

HAYSVILLE PLANNING COMMISSION & BOARD OF ZONING APPEALS

Agenda

September 25, 2025

6:00 p.m., Municipal Building, 200 W. Grand

- I. Call to Order
- II. Roll Call
- III. Presentation and Approval of Minutes
 - A. Minutes of August 28, 2025
- IV. Public Forum
- V. Old Business
 - A. Zone Change request from “SF” Single-Family Residential to “MF4” Multi-Family Four Residential for property generally located at 6401 South Sunnyside Road
- VI. New Business
 - A. Public Hearing for a Conditional Use request to allow an Accessory Dwelling Unit for property generally located at 203 West Sunflower Drive
 - RECESS THE PLANNING COMMISSION AND CONVENE THE BOARD OF ZONING APPEALS*
 - B. Public Hearing for a Variance request to reduce the minimum area of a dwelling from 600 sq. ft. to 400 sq. ft. in the “SF” Single-Family Residential District for property generally located at 203 West Sunflower Drive
 - ADJOURN THE BOARD OF ZONING APPEALS AND RECONVENE THE PLANNING COMMISSION*
 - C. Review of a Text Amendment to the Zoning Regulations: Changes to Article 6. Nonconforming Lots & Structures; Article 11. Floodplain Management
- VII. Correspondence
- VIII. Off Agenda
 - A. Next Meeting Date
- IX. Adjournment

HAYSVILLE PLANNING COMMISSION/BOARD OF ZONING APPEALS

Minutes

August 28, 2025

The regular Planning Commission Meeting was called to order by Chairperson Tim Aziere at 6:03 p.m. in the Council Chambers at the Haysville Municipal Building, 200 W. Grand Ave., Haysville, KS 67060.

The members present were Mark Williams, Brandon Trube, Tim Aziere, Jimmy Wallis, and Jeff Blood. Also present was Planning and Zoning Administrator, Kailyn Hogan, and Deputy Administrative Officer, Georgie Carter.

The first item of business was the Minutes of July 10, 2025.

Motion by Trube, Second by Williams.

To approve the minutes as presented.

Williams aye, Trube aye, Aziere aye, Blood aye.

Wallis abstain.

Motion carried.

There was no one to speak under Public Forum.

Under new business was a Public Hearing for a Zone Change request from “SF” Single-Family Residential to “MF4” Multi-Family Four Residential for property generally located at 6401 South Sunnyside Road:

HOGAN presented the staff report. There were no questions for staff.

AZIERE: Would the applicant or their agents wish to speak?

WHITE: Josh White with K.E. Miller Engineer. I am the agent for the applicant. We agree with all the staff comments, including the alternative recommendation. We initially submitted this application for MF4 with the idea of a site plan that would require MF4 zoning. Since then, the owner has opened it up to developments that would only require two family zoning. So we agree with all the recommendations and the protective overlays. I can answer any other questions that you guys might have.

AZIERE: Thank you. Now it's time for any member of the public to speak. You have five minutes. If you're presenting good factual information, this time may be extended. I have quite a few here signed up to speak. If you're going to say the same thing as the two people in front of you and the two people behind you, I would ask that you elect a spokesperson. I assure you we are listening. It would make all of our time a little bit quicker if you're all going to say the same thing. So if you would like to do that, let us know which of you would like to speak. Otherwise, I'll start rolling through each one of these in the order that I have them sitting here. All right, Joe Burns.

CARTER: Please start by stating your name and address for us for the record.

BURNS: Joe Burns, 6439 South Sunnyside. I'm not sure what your policy is on this, but I live four or five houses down from where this zone change is taking place. Not one word was said to me. We live on a one way street, barely wide enough for one car, and they want to add four more buildings or four more

apartments to this. I don't even think the road can handle what's there. But they want to add four more buildings to this corner. I don't know if these are one, two, three, 4 or 5 bedroom apartments. I don't know if they are section 8. I don't know what we're getting. I just thought maybe there would be something here that says we're going to plan an exit on 63rd. From what I hear, that's not going to happen. You're going to dump all the traffic onto a one lane road that is probably about 12, maybe 15ft wide at best. And I mean, that's just a guess. But I'm just curious, have any of you ever been over to that area? I know you drive past it, but have you ever been down the street, been through the neighborhood? I know law enforcement don't get down there much, so I don't know if you do either. But problem is, we're dealing with a lot of traffic in a small area. Luckily, we don't have a lot of kids in down there anymore because too many people come the wrong direction. UPS, FedEx, Amazon. None of them know what a one way sign is because we get them coming the wrong way all the time. So, I'm opposed to the idea of putting a multi-complex on the corner to congest traffic on a road that I don't think it's able to handle it. And so that's all I got to say at this time.

AZIERE: Okay. Thank you. For clarification, what was the notification radius?

HOGAN: 200ft to the west and the east, because that's city limits. And 1000ft to the north because that's out of the city limits.

AZIERE: And south?

HOGAN: South was 200ft.

AZIERE: Okay.

CARTER: Just so everyone knows, that's set by state statute. That notification range is set by state statute. That's what we follow.

AZIERE: Glenda West?

WEST: I'm just against it because I have the biggest lot close to it. It's gonna be right in my backyard. I just, I don't want all the kids coming over and climbing on my trees. They won't have any place to play or anything if they put an apartment there. And I just don't want it to be changed.

HOGAN: For the record, please state your name and your address.

WEST: Glenda West, 100 West Sunflower Drive.

AZIERE: Pauline Ozbun.

PAULINE: I live at 6400 Keystone. My name is Pauline Ozbun. I have sit in many of these seats from time to time. Four apartments on that property is too much. That means at least four cars and maybe eight. And you have Sunnyside Road, that is a half street. And it's difficult now. It's not good. Plus the fact that we have had an apartment, well, a rental situation where the owner is away. It has given us nothing but fits, including shootings. So we're not interested in having that in our community. It's been a single family community for this long and it needs to stay that way.

AZIERE: Thank you. Tommy Wicker.

WICKER: Tommy Wicker, I live at 6415 South Sunnyside, immediately south of that property. To start with, that place has been a park ever since I can remember. I realize it was recently sold. That came up in conversation after we rebuilt our driveway next door there. And I asked the city at that time if they'd consider selling me that property because I've watched over it and maintained it for more than a decade. Short of mowing, because Haysville took care of that. It was listed as a park for a very long time. Neighbor kids play there. We use it for overflow parking sometimes. As you've heard, we can't park on the street out there. Sometimes we have our 4th of July celebrations and shoot off our fireworks and stuff in that open lot. It's really nice for the neighborhood. I wake up in the morning and have my coffee and look out the window and see the trees and the beautiful open lot. It's real peaceful there right now. I realize it's probably not going to be soon and that's a **** shame. I wish you guys had considered selling it to me or keeping it a **** park. Excuse my language, but it's a pretty emotional subject for me right now. I don't know how to convince you to fix this. You guys are clearly interested in money. It sucks for all of us. And it's going to create, you know, as the folks have said, it's a lot more traffic. It's going to be people looking in my driveway, looking in my windows, being next to my house 24/7 when I haven't had nobody there for my entire existence at that property. I just don't know how to explain to you guys how you've steered wrong in this moment here. I wish you'd reconsider. Please don't do that to us. Thanks.

AZIERE: Kelly Poe.

POE: My name's Kelly Poe. I live at 6420 South A Street. My landlord is sitting here with me. He brought it to my attention that this was happening. I didn't know anything about it until today. I apologize, and most of these people are my friends and neighbors. Bottom line is, I am considering purchasing the property I live in right now, and that would probably deter me from really sinking some money into that. I just don't feel it's right for that community. That community is pretty tight. Some of my neighbors that I visit with quite often are here. But, bottom line is I do like that place, and I would hate that this would be considered because it could be detrimental to my landlord. And he's a pretty good guy. I just want you all to consider that. Like I said, I am new to this. I just found out today. I said I want to go because he's offered the property and this could change my mind towards that. So anyway, that's all I have to say.

AZIERE: Thank you, Kelly. Tim Ford.

FORD: As Kelly just said, I'm Tim Ford. I own the property over there and have for a long time. I've never been to one of these. I don't know how it works. I just know that based on what little bit of information that I was given, which I have to agree with them over here, is very vague. You all say that you've been there. So I have to ask you, if you've truly been there, do you really think that you could put a building there and six to eight cars? I'd have to ask you to really think about that, because I could build anything anywhere. But is it really, truly accessible? That is a one way street. And based on what you had said before, that property is going to face Sunny Side. Its entrance is going to be on Sunny Side and the parking is going to be in the rear, which would be at Glenda's back door. But I don't see that kind of access there. I've got a little building experience, a little construction knowledge. I may be facetious when I say that. If somebody wants to take me over there and show me, I'd like to see that. I don't know at this point--I'm at neutral--I don't know at this point where I stand on it, but I think you should probably take a look at that and maybe listen to the neighborhood. I built a duplex one time, and I think it was on a lot larger than that. So I just don't see it happening. So I'd like for you to listen to the neighborhood, make your decision based on that. Thank you.

AZIERE: Thank you, Tim. Joe Amos.

AMOS: Joe Amos, 205 East 63rd Street. I'm basically right across the street from that property. To the east. Okay. The biggest question I've got is on the infrastructure and the road and the sewer, because I

know from conversation with you all over the years that sewer, unless there's been something done that I'm not aware of, was already at its limit. And you're talking about putting in a fourplex of some type. That's four families using that sewer and adding to that sewer line. And I just have to question that a little bit. I think that's something that needs to be on your mind as you're thinking about it. Also, the road itself. You do have the property now to build the road. That's been taken care of. The plat that I did gave you that property. So there's no reason for that road to exist the way it exists. Now, if that became a regular road, this would take all the questioning out of a lot of it, because your traffic would be down. And those are the two main things that I have. I just think you need to look at that. The other things that have been brought up, I don't need to go over that again. Thank you.

AZIERE: Thank you, Joe. Does the applicant wish to rebut anything in the report or public comment?

WHITE: Sure. So, unfortunately, with the zone change, the existing street is out of the scope of the zone change. Mr. Barnes, you mentioned section eight housing as a possibility. That has not been the intent of the developer so far, to my understanding. Mr. Ford, you referenced the site plan and how something is going to fit within the site. That's something that's going to be addressed afterwards as part of the site plan review process with the city as well as the, as Mr. Amos had said, the sewer capacity and the road capacity. Those are also the things that are outside the scope of this study. If you guys have any questions dealing with the zone change, I can answer those or any more questions about the proposed development. Thank you.

AZIERE: Okay. Public comment is now closed for commission action and the floor is open to commissioners' comments.

TRUBE: Has staff considered, instead of this proposal, moving to a TF two-family zoning instead?

AZIERE: That's the second option in the staff report.

HOGAN: I considered just doing two-family for your guys' recommendation and the protective overlay is in there. It's identical to what it would be for MF4, it just doesn't allow that multi-family or three-and-four-family development.

TRUBE: Could there be any potential problems with setbacks or anything like that if you have a fourplex on there? Considering, you know, parking and all that. Do we have the space to actually do that? Because I've lived on a lot about the same size.

AZIERE: I had the same question. What's the frontage on Sunnyside?

HOGAN: The width of the lot?

AZIERE: Yeah.

HOGAN: 99.5ft.

TRUBE: What are the setbacks around?

HOGAN: It has a 30ft building setback line. That has been platted. 15ft on 63rd Street, since it's a corner lot. 20ft on the rear and then six feet on the side.

AZIERE: So I hear what you're saying, and I had the same concerns. What I personally am considering is whether or not a duplex for that lot would come close to maintaining the same feel as a single family home. With the protective overlay of that, that could have, you know, a fenced north or west line and south line. The parking would be in the front rather than the rear because, in my opinion, I don't think you've got enough room to get access to the back of that lot where it sits. And I understand what you're saying. I wouldn't want a parking lot behind my house either. But for me, it comes down to the fact that's a one way street. And you're right. It's not in good condition. It's not wide enough. And it sounds like there is a possibility that in the future that could be widened out to a two way street if we've got platted across the other side of Sunnyside. But it's been this way for 75 years, and we can't expect that it's going to happen anytime soon. It's a possibility, but it's not something we can count on. Those are my concerns. The other thing is what we are considering here today is not even what this particular developer wants to do. Because if we approve multifamily in any form or any kind of zone change and they sell it next week, that next person can do whatever they want with it within that and it wouldn't have any kind of reason to come through us unless they were doing something odd. They could put up a fourplex. They could put up a threeplex. They could do whatever within whatever code we write up. We're looking at the ground itself and not a specific use. So that to me would be concerning also if I was one of the neighbors. I don't know if that creates more questions for any of you or more discussion, but that's kind of where I am.

BLOOD: You're talking about widening Sunnyside. It looks like there is an easement on the east side of the road, but the last two lots there don't have any easement. So that would have to be done.

AZIERE: To the north?

BLOOD: To the south. There's two lots that are, you know, butt up to Sunnyside on the south. Which is what, 6509 and I don't think the other one has an address, but 6509 and the one south of it.

AZIERE: That's not in the staff report though, right?

BLOOD: Yeah. No, I am just saying.

WALLIS: You on county GIS?

BLOOD: Yeah, yeah.

HOGAN: I spoke to our public works director earlier this week, and he's thought about widening South Sunnyside, but just conceptually. There's not enough right-of-way, so it would require right-of-way acquisition to actually do it. But currently the street is 15ft wide.

AZIERE: Okay. I would entertain a motion.

TRUBE: I think a good compromise is if we recommend an approval with the amendment to a two-family zoning, with the protective overlays that were laid out for that. So that is the motion.

AZIERE: Anybody second?

WILLIAMS: I second.

AZIERE: Would you entertain an addition to that?

TRUBE: Sure.

AZIERE: One of one of my other concerns is, and it seems like the county has it addressed, but if we're going to go this direction, I want to make sure that it is written in with this property as it moves forward. We have complete access control for the first 25ft?

HOGAN: 30ft.

AZIERE: I would also say complete access control across 63rd because it's not on the face of the plat. So if anything changes at the county, I think that would be something that we would want to require also.

TRUBE: So amended.

AZIERE: Still seconded?

WILLIAMS: Yes.

Motion by Trube, Second by Williams.

To recommend approval of a zone change to "TF" Two-Family Residential with complete across control dedicated along the entire north side of 63rd and the protective overlay as listed in the staff report.

Williams aye, Trube aye, Aziere nay, Wallis nay, Blood nay.

Motion failed.

AZIERE: Kailyn, what's the next step for this?

HOGAN: It still goes to city council. They can approve your recommendation of denial, or they can override your recommendation of denial, or they can send it back to you guys for further review.

AZIERE: Okay. Everybody catch that? And the next council meeting that it will be heard at will be?

CARTER: October 14th.

AZIERE: Okay. That takes care of any notification issues that you guys should have right?

CARTER: If you guys want to all step outside, I will go over your options with you so you can hear me better and they can continue.

