:
COUNTY OF Wyandotte)

Comes now David C. Cunningham, of lawful age, sound mind and upon his/her oath states as follows:

1. That I am the petitioner for Petition # BOZA2022-055.
2. That I conducted a neighborhood meeting on October 31, 2022, 4:00pm.
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.

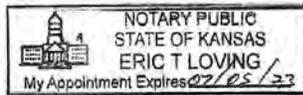
Further affiant saith not.

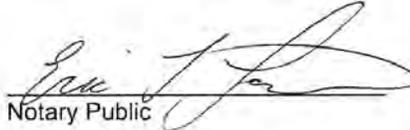


Affiant

SUBSCRIBED IN MY PRESENCE AND SWORN to before me this 1 day of Nov, 2002.

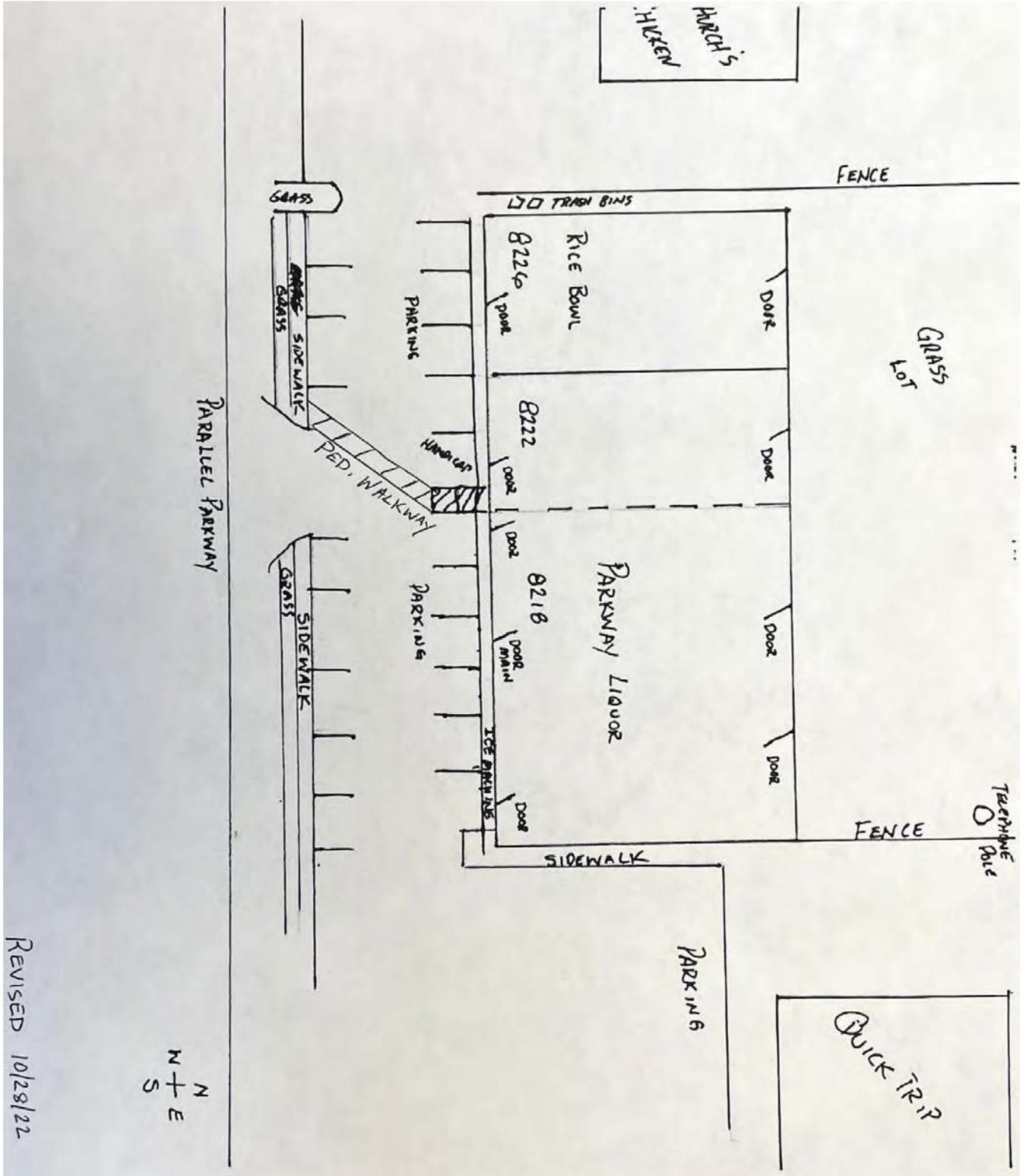
My commission expires 5 of July, 2003.