Under New Business was a Review of a Text Amendment to the Zoning Regulations: Article 1. Title, Purpose, Authority and Jurisdiction; Article 2. Interpretation, Construction and Definitions; Article 7. Administration and Enforcement:

AZIERE: Under new business is a review of text amendment to the zoning regulations. Changes to Article 1. Title, Purpose, Authority and Jurisdiction; Article 2. Interpretation, Construction and Definitions; and Article 7. Administration and Enforcement.

HOGAN: Did everyone have a chance to read the Violations and Enforcement section?

AZIERE: Yes.

HOGAN: I handed you guys the new table of contents before we started. You have the current one in front of you. That just lists what everything currently is. And then the proposed one. We're going to be consolidating some of our articles and then taking stuff out of some articles and making them their own. Like definitions will be its own article. Each district will have its own article. So residential zoning districts, commercial zoning districts, industrial zoning districts. We're adding in a violations and enforcement section. Which is what you guys all read earlier. But that's about the gist with the table of contents.

AZIERE: Do you need us to make a recommendation?

HOGAN: No, this is just our review. If you guys want to flip to article one in your binders. We renamed our article one to Legal Framework because we've consolidated it with article one and article two. So our title purpose, authority and jurisdiction are now with our interpretation and construction as well as our vested rights. Title, purpose, authority and jurisdiction didn't change much. We just added a bit of legal words about severability. So if anything in these regulations is found invalid the rest of it is still valid. And then a provision for how we amend these regulations has also been added. Rules and interpretations is the same. For rules of construction, we've added in 300.C, 300.D, and 300.E. These are our rules for the words in these regulations. So if anything defined in a different chapter we'll go with that definition if it's not defined in these regulations. If it's defined by state statute, we'll go with that definition. And then for all illustrations, because in the definitions, if you guys reviewed those earlier, we did add some illustrations to our definitions. So if there's a regulatory provision in there, whatever is actually written down is what is interpreted. For vested rights and preexisting development, we've added 103.C, 103.D, 103.E, and 103.F. These are just rules for existing buildings. And then for 103.G, we added in the state statute for vesting of development rights. We already had this, but it was inaccurate. So this references K.S.A. 12-764 and the exact wording that is in the state statute. But that's all I have for article one.

The majority of article two is all new. We've added in the rules and responsibilities for our Zoning Administrator, the Planning Commission, and the Board of Zoning Appeals. And we've added in all of the procedures for conditional uses, zone changes, variances, appeals, protests, everything to do with zoning regulations. The procedures have been added. We had some of this for conditional uses so that language has been adopted for everything else and altered for how it works in our staff procedures. But we're codifying this. We have a bit of concern with some people retiring in the future. So if we have everything written down now, hopefully that will ease some transition five, ten years from now for how the city processes work. Not only for people who work for the city, but for residents reading the regulations, developers reading the regulations, anyone who comes into contact with it.

And that works with Article 11. Violations and Enforcement. Currently, the only thing we have on violations enforcement is hidden underneath our administration article in the zoning regulations. And it just lists the kind of penalty for what happens if you're in violation of the zoning regulations. So we have drafted the types of violations and the enforcement procedures.

Under New Business was a Review of the Planning Commission Bylaws:

HOGAN: I hope you guys are all familiar with these and have read them before. We're not changing anything. This is just our annual review. Make sure you read them. Make sure you know the rules.

TRUBE: No approval needed?

AZIERE: No, but it sounds like homework.

There was no Old Business.

There was no Correspondence.

Under off agenda:

AZIERE: Next meeting date?

HOGAN: September 11th.

Motion by Trube, Second by Blood.

To adjourn tonight's meeting.

Williams aye, Trube aye, Aziere aye, Wallis aye, Blood aye.

The meeting adjourned at 6:45 p.m.



Haysville Planning Commission Staff Report

CON 2025-004

CASE SUMMARY

Property Location: 203 West Sunflower Drive
Applicant: Paige Rounds (property owner)
Request: To allow an accessory apartment in the "SF" Single-Family Residential District
Reason for Request: To construct an accessory apartment to accommodate the applicant's mother

Prepared By: Kailyn Hogan, Planning and Zoning Administrator
Meeting Date: September 25, 2025
Public Hearing: Required, to be held by the Planning Commission

Required Applications:

Conditional Use	To allow an accessory apartment in the "SF" Single-Family Residential District
Variance	From the minimum size of dwelling in the "SF" Single-Family Residential District

ANTICIPATED MEETING SCHEDULE

Body	Meeting Date	Action
Planning Commission	September 25, 2025	Hold required public hearing. Make a recommendation for approval, approval with modifications, or denial of the request. Recommendation is forwarded to City Council.
City Council	October 14, 2025	Adopt the recommendation of the Planning Commission as presented, override the recommendation, or return the recommendation to the Planning Commission.

SITE DATA

Legal Description	Lot 39, Block 2, Ward's 4 th Addition to Sedgwick County
Existing Zoning	"SF" Single-Family Residential
Lot Area	12,666 square feet / 0.291 acres
Future Land Use	Residential
Built Form	Single-Family dwelling

BACKGROUND

SITE DESCRIPTION AND PRESENT USE. The property under consideration is generally located 200 feet south of West 63rd Street and a third of a mile west of South Broadway Avenue, and is more generally known as 203 West Sunflower Drive. The subject site is 0.291 acres and is zoned “SF” Single-Family Residential. It was platted in 1951 as Lot 39, Block C, Ward’s 4th Addition to Sedgwick County and later annexed into the City. The property is currently developed with a single-family dwelling.

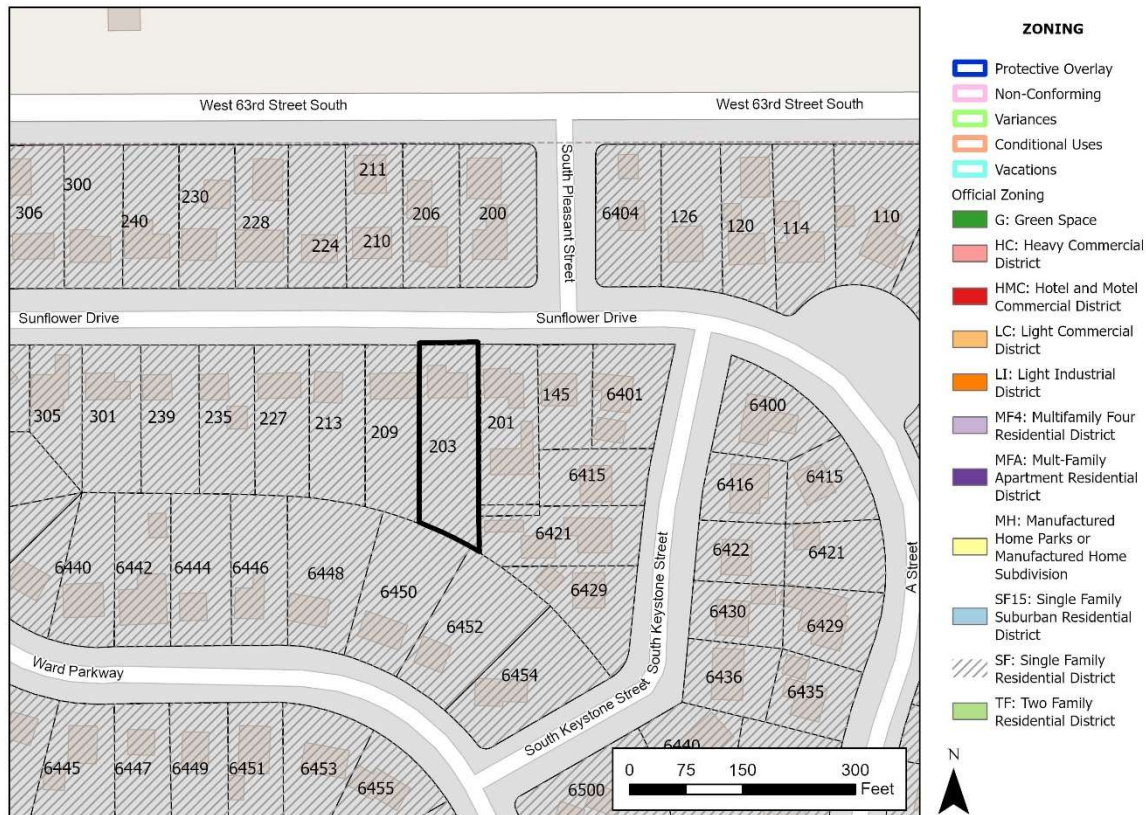
The property has access to West Sunflower Drive, a paved two-lane road. The property is connected to city water and sewer as well.

The applicant is jointly requesting a variance from the minimum size of a dwelling in the “SF” Single-Family Residential district. There are no other known zoning cases associated with the property.

SURROUNDING PROPERTIES AND NEIGHBORHOOD. The character of the neighborhood is single-family residential. Property to the north, south, east and west is zoned “SF” Single-Family Residential and developed with single-family homes.

ADJACENT ZONING AND LAND USE.

NORTH:	“SF” Single-Family Residential	Single-family dwelling
SOUTH:	“SF” Single-Family Residential	Single-family dwelling
EAST:	“SF” Single-Family Residential	Single-family dwelling
WEST:	“SF” Single-Family Residential	Single-family dwelling



PROJECT DESCRIPTION. The applicant is requesting a conditional use to allow the construction of a 400 sq. ft. Accessory Apartment in the “SF” Single-Family Residential District. The accessory apartment, or ADU, will accommodate the applicant’s mother. The proposed ADU will allow the applicant’s mother to live independently while remaining close enough for the applicant to provide daily support. The arrangement will enhance family welfare, safety, and well-being and is not intended to create rental or short-term lodging activity.

An Accessory Apartment is defined as, “*an accessory use dwelling unit that may be wholly within, or may be detached from, a principal single-family dwelling unit. Commercial or Industrial district, security only, not as a primary residence.*”

PUBLIC COMMENTS. The public hearing notice was first mailed to the notification area on August 21, 2025. The notice was published and remailed on September 4, 2025 after finding the notice was not sufficiently published in August. At the time of publication, staff had not received any comment on the conditional use request. Comments received after the publication of this staff report will be distributed at the meeting.

ANALYSIS

CONFORMANCE TO CURRENT PLANS AND POLICIES. The requested conditional use is in conformance with the *City of Haysville’s Comprehensive Plan*. It meets the Housing goal, “to provide a variety of housing choices for current and future populations,” and the Housing objective “to provide a diversity in housing types and styles.”

The *City of Haysville’s Comprehensive Plan* includes the 2023 Land Use Plan Map. The Map dedicates the subject site as appropriate for Residential Uses. The proposed use, an accessory apartment, is a residential use.

RESPONSES FROM UTILITIES AND AFFECTED PROPERTY OWNERS.

The City Engineer had no comments.

Sedgwick County Fire District 1 made no comment on the conditional use.

Kansas One Gas reviewed the conditional use and found that the KGS service line for the property will be in conflict with the ADU. A utility map is attached to this staff report.

Evergy reviewed the conditional use and found a conflict with the overhead line servicing the property. All required clearances must be met.

Cox had no issues with the conditional use.

FINDINGS. The following criteria shall be evaluated as they relate to the specific case being considered, and such stipulation as deemed appropriate in relation to any request for a conditional use may be developed by the Commission and incorporated into any recommendation in support of the requested conditional use.

1. Access and traffic load and/or flow.

- a. Access. Access to the property will be from West Sunflower Drive, a paved two-lane road. Access to the ADU will be from an established gravel drive to the east of the property owner’s hard surface drive. The gravel driveway will be extended to reach the ADU. Such gravel driveway runs along the east property line.

- b. Traffic load. The proposed use will not substantially increase the traffic load on West Sunflower Drive. Only one additional vehicle will need to access the property.
 - c. Traffic flow. The proposed use should not affect traffic flow on West Sunflower Drive. No new driveways are proposed. Normal traffic flow should not be interrupted.
- 2. Noise, light, and odor. There is no anticipated negative increase in odor, dust, smoke, noise, vibration, or light from this facility. Any additional outdoor lighting must be positioned away from adjacent residential property.
- 3. Screening and security fencing. Appendix E, Section 500-B.2.c.i.D requires all access pathways to be screened by a minimum six-foot tall fence. Such requirement should be enforced considering the proximity of the gravel drive to neighboring property. Currently, the property is screened by a four-foot tall fence.
- 4. Parking. Per Appendix E, Section 500-C, the applicant is required to provide one off-street parking space for the ADU. On the attached site plan, you will see a lean-to (carport) to the east of the ADU. Such lean-to is of sufficient size to provide one off-street parking space.

On-street parking is available on West Sunflower Drive in addition to the required off-street parking.

Per Appendix E, Section 500-B.2.c.i.B, such off-street parking space may be an all-weather surface because it is located in the rear yard.

- 5. Services.
 - a. Water. The property is connected to city water.
 - b. Sanitary Sewer. The property is connected to city sewer.
 - c. Electricity. Electricity is available provided by Evergy.
 - d. Natural Gas. Natural gas is available provided by Kansas One Gas.
 - e. Communications. Communications is available provided by Cox or AT&T.
- 6. Public health and safety. There is no anticipated detrimental effect to the public health or safety from the proposed use.
- 7. Adequacy of facility and lot size. The size of the lot is adequate for the proposed use. The ADU will be able to meet all required setbacks.
- 8. Signs. The applicant has not requested any signage at this point in time.
- 9. Review by fire marshal for designation. The Fire Marshall made no comment on the conditional use.
- 10. Other considerations as appropriate.

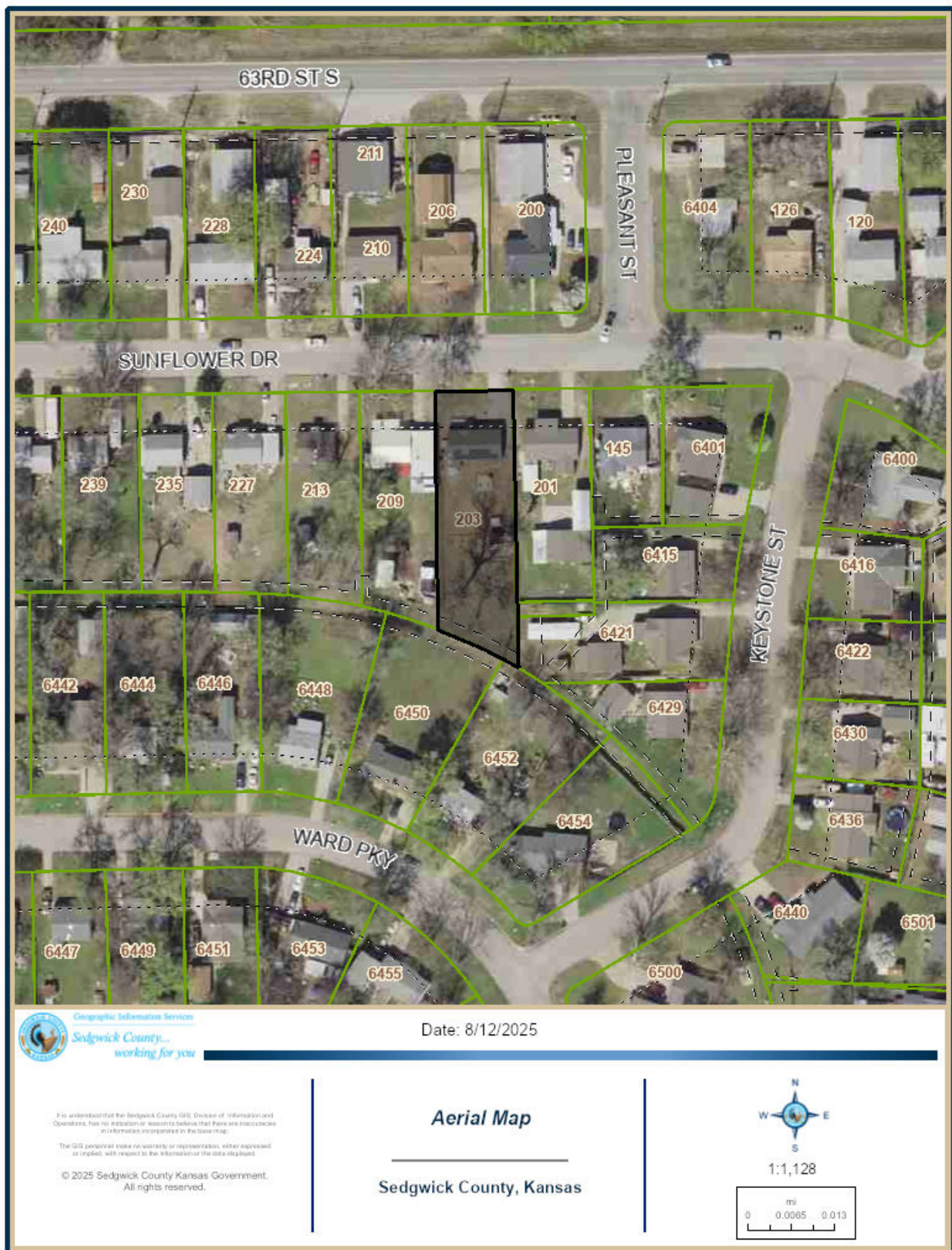
RECOMMENDATION

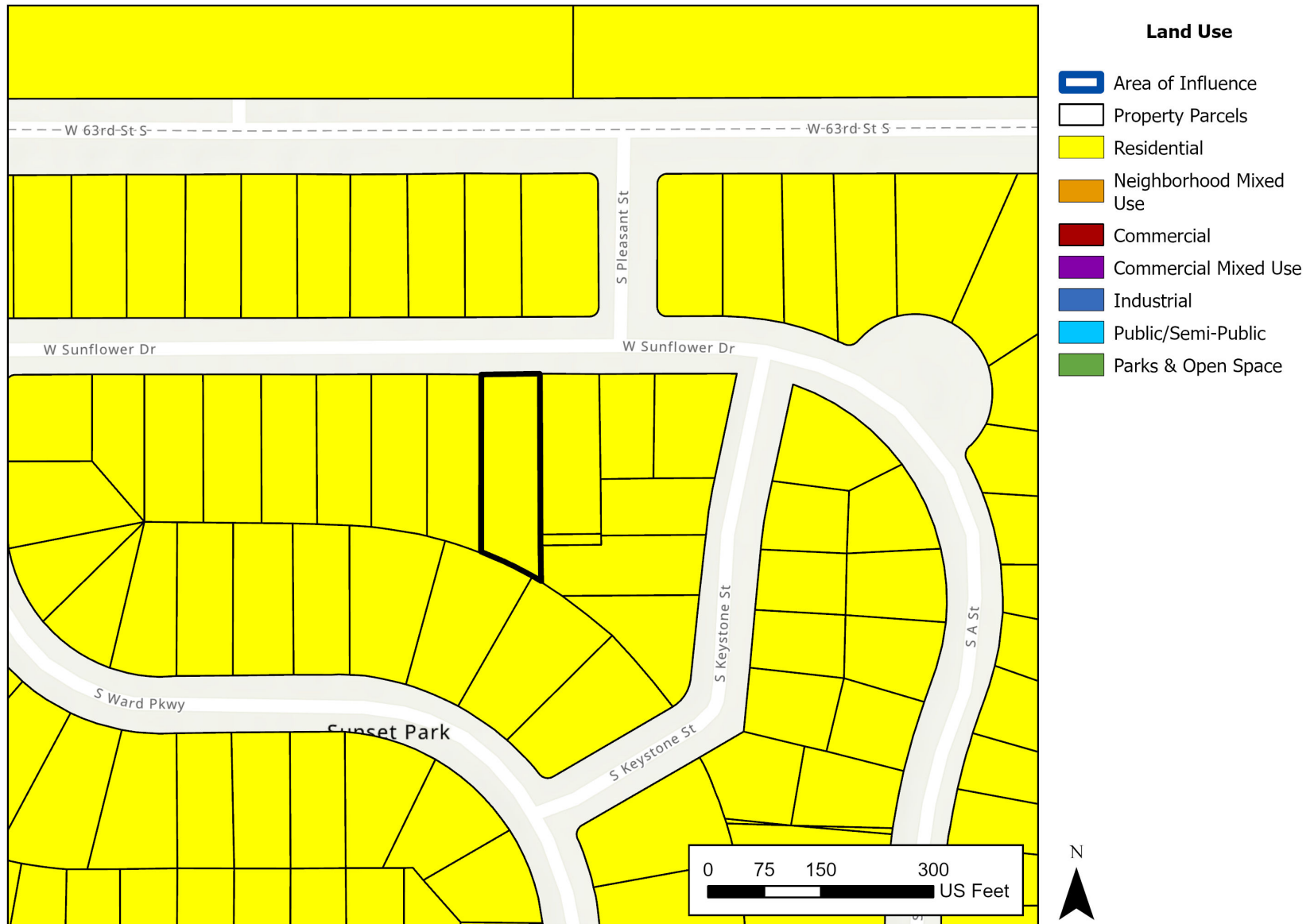
Based upon provided information, planning staff recommends that the conditional use request be **APPROVED**, with the following conditions:

1. Any access pathways to the Accessory Apartment located in side or rear yards must have a sight obscuring screening of not less than six (6) feet in height between the access pathway and any abutting residential property.

ATTACHMENTS

1. Aerial Map
2. Land Use Map
3. Site Photos
4. Site Plans
5. Kansas One Gas Utility Map
6. Every letter
7. Copy of the Public Hearing Notice





Looking north away from site.



Looking east away from site.



Looking west away from site.



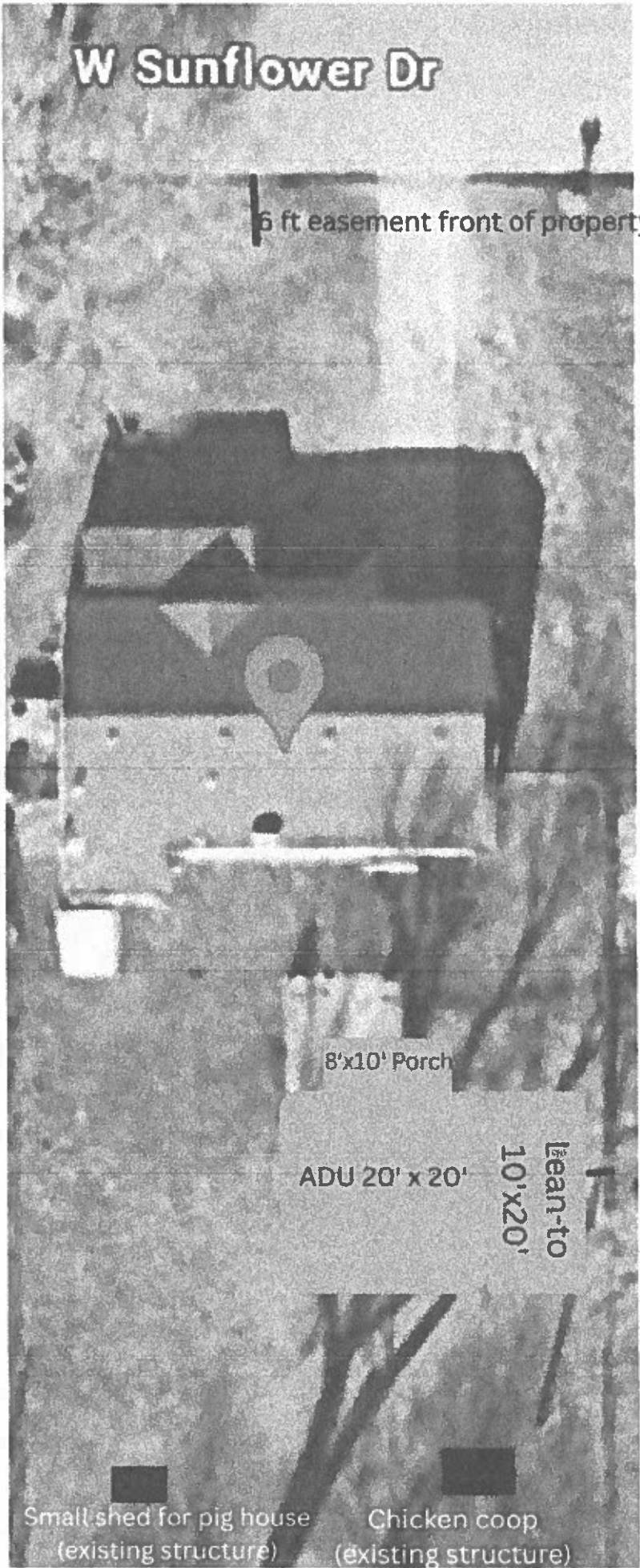
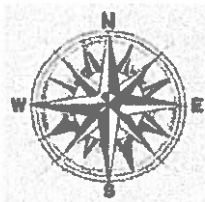
Looking south towards site.



Site Plan for
Proposed
Accessory
Dwelling Unit
at 203 W
Sunflower Dr.

Lot 39, Block 2, Ward's
Fourth Addition,
Sedgwick County,
Kansas

Scale:
1 inch = 15ft



60 feet

W Sunflower Dr

6 ft easement front of property

212.4 feet

8'x10' Porch

ADU 20' x 20'

lean-to
10'x20'

Leant-to (carport) to be 3 from fence line

Small shed for pig house
(existing structure)

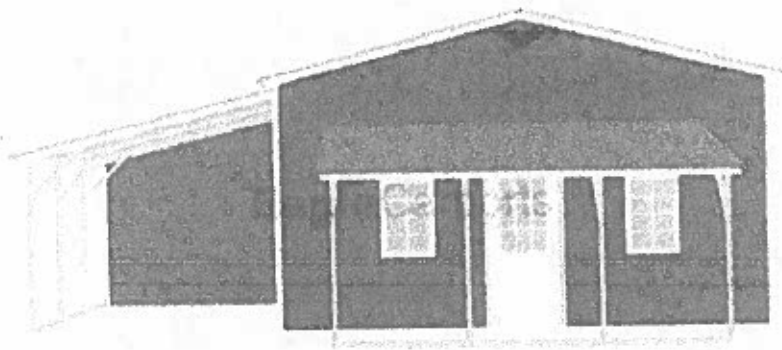
Chicken coop
(existing structure)

Length of lot
cropped in this
image due to space
constraints

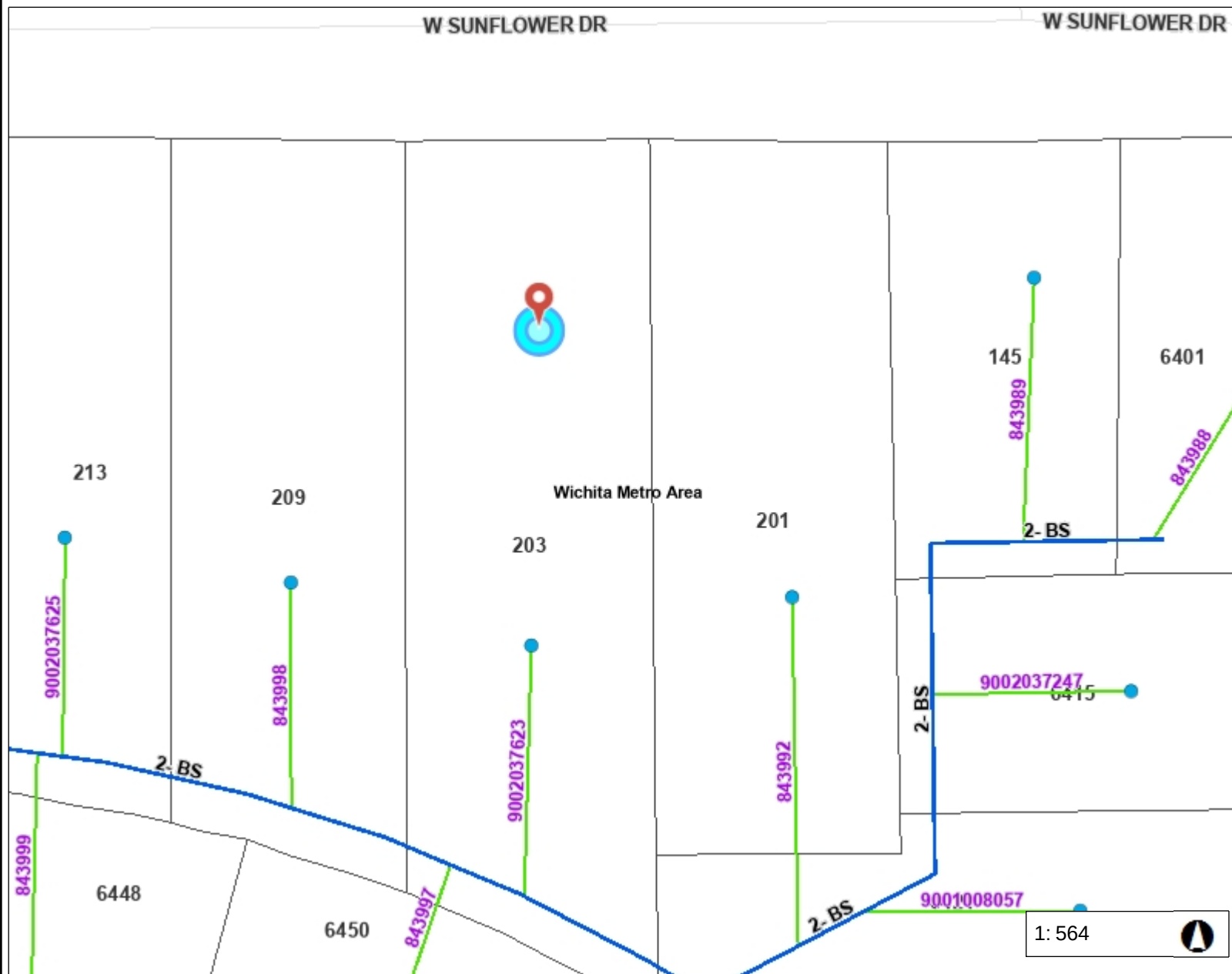


Current home

\$ 15,469



Proposed ADU



Legend

- Hazard Point
 - Verified
 - <all other values>
- Threat Point
 - Verified
 - <all other values>
- Hazard Area
 - Verified
 - <all other values>
- Designer Drip
- Designer Test Point
- Designer Anode
- Designer Rectifier
- Designer Bond Junction
- Designer Ground Bed
- Designer Cable
 - Bond Wire
 - Rectifier Cable
- Designer Rural Tap
- Designer Gas Pipe Casing
 - Casing
 - Insertion
- Designer Meter Setting
- Designer Non-Controllable Fitting
 - Coupling
 - Ell
 - End Cap
 - Expansion Joint
 - Flange
 - Reducer
 - Reinforcing Sleeve
 - Screw
 - Tee
 - Transition
 - Purge Point
 - Threaded O-ring
 - Unknown
- Designer Gas Valve
- Designer Location Notes
- Designer Controllable Fitting
 - Short Stop
 - Three-Way Tee
- Designer Regulator Station
- Designer Town Border Station
- Designer Excess Flow Valve
- Designer Utility Easement
- Designer Abandon Service Line
 - to be Removed (Contains Gas)
 - to be Abandoned (Contains Gas)
 - Removed (No Longer Contains Gas)
 - Abandoned (No Longer Contains Gas)
- Designer Service Line
 - Proposed
 - Approved
 - Under Construction
 - Operating
 - New Design - Status Pending
 - Status Not Available

94.0 0 47.02 94.0

WGS_1984_Web_Mercator_Auxiliary_Sphere

© Latitude Geographics Group Ltd.