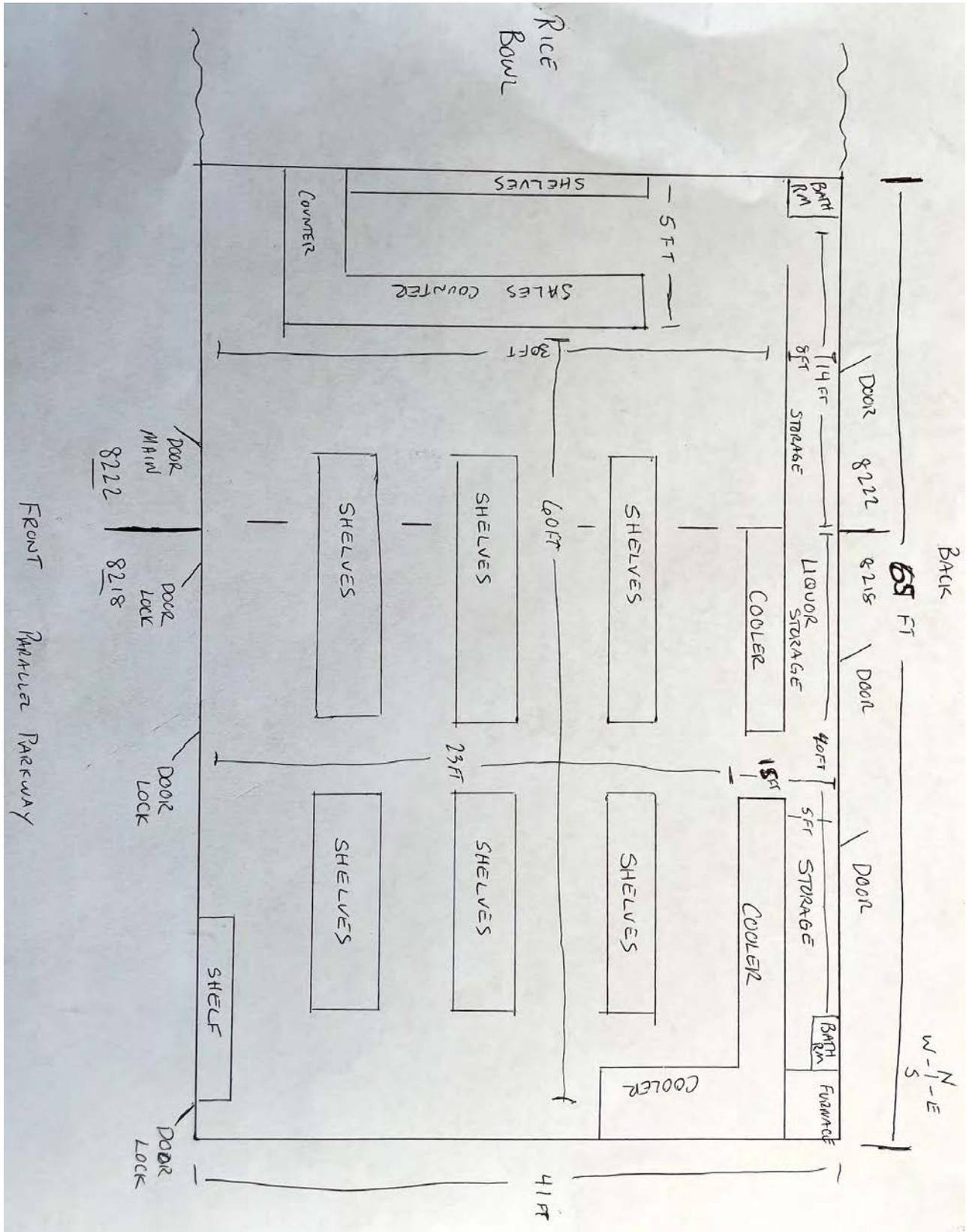


Notary Public

PLOT PLAN OF 8218, 8222, AND 8226 PARALLEL PARKWAY



FLOOR PLAN OF 8218 AND 8222 PARALLEL PARKWAY



PHOTOS OF 8218 AND 8222 PARALLEL PARKWAY PROVIDED BY THE APPLICANT



SITE VISIT PHOTOGRAPHS BY STAFF, DATED SEPTEMBER 9, 2022



SITE VISIT PHOTOGRAPHS BY STAFF, DATED OCTOBER 18, 2022



Above (both): Views of the subject property from the place of worship at 8155 Parallel Parkway.

Lower Left: View of the subject property from the Philadelphia Bible Church at 8170 Parallel Parkway.

Lower Right: View from the parcel on which Arrowhead Middle School is located, at 1737 North 82nd Street, facing northwest towards the subject property, which is not visible.