Feet

DISCLAIMER: This document and information herein is a visual representation and approximation of ONE Gas facilities and is subject to revision at any time without notice. It is an informational tool and is not guaranteed, warranted, or represented to be to scale, complete, accurate, or depicting depth. ONE Gas disclaims any and all liability for same. Call 811 by dialing 811 prior to and excavation.

Notes



Kailyn Hogan
Planning and Zoning Administrator
City of Haysville
200 W. Grand Ave
PO Box 404
Haysville KS 67060

September 3, 2025

RE: Vacation request 203 w Sunflower Dr, Lot 39, Block 2, Ward's Fourth Addition to
Haysville Sedgwick Co Kansas

Dear Ms. Hogan,

Evergy has reviewed this vacation request, we have no objection to the vacation request. We require discussing clearance of all overhead existing poles lines and underground lines are met. Sammy Whelan, Area Design Representative, will be the contact for this vacation request and any project associated with it. She can be contacted at (316) 261-6334. **Standard language will apply; Any relocation or removal of existing Evergy equipment due to this vacation request will need to be discussed and will be at the applicant's expense.**

Thank you for sending for Evergy's review.

Sincerely,
Vickie Phothilath
Sr. Administrative Assistant.

CC: Samantha Whelan, Evergy

NOTICE OF PUBLIC HEARING

TO WHOM IT MAY CONCERN: At 6:00 p.m., Thursday, September 25, 2025, in the Council Chambers at City Hall, 200 West Grand Avenue, Haysville, Kansas, the Haysville Planning Commission will hold a public hearing to consider a conditional use request for an Accessory Dwelling Unit. The property under consideration is generally located at 203 West Sunflower Drive, and is legally described as follows:

Lot 39, Block 2, Ward's 4th Addition to Sedgwick County, Kansas.

Comments, both written and oral, will be heard by the Planning Commission at the time of the hearing. Comments can be submitted to: City of Haysville, Attn: Planning Department, 200 W Grand Ave, P.O. Box 404, Haysville, Kansas 67060 or by email to khogan@haysvilleks.gov. Written comments will be accepted up to 4:00 p.m. on the day of the meeting.

For additional information call 529-5900 or visit the City's website at www.haysvilleks.gov.

(to be published September 4, 2025)



of the 5 most important points

Key takeaways ...



Haysville Planning Commission Staff Report

VAR 2025-001

CASE SUMMARY

Property Location: 203 West Sunflower Drive
Applicant: Page Rounds (property owner)
Request: Variance from the minimum size of dwelling in the "SF" Single-Family Residential District (600 sq. ft.)
Reason for Request: To construct a 400 sq. ft. accessory apartment to accommodate the applicant's mother

Prepared By: Kailyn Hogan, Planning and Zoning Administrator
Meeting Date: September 25, 2025
Public Hearing: Required, to be held by the Board of Zoning Appeals

Required Applications:

Conditional Use	To allow an accessory apartment the "SF" Single-Family Residential District
Variance	From the minimum size of dwelling in the "SF" Single-Family Residential District

ANTICIPATED MEETING SCHEDULE

Body	Meeting Date	Action
Board of Zoning Appeals	September 25, 2025	Hold required public hearing. Approve, approve with modifications, or deny the request.

SITE DATA

Legal Description	Lot 39, Block 2, Ward's 4 th Addition to Sedgwick County
Existing Zoning	"SF" Single-Family Residential
Lot Area	12,666 square feet / 0.291 acres
Future Land Use	Residential
Built Form	Single-Family dwelling

BACKGROUND

SITE DESCRIPTION AND PRESENT USE. The subject property is generally located 200 feet south of West 63rd Street and a third of a mile west of South Broadway Avenue, and is more generally known as 203 West Sunflower Drive. The subject site is 0.291 acres and is zoned “SF” Single-Family Residential. It was platted in 1951 as Lot 39, Block C, Ward’s 4th Addition to Sedgwick County and later annexed into the City. The property is currently developed with a single-family dwelling.

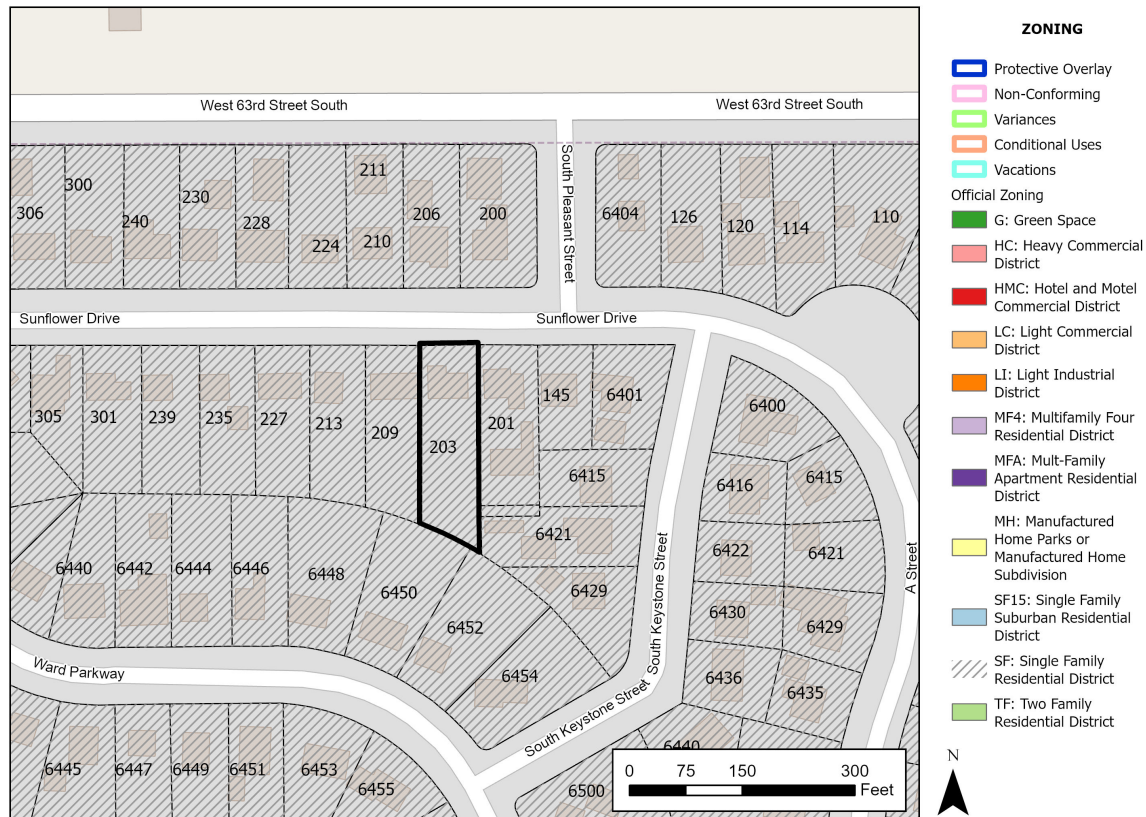
The property has access to West Sunflower Drive, a paved two-lane road with on-street parking. The property is connected to city water and sewer as well.

The applicant is jointly requesting a conditional use to allow for the construction of an accessory apartment. There are no other known zoning cases associated with the property.

SURROUNDING PROPERTIES AND NEIGHBORHOOD. The character of the neighborhood is single-family residential. Property to the north, south, east and west is zoned “SF” Single-Family Residential and developed with single-family homes.

ADJACENT ZONING AND LAND USE.

NORTH:	“SF” Single-Family Residential	Single-family dwelling
SOUTH:	“SF” Single-Family Residential	Single-family dwelling
EAST:	“SF” Single-Family Residential	Single-family dwelling
WEST:	“SF” Single-Family Residential	Single-family dwelling



PROJECT DESCRIPTION. The applicant is requesting a variance from the minimum size of a dwelling in the “SF” Single-Family Residential District (600 sq. ft.) to allow for the construction of 400 sq. ft. Accessory Apartment, or ADU, to accommodate the applicant’s mother. The proposed ADU will allow the applicant’s mother to live independently while remaining close enough for the applicant to provide daily support.

An Accessory Apartment is defined as, “*an accessory use dwelling unit that may be wholly within, or may be detached from, a principal single-family dwelling unit. Commercial or Industrial district, security only, not as a primary residence.*”

PUBLIC COMMENTS. The public hearing notice was first mailed to the notification area on August 21, 2025. The public hearing notice was published and remailed on September 4, 2025 after finding the notice was not sufficiently published in August. At the time of publication of this staff report, staff had not received any comment on the variance request. Comments received after the publication of this staff report will be distributed at the meeting.

ANALYSIS

CONFORMANCE TO CURRENT PLANS AND POLICIES. The requested variance is in conformance with the *City of Haysville’s Comprehensive Plan*. It meets the Housing goal, “to provide a variety of housing choices for current and future populations,” and the Housing objective “to provide a diversity in housing types and styles.”

The *City of Haysville’s Comprehensive Plan* includes the 2023 Land Use Plan Map. The Map dedicates the subject site as appropriate for Residential Uses. The proposed use, an accessory apartment, is a residential use.

FINDINGS. The Board of Zoning Appeals is authorized, in specific cases, to grant variances from the specific terms of the zoning regulations which will not be contrary to the public interest and where, due to special conditions, a literal enforcement of the provisions of the regulations, in an individual case, results in unnecessary hardship, and provided that the spirit of the regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the zoning regulations in such district. A request for a variance may be granted in such case, upon a finding by the board that all of the following conditions have been met:

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 is not created by an action or actions of the property owner or the applicant.

Applicant narrative: The variance request arises from the fact that my property size and lot layout are well-suited to a smaller, discreet ADU that is fully functional for one person. A 400 sq. ft. footprint is appropriate for my mother’s needs and ensures the ADU remains proportional to the main home and existing backyard space. The smaller size minimizes environmental impact and maintains yard usability, which would be compromised if the unit were enlarged to 600 sq. ft. This condition is not the result of any self-created hardship but rather a practical design choice driven by my mother's needs, the property layout, and the goal of minimizing neighborhood impact.

Staff analysis: The subject property is unique in its size and shape. The front and rear lot lines follow the curve of the surrounding streets, so the front property line is straight and parallel with Sunflower Drive, and the rear property line is curved to follow Ward Parkway. This is not unique to the property, as all of the lots bounded by Sunflower and Ward Parkway follow the curve of the streets.

The lot is 60 feet in width, which matches the neighborhood average, but is smaller than most neighborhoods in the City as seen in the table below. The lot has an above average depth of 195.5 feet, 50 feet more than the neighborhood average. While this makes the lot unique and isn't caused by the applicant, it doesn't support this variance. The applicant's lot has more space than most lots to construct an ADU.

The applicant's home is 1,048 sq. ft. A 600 sq. ft. ADU would be 57% the size of the existing home, while the proposed 400 sq. ft. ADU would be 38% the size. The City limits ADUs only by requiring that they be smaller than the principal dwelling unit.

This finding is not met.

Lot Size in Other City Subdivisions		
Neighborhood	Lot width	Lot depth
Ward's 4 th	60 feet	144.5 feet
Country Lakes	70 feet	120 feet
South Brooke 2 nd	65 feet	130 feet
Nelson 2 nd	77 feet	143 feet
Timberlane Village	92 feet	145 feet

**These dimensions were taken from the most common lot size and shape in each subdivision. These are not calculated averages.*

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

Applicant narrative: The ADU will be located entirely in my fenced backyard, behind the primary residence, and will not be visible from the street. It will comply with all setback, height, and lot coverage requirements. The project has been shared with immediate neighbors, none of whom have expressed objects; several have voiced their support. The design ensures no blocked views, no increased noise, no traffic burden, and no change to the neighborhood's character.

Staff analysis: Staff does not foresee the proposed ADU negatively affecting the adjacent property owners. Both properties abutting the subject property have additions and/or accessory structures in similar locations as the proposed ADU.

This finding is met.



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

Applicant narrative: Enforcing the 600 sq. ft. minimum dwelling size would create unnecessary hardship by forcing us to build a larger, more expensive structure than is needed for safe, comfortable living for one person. This would add unnecessary cost, consume more of the yard, and conflict with our intent to

maintain green space and reduce building footprint. A smaller ADU meets my mother’s needs without excess or waste, aligning with sustainable building principles.

Staff analysis: Staff agrees with the above statement.

This finding is met.

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

Applicant narrative: The proposed ADU will meet all applicable building, safety, and utility codes. It will be built by licensed professionals and inspected to ensure compliance. By providing safe housing for a family member within walking distance of daily support, this project will improve her health, safety, and quality of life without introducing any hazards or risks to the public.

Staff analysis: Staff does not foresee negative effects on public health, safety, morals, order, convenience, prosperity or general welfare.

This finding is met.

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

Applicant narrative: The intent of the 600 sq. ft. minimum dwelling size regulation is to ensure safe, livable housing. The proposed 400 sq. ft. ADU is designed to exceed basic habitability standards and will be fully equipped with all the amenities of a standard home, simply scaled for a single resident. The project preserves the neighborhood’s residential character, enhances family support systems, and aligns with the city’s goal of fostering quality housing options.

Staff analysis: Staff agrees with the above statement. The proposed ADU is within the general spirit and intent of the zoning regulations because it is an allowed use, it is just smaller than ordinarily allowed.

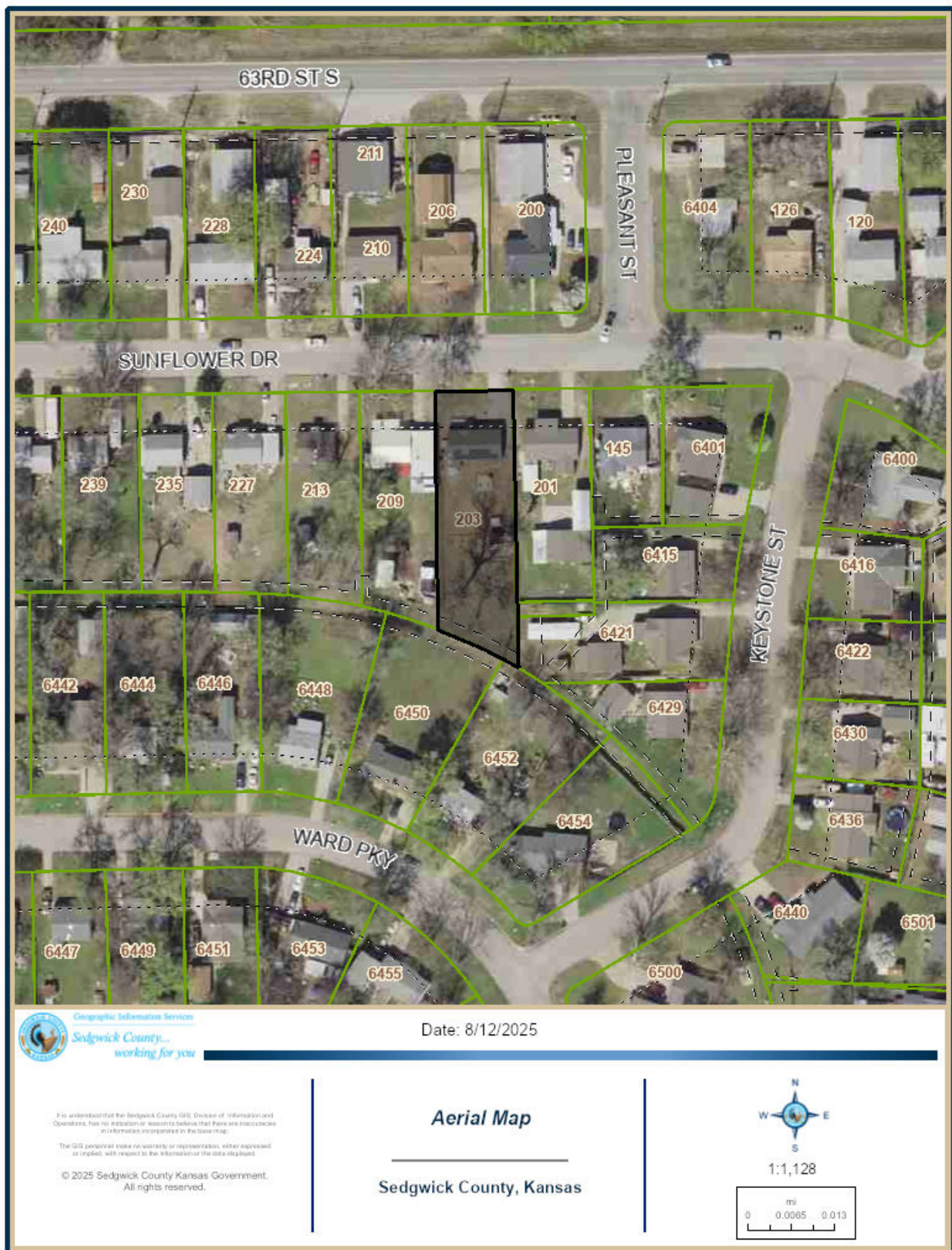
This finding is met.

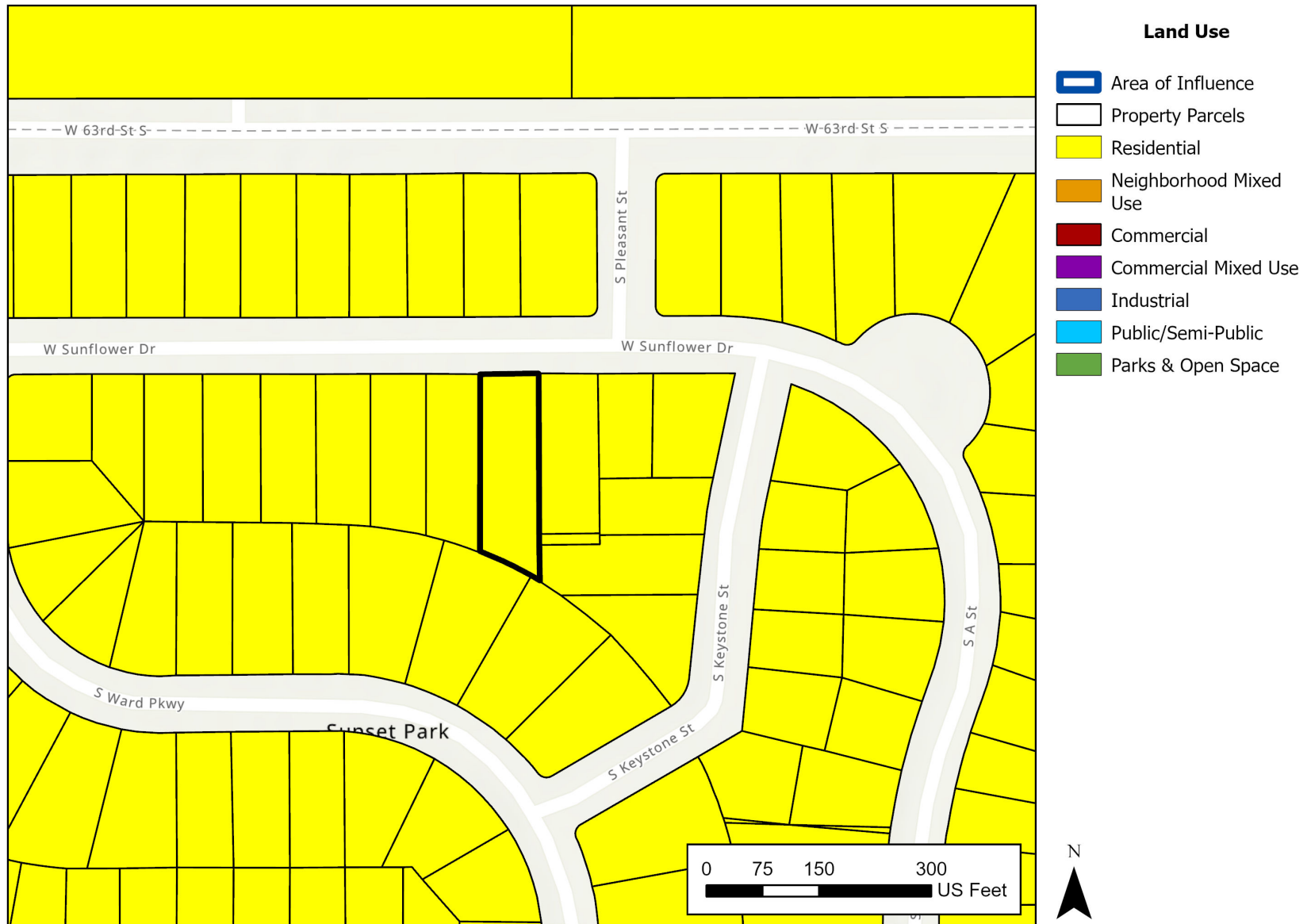
RECOMMENDATION

Based upon provided information, planning staff **DOES NOT** find that all five conditions necessary to the granting of a variance have been met. Staff recommends that the variance request be **DENIED**.

ATTACHMENTS

1. Aerial Map
2. Land Use Map
3. Site Photos
4. Site Plans
5. Copy of the Public Hearing Notice





Looking north away from site.



Looking east away from site.



Looking west away from site.



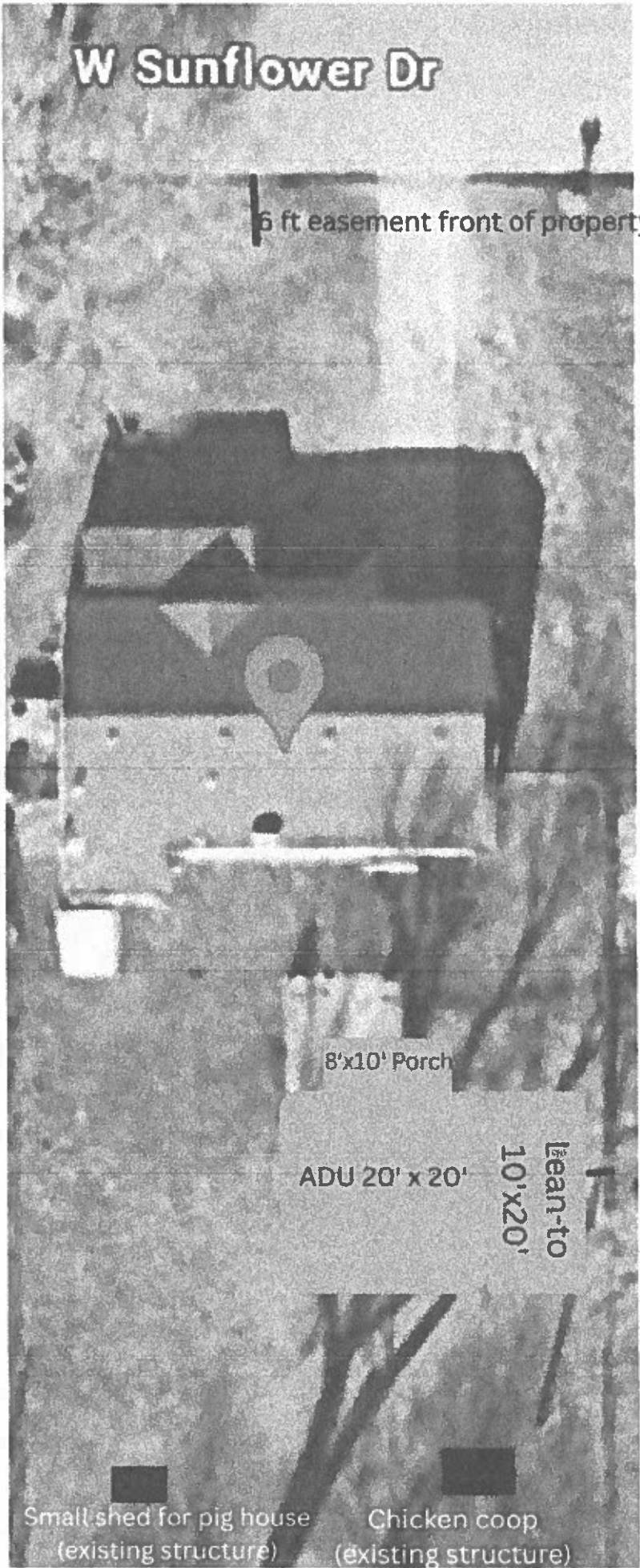
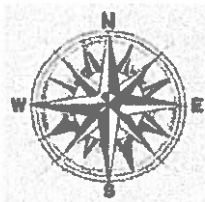
Looking south towards site.



Site Plan for
Proposed
Accessory
Dwelling Unit
at 203 W
Sunflower Dr.

Lot 39, Block 2, Ward's
Fourth Addition,
Sedgwick County,
Kansas

Scale:
1 inch = 15ft



60 feet

W Sunflower Dr

6 ft easement front of property

212.4 feet

8'x10' Porch

ADU 20' x 20'

lean-to
10'x20'

Leant-to (carport) to be 3
from fence line

Small shed for pig house
(existing structure)

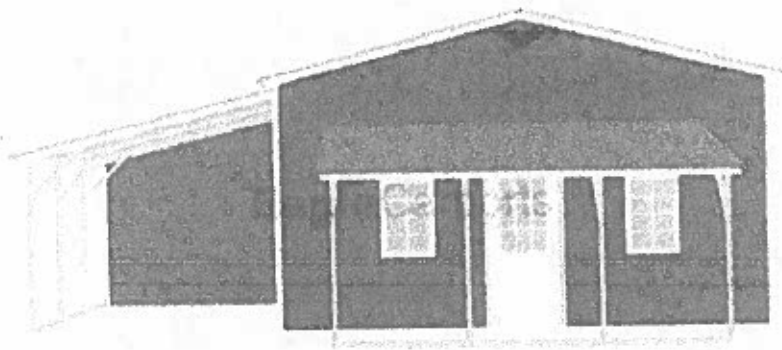
Chicken coop
(existing structure)

Length of lot
cropped in this
image due to space
constraints



Current home

\$ 15,469



Proposed ADU

NOTICE OF PUBLIC HEARING

TO WHOM IT MAY CONCERN: At 6:00 p.m., Thursday, September 25, 2025, in the Council Chambers at City Hall, 200 West Grand Avenue, Haysville, Kansas, the Haysville Board of Zoning Appeals will hold a public hearing to consider a Variance request from the following provisions of the Zoning Regulations:

Minimum size of dwelling in the "SF" Single-Family Residential District: 600 sq. ft.

Such variance is being requested to permit the construction of a 400 sq. ft. accessory dwelling unit. The property under consideration is generally located at 203 West Sunflower Drive, and is legally described as follows:

Lot 39, Block 2, Ward's 4th Addition to Sedgwick County, Kansas.

Comments, both written and oral, will be heard by the Board of Zoning Appeals at the time of the hearing. Comments can be submitted to: City of Haysville, Attn: Planning Department, 200 W Grand Ave, P.O. Box 404, Haysville, Kansas 67060 or by email to khogan@haysvilleks.gov. Written comments will be accepted up to 4:00 p.m. on the day of the meeting.

For additional information call 529-5900 or visit the City's website at www.haysvilleks.gov.

(to be published September 4, 2025)



Document for me

Key takeaways ...



Haysville Planning Commission Staff Report

AMEND 2025-001 – Article 6. Nonconforming Lots and Structures

CASE SUMMARY

Zoning Regulation Article/Section: Article 6. Nonconforming Lots and Structures
Prepared By: Kailyn Hogan, Planning and Zoning Administrator
Meeting Date: September 25, 2025

ANTICIPATED MEETING SCHEDULE

Body	Meeting Date	Action
Planning Commission	September 25, 2025	Review the proposed amendment to the Zoning Regulations.
Planning Commission	December 11, 2025	Hold public hearing for the proposed amendment to the Zoning Regulations, and make a recommendation for approval, approval with modifications, or denial of the amendment. This recommendation is forwarded to City Council.
City Council	January 12, 2025	Adopt the recommendation of the Planning Commission as presented, override the recommendation, or return the recommendation to the Planning Commission.

SUMMARY OF CHANGES

Staff is proposing moving Article 6. Nonconforming Lots and Structures to Article 10 of the Zoning Regulations. This move is necessary because of additional proposed amendments to the Zoning Regulations. The numbering and formatting of the article will be modified to reflect this move and match the rest of the City Code. The name of the article has been changed to “Nonconformities,” as this article of the Zoning Regulations affects more than just lots and structures.

Unnecessary rights granted to property owners have been removed from this article. Such unnecessary rights include:

- The right to expand a nonconforming use and any associated structures;
- The right to establish another, lesser nonconforming use in place of a nonconforming use; and
- The right to continue an indoor nonconforming use after 24 months of abandonment.

In their place shall be the rights that have been expressly granted to property owners through various court cases associated with nonconformities.

Additionally, the requirement to register a nonconforming use, structure, lot or other certain circumstance has been removed. This is not required per state statute, and staff has never developed the procedures for registration nor has ever enforced this section.

ANALYSIS

Prior to proposing any amendments to this article of the Zoning Regulations, staff reviewed applicable state statute.

State Statute	Law	Effect on Code
K.S.A. 12-771 Same; nonconforming uses; elimination of.	“Nothing in this act is intended to prevent cities or counties from enforcing local laws, enacted under other legal authority, for the gradual elimination of nonconforming uses.”	This state statute gives the City the authority to enable and enforce this article of the zoning regulations.
K.S.A. 12-770 Nonconforming uses; sexually oriented business; definitions.	(definitions of sexually oriented businesses)	This state statute gives the City the authority to enable and enforce this article of the zoning regulations on Sexually Oriented Businesses, as they are defined in this statute.

Staff also reviewed the nonconforming codes of surrounding cities, the international standard, and prior versions of the City’s.

Code	Reason	Notes
The Haysville Municipal Zoning and Planning Code (1971 Edition)	The original version of the nonconforming code was adopted in the 1971 zoning regulations as 13-418.	None
The Haysville Municipal Zoning and Planning Code (1999 Edition)	The nonconforming code was considerably changed in 1999 and has remained as amended since.	None
Wichita-Sedgwick County Unified Zoning Code (2024 Edition)	This city is the largest nearby city to the City of Haysville and should be used as a source of inspiration considering its code is joint with Sedgwick County. It is common planning knowledge that city codes should attempt to match county, state and federal code.	The current City of Haysville nonconforming code is almost identical to what has been adopted by the UZC. This includes the registration provisions. It is assumed this is where the City got the original nonconforming code. The UZC requires the amortization of sexually oriented businesses.
Zoning Regulations of the City of Goddard, Kansas (2025 Edition)	While smaller than the City of Haysville, this city is rapidly growing and demonstrates progressive zoning regulations.	Goddard does not require the registration of nonconformities, and they do not allow the enlargement or alteration of buildings associated with nonconforming uses. They do allow the expansion of nonconforming structures. Allows nonconforming uses to be changed to other nonconforming uses.

Zoning Regulations of the City of Derby, Kansas (2025 Edition)	This city is the closest city in terms of size and location to the City of Haysville.	Derby does not require registration. Allows the expansion of nonconforming structures, but not the alteration or expansion of buildings associated with nonconforming uses. Allows nonconforming uses to be changed to other nonconforming uses.
International Zoning Code (2021 Edition)	This code establishes minimum requirements for zoning regulations.	IZC does not require registration. Structural alterations are allowed on nonconforming structures and buildings associated with nonconforming uses. Only allows the change of nonconforming uses to a conforming use.

After a comprehensive review of the above codes, staff considered if there were any gaps in the City's current nonconforming code. To determine this, staff reviewed a legal article *Non-Conforming Uses: Problems and Methods of Elimination* by Sanford B. Hertz of the Denver and Michigan Bars (1956). The table below outlines the methods explained in the article.

Method	Description	Employed by the City
Condemnation by Eminent Domain	The City has the right to remove nonconformities by eminent domain. Just compensation must be provided to all property owners whose properties are seized. This is an impractical and costly solution when solely applied to all nonconforming cases.	YES – the Haysville Land Bank
Voluntary Abandonment and Discontinuance	The City has the right to establish provisions that state when a nonconforming use is discontinued for a certain length of time that nonconforming use cannot be resumed. Voluntary abandonment can include the conversion of one use to another, the destruction of the principal building that a use was conducted in, or the removal of all equipment for such use. While this method is easily applied to all nonconforming cases, it is left to chance and circumstance and gives no assurance that the nonconformity will be eliminated.	YES – Section 1001.E and 1006.
Involuntary Abandonment and Discontinuance	The City has the right to establish provisions that state if a certain percentage of the value of a nonconforming building is destroyed by natural circumstances (wind, tornado, hail, etc.) that building may not be rebuilt. The same applies if a building that houses a nonconforming use is destroyed. While this method is easily applied to all nonconforming cases, it is left to chance and circumstance and gives no assurance that the nonconformity will be eliminated.	YES – Section 1002.C, 1006.A, and 1006.D.
Extension of Use and Repairs	While a property owner has the right to continue a nonconforming use and repair any building that houses such use indefinitely, the City has the right to establish provisions that restrict or completely restrict the expansion or modification of such building. The same	YES – Section 1001.B, 1001.C, 1001.D, and 1002.D.

	applies to nonconforming buildings. This method is easily applied to all nonconforming cases, but again is left to chance and circumstance and makes no guarantees that nonconforming uses will be eliminated.	
Amortization	The City has a right to require the property owner to make a plan on a given time frame to eliminate the nonconforming use. Traditionally, the given time frame equates to the normal life of a building. This is the only method that guarantees the elimination of a nonconforming use.	NO

After such review, staff found that the City does employ most of these methods, as seen in the above table, but the City's methods are actually considerably lax. Below are rights the City gives to property owners that are not expressly granted.

Section	Comparison to Hertz	Proposed Change
<i>Section 1001. Enlargement and expansion within a building and expansion of a building and 1001.Expansion of outdoor nonconforming uses</i> allows the expansion of nonconforming uses and their associated buildings. <i>Section 1002.D Enlargement and expansion</i> allows for the enlargement and expansion of nonconforming buildings.	According to Hertz, the property owner has the right to continue a nonconforming use and make any necessary repairs to any associated buildings, but that right does not extend to enlarging the use or structurally altering the buildings (pg. 105). The same goes for nonconforming buildings. However, some structural alterations should be allowed if such alteration will benefit the public health, safety, and morals (Hertz, pg. 106). Nonconforming uses are the primary concern of the City, and thus staff is not considering removing the provision that allows changes to nonconforming structures.	Remove sections. Modify Section 1001.B. Maintenance, Repair and Modification of Structures. Any structure which is part of a nonconforming use may be repaired, altered, or modified on the same terms as set forth under Section 1002.B. and Section 1002.C. Such structures shall not be expanded, modified or altered outside of their existing building footprint. Add Section 1001.C Maintenance, Repair, and Modification of Properties. Any property which is part of a nonconforming use may be repaired as needed to continue the nonconforming use. The property may not be altered or modified unless such alteration or modification will benefit the public health, safety, and welfare. A benefit may include decreasing the degree of nonconformity. Such benefit shall be determined by the Zoning Administrator, with an appeal to the Board of Zoning Appeals.
<i>Section 1001.D Change in use</i> allows a change from a nonconforming use to a	According to Hertz, previous court cases have determined that a nonconforming use cannot be changed into another kind of nonconforming	Modify Section 1001.D. Change in use. A nonconforming use may not be changed to another nonconforming use. When a nonconforming use is abandoned or

lesser nonconforming use.	use. When a nonconforming use is abandoned or changed, “the property owner waives his right to make use of the property in any manner inconsistent with the [zoning regulations]” (Hertz, pg. 105).	changed, the property owner may not again establish a use that is in any manner inconsistent with these regulations
---------------------------	---	---

Further changes are proposed to the nonconforming code that are not listed in this staff report. You may view those changes and the reasons for such in the red-lined version of this code. The red-lined and clean version of this code are attached to this staff report.

RECOMMENDATION

No motion or recommendation is needed at this time. This is just a review of a proposed amendment to the nonconforming code.

ARTICLE 10.

NONCONFORMITIES

SECTION 1000. PURPOSE, POLICY AND APPLICABILITY

1000.A. PURPOSE. The purpose of this section is to establish regulations that govern uses, structures, lots and other current circumstances that came into being lawfully but that do not conform to one or more requirements of these regulations, in compliance with K.S.A. 12-771. Such use, structure, lot or other current circumstances are considered nonconforming.

1000.B. POLICY. It is the general policy of the City to allow nonconforming uses, structures or lots to continue to exist and be used productively, while working to bring as many aspects of such into conformance with the current zoning regulations as is reasonably practicable, and to terminate the right to carry out any nonconformity as soon as such nonconformity actually ceases, all subject to the limitations of this section. The limitations of this section are intended to recognize the interests of the property owner in continuing to use the property in a manner that no longer conforms to the requirements of these regulations but to control the expansion of the nonconformity and to control the re-establishment of abandoned uses and limit the re-establishment of buildings and structures that have been substantially damaged.

SECTION 1001. NONCONFORMING USES

1001.A. DEFINITION. Nonconforming uses are defined in Section 302 of these regulations.

1001.B. MAINTENANCE, REPAIR AND MODIFICATION OF STRUCTURES. Any structure which is part of a nonconforming use may be maintained, repaired, or remodeled on the same terms as set forth under Section 1002.B and Section 1002.C. Such structures shall not be expanded, modified or altered outside of their existing building footprint..

1001.C. MAINTENANCE, REPAIR, AND MODIFICATION OF PROPERTIES. Any property which is part of a nonconforming use may be repaired and maintained as needed to continue the nonconforming use. The property may not be altered or modified unless such alteration or modification will benefit the public health, safety, and morals. A benefit may include decreasing the degree of nonconformity. Such benefit shall be determined by the Zoning Administrator with an appeal to the Board of Zoning Appeals.

1001.D. CHANGE IN USE. A nonconforming use may not be changed to another nonconforming use. When a nonconforming use is abandoned or changed, the property owner may not again establish a use that is in any manner inconsistent with these regulations.

SECTION 1002. NONCONFORMING STRUCTURES

1002.A. DEFINITION. Nonconforming structures are defined in Section 302 of these regulations.

1002.B. MAINTENANCE AND REPAIR. General maintenance, repair, and remodeling of a nonconforming structure within the existing building footprint shall be permitted without a zoning variance, if in conformance with current building codes.

1002.C. SUBSTANTIAL DAMAGE. Any nonconforming structure damaged to the extent of 50% or less of its fair market value by fire, wind, tornado, earthquake, or other natural disaster, may be rebuilt in conformance with current building codes, provided such rebuilding does not increase the intensity of use as determined by the number of dwelling units (for residences) or floor areas or ground coverage (for nonresidential uses). The structure shall not be rebuilt closer to the property line than the original structure or the applicable setback lines, whichever is closer. Nonconforming structures damaged 50% or less of their fair market value by flooding may be rebuilt as set forth in this section, provided such reconstruction shall conform to all requirements of the adopted building code related to construction in flood hazard areas. Any building so damaged more than 50% of its value may not be rebuilt, repaired, or used unless it is made to conform to all regulations for buildings in the district in which it is located, provided that such restoration as may be made is to the fullest extent possible in conformance with development standards.

1002.D. EXPANSION, ALTERATION OR MODIFICATION. Any expansion, modification or alteration of the nonconforming structure that increases the degree of nonconformance is prohibited. Expansions, modifications and alterations of the structure that do not increase the degree of nonconformance shall be permitted and shall not require a variance. The initial determination of whether a proposed expansion, modification or alteration increases the degree of nonconformity shall be made by the Zoning Administrator or his/her designee with an appeal to the Board of Zoning Appeals.

1002.E. RELOCATION. If a nonconforming structure is relocated within the area to which these regulations is applicable, it shall be placed only in a location in which it fully conforms to the requirements of these regulations.

1002.F. UNSAFE STRUCTURES. Nothing in this section shall be construed to permit the continuing use of a building found to be in violation of basic life, safety or health codes of the City. The right to continue to use a noncomplying structure shall be subject to all applicable housing, building, health and other life safety and health codes of the City.

SECTION 1003. NONCONFORMING LOTS

1003.A. DEFINITION. Nonconforming lots are defined in Section 302 of these regulations.

1003.B. A lot shown on an approved and recorded subdivision plat on the date on which these regulations became applicable to the lot, or a parcel shown on the assessor's records as a separate parcel on such date may be occupied and used although it may not conform in every respect with the dimensional requirements of these regulations, subject to the provisions of this section.

1003.C. VACANT LOT. If the lot or parcel was vacant on the date on which these regulations became applicable to it, then the owner may use the property as permitted by the applicable zoning district, provided that the use shall comply with applicable dimensional requirements of these regulations to the maximum extent practicable. If the applicable zoning district permits a variety of uses or a variety of intensities of uses and one or more uses or intensities would comply with applicable setback requirements while others would not, then only the uses or intensities that would conform with the applicable setback requirements shall be permitted. Otherwise the owner may seek a variance from such requirements from the Board of Zoning Appeals.

1003.D. LOT WITH BUILDING OR STRUCTURE. If the lot or parcel contains a building or structure on the date on which these regulations becomes applicable to it, then the owner may continue the use of that building or structure and may reasonably expand the structure in any way that does not increase the degree of nonconformity. An increase in building size shall not be deemed to increase the degree of nonconformity unless it increases the encroachment on a required setback. Remodeling of a structure within the existing building footprint or expansion in compliance with this section shall not require a variance but shall be reviewed by the Zoning Administrator, City Inspector or his/her designee as though the lot were conforming.

1003.E. LOT MERGER. If the lot or parcel is smaller than would otherwise be required by these regulations and such lot or parcel is at any time on or after the date on which these regulations became applicable to such lot or parcel under common control with an adjacent lot or parcel, then the two shall be considered merged for purposes of these regulations and shall in the future be considered together for purposes of determining compliance. If the merged lots or parcels contain sufficient area for the actual or proposed use, then they shall be deemed fully conforming. If the merged lots or parcels together do not contain sufficient area for the actual or proposed use, they shall nonetheless be considered together for purposes of reducing the degree of nonconformity. When a nonconforming lot or parcel shall not again be used as a separate lot or parcel, unless it is subdivided from the lot or parcel with which it has been merged; subdivision shall require full compliance with the requirement of these regulations and the applicable subdivision regulations.

SECTION 1004. OTHER NONCONFORMITIES

1004.A. EXAMPLES OF OTHER NONCONFORMITIES. The types of other nonconformities to which this section applies include but are not limited to:

1. Fence height or location;
2. Lack of buffers or screening;
3. Lack of, or inadequate, landscaping;
4. Lack of, or inadequate, off-street parking; and
5. Other nonconformities not involving the basic design or structural aspects of the building, location of the building on the lot, lot dimensions or land or building use.

1004.B. REMOVAL OF OTHER NONCONFORMITIES. A nonconformity other than those enumerated in Sections 1001, 1002 and 1003 shall be brought into conformance upon the occurrence of any one of the following:

1. Any increase on the premises of more than 30 percent floor area or 50 percent value;
2. Any change in use.
3. The requirement that nonconformities be brought into conformance shall be subject to variance by the Board of Zoning Appeals where it finds that such conformance would involve an unreasonable hardship.

1004.C. POLICY. Because other nonconformities involve less investment and are more easily corrected than those involving lots, buildings and uses, it is generally the policy of the City to eliminate such other nonconformities as quickly as practicable.

1004.D. INCREASE PROHIBITED. The extent of such other nonconformities shall not be increased, with or without a variance.

SECTION 1005. NONCONFORMITIES CREATED BY PUBLIC ACTION

1005.A. NONCONFORMITIES CREATED BY PUBLIC ACTION. When lot area or setbacks are reduced as a result of conveyance to a federal, state or local government for a public purpose and the remaining area is at least 75 percent of the required minimum standard for the district in which it is located, then that lot shall be deemed to be in compliance with the minimum lot size and setback standards of these regulations without resort to the Board of Zoning Appeals.

SECTION 1006. DISCONTINUANCE

1006.A. NONCONFORMING USE. When a nonconforming use has been abandoned, such nonconforming use shall not be renewed. When a building containing a nonconforming use has been destroyed or damaged to an extent exceeding 50 percent of its fair market value, such nonconforming use shall terminate and shall not be renewed, and the building shall not be restored in a way that is designed primarily for a nonconforming use.

1006.B. ABANDONMENT. A nonconforming use shall be presumed abandoned when any of the following has occurred:

1. The owner has in writing or by public statement indicated intent to abandon the use;
2. A conforming use has replaced the original nonconforming use;
3. The building or structure has been removed through the applicable procedures for the condemnation of unsafe structures; or
4. The owner has demolished the building or structure or removed the equipment necessary to perform the nonconforming use; or
5. The property has been vacant or completely inactive for 12 months;

1006.C. OVERCOMING PRESUMPTION OF ABANDONMENT. A presumption of abandonment based solely on the length of time a land use has remained vacant or inactive may be rebutted within 90 days of such use being deemed abandoned upon a showing, to the satisfaction of the Zoning Administrator, that during such period of vacancy or inactivity the owner of the land or structure:

1. Has been maintaining the land and structure in accordance with the all applicable building codes, and has been actively and continuously marketing the land or structure for sale or lease based upon the existence of the nonconforming use; or
2. Has been engaged in other activities that would affirmatively prove that there was not an intent to abandon.

SECTION 1007. DETERMINATION OF NONCONFORMITY STATUS

1007.A. In all cases, the property owner shall have the burden of establishing that a nonconforming use, structure, lot, or other certain circumstance lawfully exists under these regulations.

ARTICLE 10.

NONCONFORMING LOTS AND STRUCTURES

Commented [KH1]: This article covers more than just lots and structures. It covers nonconforming uses, lots, structures, and "other certain circumstances" (e.g. fences, landscaping, etc.).

SECTION 1000. PURPOSE, POLICY AND APPLICABILITY

1000.A. PURPOSE. The purpose of this section is to establish regulations that govern uses, structures, lots and other current circumstances that came into being lawfully but that do not conform to one or more requirements of ~~this Code~~ these regulations, in compliance with K.S.A. 12-771. Such use, structure, lot or other current circumstances are considered nonconforming.

Commented [KH2]: While implied given the title of this article, the word nonconforming is never said in the purpose section.

1000.B. POLICY. It is the general policy of the Ceity to allow nonconforming uses, structures or lots ~~that came into existence legally and in conformance with then applicable requirements but that do not conform to all of the applicable requirements of this Code~~ to continue to exist and be used productively, while working to bring as many aspects of such use into conformance with the current Zoning-zoning Code-regulations as is reasonably practicable, and to terminate the right to carry out any nonconformity ng-use as soon as such nonconformity ng-use actually ceases, all subject to the limitations of this section. The limitations of this section are intended to recognize the interests of the property owner in continuing to use the property in a manner that no longer conforms to the requirements of these regulations is code but to control the expansion of the nonconformity and to control the re-establishment of abandoned uses and limit the re-establishment of buildings and structures that have been substantially destroyed damaged.

Commented [KH3]: Removing this in favor of "nonconforming" simplifies this section.

Commented [KH4]: Per the Title section, this document is known as the "Zoning Regulations" and should be referred to as "these regulations."

~~1000.C. NO NONCONFORMITIES CREATED BY ADOPTION OF THE MARCH 15, 1999 ZONING REGULATIONS.~~ ~~No use of a building, structure or property that was in existence on March 14, 1999, and complied with the zoning ordinance or zoning resolution in effect prior to March 15, 1999, shall become or be deemed to have become nonconforming or noncomplying due to adoption of this Code. Any use of a building, structure or property and any building, structure or property that complied with the zoning ordinance or zoning resolution in effect prior to March 15, 1999 may be rebuilt, repaired or otherwise re established to the extent that it existed on March 14, 1999. The burden of proof to establish that any contested use was in existence on March 14, 1999, and the scope of such use upon that date, is upon the property owner claiming the applicability of this section.~~

Commented [KH5]: The nonconformity section of the zoning code had a major update in 1999. This section was added then. It is not needed, because it is assumed that any use lawfully established prior to the adoption of "these regulations" (no matter the date) is a nonconforming use.

SECTION 1001. NONCONFORMING USES

1001.A. DEFINITION. Nonconforming uses are defined in Section 302 of these regulations.

1001.BA. MAINTENANCE, ~~AND REPAIR~~ AND MODIFICATION OF STRUCTURES. Any structure which is part of a nonconforming use may be maintained, repaired, ~~or altered~~ or remodeled on the same terms as set forth, under Section 1002.B and Section 1002.C. Such structures shall not be expanded, modified or altered outside of their existing building footprint. Article 6.602.

1001.CB. ENLARGEMENT AND EXPANSION WITHIN A BUILDING AND ENLARGEMENT AND EXPANSION OF A BUILDING MAINTENANCE, REPAIR, AND MODIFICATION OF PROPERTIES. Any property which is part of a nonconforming use may be repaired and maintained as needed to continue the nonconforming use. The property may not be altered or modified unless such alteration or modification will benefit the public health, safety, and morals. A benefit may include decreasing the degree of nonconformity. Such benefit shall be determined by the Zoning Administrator with an appeal to the Board of Zoning Appeals. nonconforming use may be expanded within the floor area of an existing, conforming structure or within an expanded structure, subject to the limitations listed herein.

In any residential district, such expansion shall be permitted into an area equal to the original floor area of the nonconforming use, when the expansion:

Does not increase the number of dwelling units;

includes plans for all off-street parking and loading required to serve the expansion area;

If greater than 50 percent of the original floor area, is found by the Board of Zoning Appeals to be compatible with the neighborhood and not detrimental to the community, as determined by the effect of the expansion on traffic, value of adjacent and nearby properties, and the availability of adequate public facilities and services.

1001.C. EXPANSION OF OUTDOOR NONCONFORMING USES. A nonconforming use of premises for which the principal use is not enclosed within a building, such as a salvage yard or a motor vehicle sales lot, may not be expanded except if such use may be expanded in a manner that conforms to the requirements of this Code. The Board of Zoning Appeals shall review a plan to enlarge a nonconforming use with a conforming use to determine whether the nonconforming use may be brought into conformity with the zoning code as part of the development of such expansion.

1001.D. CHANGE IN USE. A nonconforming use may not be changed to another ~~new~~ nonconforming use. When a nonconforming use is abandoned or changed, the property owner may not again establish a use that is in any manner inconsistent with these regulations. , provided that the new use shall be of a character less intensive (and thus more closely conforming) than the existing, nonconforming use. The initial determination of whether a proposed new use is a conforming use or is a less intense nonconforming use shall be made by the Planning and Zoning Administrator, or his/her designee, with an appeal to the Board of Zoning Appeals. In either case, the determination shall be based on the use hierarchy established by the Zoning Regulations. A nonconforming use, if changed to a conforming use

Commented [KH6]: Add to responsibilities

Commented [KH7]: According to Hertz' the property owner has no rights to expand a nonconforming use. The only have the right to continue such use.

Commented [KH8]: According to Hertz' this is too lax, and the property owner has no rights to change the use to a different nonconforming use.

or less intensive nonconforming use, may not thereafter be changed back to the less conforming use from which it was changed.

SECTION 1002. NONCONFORMING STRUCTURES

1002.A. DEFINITION. Nonconforming structures are defined in Section 302 of these regulations.

1002.BA. MAINTENANCE AND REPAIR. General maintenance, repair, and remodeling of a nonconforming structure within the existing building footprint shall be permitted without a zoning variance, ~~if all~~ in conformance with current building codes.

1002.C. SUBSTANTIAL DAMAGE. Any nonconforming structure damaged to the extent of 50-percent% or less of its fair market value by fire, wind, tornado, earthquake, or other natural disaster, may be rebuilt in conformance with current building codes, provided such rebuilding does not increase the intensity of use as determined by the number of dwelling units (for residences) or floor areas or ground coverage (for nonresidential uses). The structure shall not be rebuilt closer to the property line than the original structure or the applicable setback lines, whichever is closer. Nonconforming structures damaged 50% or less of their fair market value by flooding may be rebuilt as set forth in this section, provided such reconstruction shall conform to all requirements of the adopted building code related to construction in flood hazard areas. Any building so damaged more than 50-percent% of its value may not be rebuilt, repaired, or used unless it is made to conform to all regulations for buildings in the district in which it is located, provided that such restoration as may be made is to the fullest extent possible in conformance with development standards.

1002.DB. ENLARGEMENT AND EXPANSION, ALTERATION OR MODIFICATION. Any expansion, ~~modification or alteration~~ of the nonconforming structure that increases the degree of nonconformance is prohibited. Expansions, ~~modifications and alterations~~ of the structure that do not increase the degree of nonconformance shall be permitted and shall not require a variance. The initial determination of whether a proposed expansion, ~~modification or alteration~~ increases the degree of nonconformity shall be made by the ~~Planning and~~ Zoning Administrator or his/her designee, with an appeal to the Board of Zoning Appeals.

1002.EC. RELOCATION. If a nonconforming structure is relocated within the area to which ~~these regulations~~ ~~is Code~~ is applicable, it shall be placed only in a location in which it fully conforms to the requirements of ~~these regulations~~ ~~is Code~~.

1002.FD. UNSAFE STRUCTURES. Nothing in this section shall be construed to permit the continuing use of a building found to be in violation of basic life, safety or health codes of the ~~C~~city. The right to continue to use a noncomplying structure shall be subject to all applicable housing, building, health and other life safety and health codes of the ~~C~~city.

Commented [KH9]: According to Hertz, this is not a right of the property owner. Other cities (Maize and Goddard) still allow this.

SECTION 1003. NONCONFORMING LOTS

1003.A. DEFINITION. Nonconforming lots are defined in Section 302 of these regulations.

1003.BA. A lot shown on an approved and recorded subdivision plat on the date on which ~~this Codethese regulations~~ became applicable to the lot, or a parcel shown on the assessor's records as a separate parcel on such date may be occupied and used although it may not conform in every respect with the dimensional requirements of ~~this Codethese regulations~~, subject to the provisions of this section.

1003.CB. VACANT LOT. If the lot or parcel was vacant on the date on which ~~this Codethese regulations~~ became applicable to it, then the owner may use the property as permitted by the applicable zoning district, provided that the use shall comply with applicable dimensional requirements of ~~this Codethese regulations~~ to the maximum extent practicable. If the applicable zoning district permits a variety of uses or a variety of intensities of uses and one or more uses or intensities would comply with applicable setback requirements while others would not, then only the uses or intensities that would conform with the applicable setback requirements shall be permitted. Otherwise the owner may seek a variance from such requirements from the Board of Zoning Appeals.

1003.DC. LOT WITH BUILDING OR STRUCTURE. If the lot or parcel contains a building or structure on the date on which ~~this Codethese regulations~~ becomes applicable to it, then the owner may continue the use of that building or structure and may reasonably expand the structure in any way that does not increase the degree of nonconformity. An increase in building size shall not be deemed to increase the degree of nonconformity unless it increases the encroachment on a required setback. Remodeling of a structure within the existing building footprint or expansion in compliance with this section shall not require a variance but shall be reviewed by the ~~Planning and~~ Zoning Administrator, City Inspector or his/her designee as though the lot were conforming.

1003.ED. LOT MERGER. If the lot or parcel is smaller than would otherwise be required by ~~this Codethese regulations~~ and such lot or parcel is at any time on or after the date on which ~~this Codethese regulations~~ became applicable to such lot or parcel under common control with an adjacent lot or parcel, then the two shall be considered merged for purposes of ~~this Codethese regulations~~ and shall in the future be considered together for purposes of determining compliance. If the merged lots or parcels contain sufficient area for the actual or proposed use, then they shall be deemed fully conforming. If the merged lots or parcels together do not contain sufficient area for the actual or proposed use, they shall nonetheless be considered together for purposes of reducing the degree of nonconformity. When a nonconforming lot or parcel shall not again be used as a separate lot or parcel, unless it is subdivided from the lot or parcel with which it has been merged; subdivision shall require full compliance with the requirement of ~~this Codethese regulations~~ and the applicable subdivision regulations.

SECTION 1004. OTHER NONCONFORMITIES

1004.A. EXAMPLES OF OTHER NONCONFORMITIES. The types of other nonconformities to which this section applies include but are not limited to:

1. ~~F~~ence height or location;
2. ~~L~~ack of buffers or screening;
3. ~~L~~ack of, or inadequate, landscaping;
4. ~~L~~ack of, or inadequate, off-street parking; and
5. ~~O~~ther nonconformities not involving the basic design or structural aspects of the building, location of the building on the lot, lot dimensions or land or building use.

1004.B. REMOVAL OF OTHER NONCONFORMITIES. ~~However, a~~ nonconformity other than those enumerated in Sections ~~106~~01, ~~106~~02 and ~~106~~03 shall be brought into conformance upon the occurrence of any one of the following:

1. ~~Any increase on the premises of more than 30 percent floor area or 50 percent value;~~
2. ~~For a property in a commercial or industrial zone, a~~Any change in use ~~to a more intensive use when a new certificate of occupancy is required.~~
3. The requirement that nonconformities be brought into conformance shall be subject to variance by the Board of Zoning Appeals where it finds that such conformance would involve an unreasonable hardship.

Commented [KH10]: This change matches the provisions listed in the landscaping and off-street parking regulations for removal of nonconformities.

1004.CB. POLICY. Because other nonconformities involve less investment and are more easily corrected than those involving lots, buildings and uses, it is generally the policy of the ~~C~~eity to eliminate such other nonconformities as quickly as practicable.

1004.DC. INCREASE PROHIBITED. The extent of such other nonconformities shall not be increased, with or without a variance.

SECTION 1005. NONCONFORMITIES CREATED BY PUBLIC ACTION

1005.A. NONCONFORMITIES CREATED BY PUBLIC ACTION. When lot area or setbacks are reduced as a result of conveyance to a federal, state or local government for a public purpose and the remaining area is at least 75 percent of the required minimum standard for the district in which it is located, then that lot shall be deemed to be in compliance with the minimum lot size and setback standards of ~~this Code~~these regulations without resort to the Board of Zoning Appeals.

SECTION 1006. DISCONTINUANCE

1006.A. NONCONFORMING USE. When a nonconforming use has been abandoned, such nonconforming use shall not be renewed. When a building containing a nonconforming use has been destroyed or damaged to an extent exceeding 50 percent of its fair market value, such nonconforming use shall terminate and shall not be renewed, and the building shall not be restored in a way that is designed primarily for a nonconforming use.

1006.B. ~~WHEN ABANDONMENTED~~. A nonconforming use shall be presumed abandoned when any of the following has occurred:

1. The owner has in writing or by public statement indicated intent to abandon the use;
2. A ~~less-intensive-conforming~~ use has replaced the original nonconforming use;
3. The building or structure has been removed through the applicable procedures for the condemnation of unsafe structures; ~~or~~
4. ~~The owner has physically demolished changed the building or structure or removed its permanent the equipment necessary to perform in such a way as to indicate clearly a change in use or activity to something other than the nonconforming use; or~~
- 4.5. ~~The property, if a land use conducted primarily outside of a building, has been vacant or completely inactive for 12 months;~~
5. ~~The property, if a land use conducted primarily inside of a building, has been vacant or completely inactive for 24 months.~~

1006.C. OVERCOMING PRESUMPTION OF ABANDONMENT. A presumption of abandonment based solely on the length of time a land use has remained vacant or inactive may be rebutted within 90 days of such use being deemed abandoned upon a showing, to the satisfaction of the ~~Board of~~ Zoning Appeals Administrator, that during such period of vacancy or inactivity the owner of the land or structure:

1. ~~H~~has been maintaining the land and structure in accordance with the all applicable building codes; and
- 2.1. ~~H~~has been actively and continuously marketing the land or structure for sale or lease based upon the existence of the nonconforming use; or
- 3.2. ~~H~~has been engaged in other activities that would affirmatively prove that there was not an intent to abandon.

Commented [KH11]: This has been changed to the previously believed and enforced definition of abandonment for nonconforming uses.

SECTION 1007. DETERMINATION OF NONCONFORMITY STATUS

1007.A. In all cases, the property owner shall have the burden of establishing that a nonconforming use, ~~or nonconforming~~ structure, lot, or other certain circumstance lawfully exists under these regulations.

Commented [KH12]: This article covers more than just lots and structures, and such all should be required to be determined by the property owner.

SECTION 1008. REGISTRATION ON NONCONFORMITIES

1008.A. RIGHTS CONDITIONAL. The rights given to those using or owning property involving nonconformity are specifically conditioned on the registration of the nonconformity with the Planning and Zoning Administrator, or his/her designee.

1008.B. REGISTRATION PROCESS. The Planning and Zoning Administrator, or his/her designee, shall establish a process for the registration of nonconformities and shall establish a system for keeping records of such nonconformities. The Zoning Administrator, or his/her designee, shall provide registration forms for this purpose.

1008.C. REGISTRATION DEADLINES. Property owners shall have one year from the date on which the nonconformity first became nonconforming to register it. Subject to the verification procedures established by the Planning and Zoning Administrator, or his/her designee, nonconformities so registered shall be deemed to be lawful nonconformities, to the extent documented on the registration form. All rights to continuance, maintenance, repair and other continuation of the nonconformity shall apply.

1008.D. EFFECT OF NOT REGISTERING APPEAL. The Planning and Zoning Administrator or his/her designee shall refuse to permit the expansion, continuance, repair, maintenance or other continuation of nonconforming status for nonconformity not registered in accordance with this section. An aggrieved party may appeal such denial to the Board of Zoning Appeals, which may grant a late registration status to the nonconformity if it finds that:

1. The failure to register the nonconformity occurred because the owner was unaware that the situation was nonconforming or from excusable neglect; and
2. The nonconformity was established lawfully in conformance with the then applicable Zoning Code, or is otherwise entitled to protection under a specific section of this Article.

1008.E. If the Board of Zoning Appeals grants late registration status to the nonconformity, the owner shall then be entitled to all of the rights accorded to the nonconformity as though it were registered in accordance with the requirements of this section.

Commented [KH13]: Registration is not required by state statute, and staff has never created procedures for the registration of nonconformities. Currently, nonconformities are automatically granted the rights given to them by this article. The existence of nonconformities is based on staff knowledge. Provided staff resources, an inventory of all nonconformities in the City should be conducted and mapped.



Haysville Planning Commission Staff Report

AMEND 2025-001 – Article 11. Floodplain Management Ordinance Incorporated

CASE SUMMARY

Zoning Regulation Article/Section: Article 11. Floodplain Management Ordinance Incorporated

Prepared By: Kailyn Hogan, Planning and Zoning Administrator

Meeting Date: September 25, 2025

ANTICIPATED MEETING SCHEDULE

Body	Meeting Date	Action
Planning Commission	September 25, 2025	Review the proposed amendment to the Zoning Regulations.
Planning Commission	December 11, 2025	Hold public hearing for the proposed amendment to the Zoning Regulations, and make a recommendation for approval, approval with modifications, or denial of the amendment. This recommendation is forwarded to City Council.
City Council	January 12, 2025	Adopt the recommendation of the Planning Commission as presented, override the recommendation, or return the recommendation to the Planning Commission.

SUMMARY OF CHANGES

Staff is proposing moving Article 11. Floodplain Management Ordinance Incorporated to Article 12 of the Zoning Regulations. This move is necessary because of additional proposed amendments to the Zoning Regulations. The numbering and formatting of the article will be modified to reflect this move and match the rest of the City Code.

The article title “Floodplain Management” has been added as this article previously only had a section header.

ANALYSIS

None.

RECOMMENDATION

No motion or recommendation is needed at this time. This is just a review of a proposed amendment to the nonconforming code.

ARTICLE 12

FLOODPLAIN MANAGEMENT

SECTION 1201. FLOODPLAIN MANAGEMENT ORDINANCE INCORPORATED

1201.A. GENERAL. There is hereby incorporated by reference, for the purpose of regulating and managing floodplains within the corporate limits of the City of Haysville, Kansas, a “Floodplain Management Ordinance.” At least one copy of said Model Floodplain Management Ordinance shall be marked “Official Copy as adopted by Ordinance No. 1104” and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

ARTICLE 12

FLOODPLAIN MANAGEMENT

Commented [KH1]: No changes to the article text. An article title has been added and the article has been formatted to match the City Code.

SECTION 1201. FLOODPLAIN MANAGEMENT ORDINANCE INCORPORATED

1201.A. GENERAL. There is hereby incorporated by reference, for the purpose of regulating and managing floodplains within the corporate limits of the City of Haysville, Kansas, a "Floodplain Management Ordinance." At least one copy of said Model Floodplain Management Ordinance shall be marked "Official Copy as adopted by Ordinance No. 1104" and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.



Haysville Planning Commission Staff Report

ZON 2025-004

CASE SUMMARY

Property Location: Generally located south of East 63rd Street and approximately 500 feet west of South Broadway Avenue (6401 South Sunnyside Road)

Applicant: Daniel Schmeidler (property owner) | K.E. Miller Engineering (agent)

Request: Zone Change from “SF” Single-Family Residential to “MF4” Multi-Family Four Residential

Prepared By: Kailyn Hogan, Planning and Zoning Administrator

Meeting Date: August 28, 2025

Public Hearing: Required, to be held by the Planning Commission

ANTICIPATED MEETING SCHEDULE

Body	Meeting Date	Action
Planning Commission	August 28, 2025	Hold required public hearing. Make a recommendation for approval, approval with modifications, or denial of the request. Recommendation is forwarded to City Council.
City Council	October 14, 2025	Adopt the recommendation of the Planning Commission as presented, override the recommendation, or return the recommendation to the Planning Commission.

SITE DATA

Legal Description	LOT 1, BLOCK 1, WARD’S 4 TH ADDITION to Sedgwick County, Kansas
Existing Zoning	“SF” Single-Family Residential
Lot Area	14,784 square feet / 0.339 acres
Future Land Use	Residential
Built Form	Undeveloped

BACKGROUND

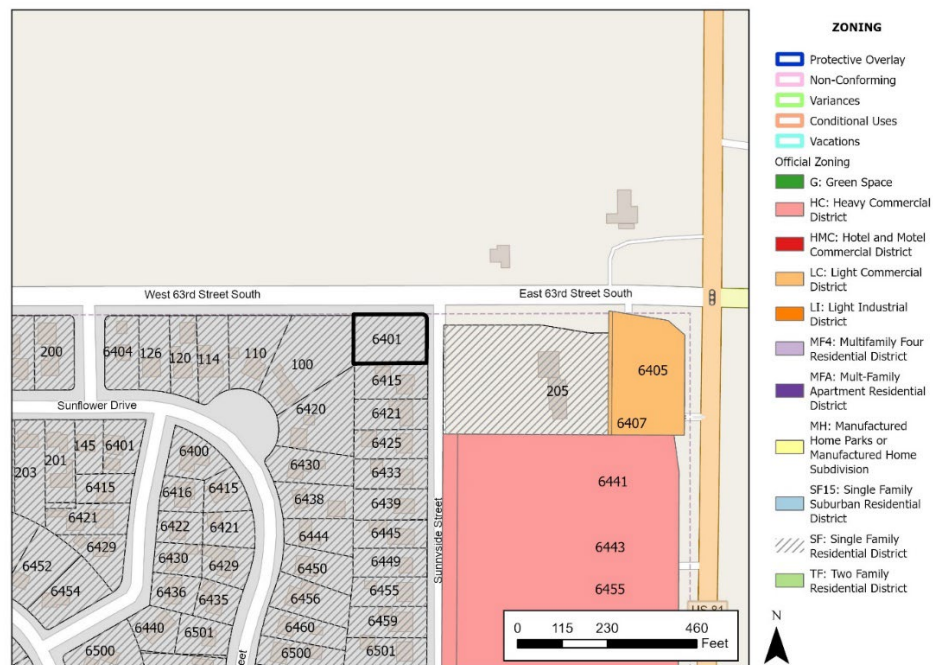
SITE DESCRIPTION AND PRESENT USE. The applicant is requesting a zone change from “SF” Single-Family Residential to “MF4” Multi-Family Four Residential for property generally located at 6401 South Sunnyside Road. The property is 0.339 acres and is located at the intersection of 63rd Street South and South Sunnyside Road. The property has access to South Sunnyside Road, a paved one-way local street. The property is currently undeveloped. It has access to city water and sewer.

The property was platted in 1951 as Lot 1, Block 1, Ward’s 4th Addition to Sedgwick County and later annexed into the City of Haysville. At the time of annexation, the property was designated as park land on the Land Use Map. The current land use designation is residential. The property was sold to the current property owner by the City of Haysville in June 2023.

SURROUNDING PROPERTIES AND NEIGHBORHOOD. The predominant land use of the neighborhood is single-family residential. Properties to the north are zoned RR Rural Residential and are used primarily for agricultural purposes and contain two single-family dwelling units. Property to the east is zoned “SF” Single-Family Residential and contains a large-lot single-family dwelling. Properties to the south and west are zoned “SF” Single-Family Residential and contain single-family dwellings. Properties to the southeast are zoned “HC” Heavy Commercial and contain an auction house, truck and trailer rental, and shed sales. Such heavy commercial activities are buffered from the single-family dwellings by a tree-covered section of the property.

ADJACENT ZONING AND LAND USE.

NORTH:	RR Rural Residential	Agriculture and single-family dwelling
SOUTH:	“SF” Single-Family Residential and “HC” Heavy Commercial	Single-family dwellings, auction house, truck and trailer rental, and shed sales
EAST:	“SF” Single-Family Residential	Single-family dwellings
WEST:	“SF” Single-Family Residential	Single-family dwellings



PROJECT DESCRIPTION. The property owner may address any questions related to the development of the site, but such proposed development is not a criteria in the consideration of this zone change. This review is only on evaluating the suitability of the property for the “MF4” Multi-Family Four Residential district. Future development could include any use permitted under the “MF4” district regulations.

PUBLIC COMMENTS. The public hearing notice was published on August 7, 2025. At the time of publication of this staff report, staff had not received any comment on the zone change request. Comments received after the publication of this staff report will be distributed at the meeting.

ANALYSIS

The current zoning, “SF” Single-Family Residential, allows for low-density, single-family residential development while the requested zoning, “MF4” Multi-Family Four Residential, allows for medium-density, multi-family development. Both districts allow a limited number of public and civic uses aimed to serve the needs of those living in nearby neighborhoods. The table below compares the development standards from the City of Haysville Zoning Regulations for both zoning districts.

Development Standards	“SF” Single-Family	“MF4” Multi-Family Four
Minimum lot area	6,000 square feet	6,000 square feet
Minimum lot width	50 feet	50 feet
Minimum lot depth	90 feet	90 feet
Front setback	25 feet, corner lots must have at least a minimum front yard setback on the primary street frontage and at least 15 feet minimum on the other	25 feet, corner lots must have at least a minimum front yard setback on the primary street frontage and at least 15 feet minimum on the other
Rear setback	20 feet	20 feet
Side setback	6 feet	6 feet
Maximum height	45 feet	35 feet
Minimum Area of Dwelling	600 square feet	600 square feet

The subject property meets the minimum lot area, lot width, and lot depth requirements with a 14,784 square foot lot area, 99.5 foot lot width and 150 foot lot depth, respectively.

FINDINGS. The following criteria shall be evaluated as they relate to the specific case being considered, and such stipulation as deemed appropriate in relation to any request for a zone change may be developed by the commission and incorporated into any recommendation in support of the requested zone change.

1. Zoning uses and character of the neighborhood.

The predominant land use of the neighborhood is single-family residential.

Properties to the north are zoned RR Rural Residential and are used primarily for agricultural purposes and contain two single-family dwelling units. Property to the east is zoned “SF” Single-Family Residential and contains a large-lot single-family dwelling. Properties to the south and west are zoned “SF” Single-Family Residential and contain single-family dwellings. Properties to the southeast are zoned “HC” Heavy Commercial and contain an auction house, truck and trailer rental, and shed sales. Such heavy

commercial activities are buffered from the single-family dwellings by a tree-covered section of the property.

All properties are in fine to good condition.

2. Suitability of the subject property for the uses to which it has been restricted.

The subject property is currently zoned “SF” Single-Family Residential and is suitable for low density, single-family residential development and a limited number of public and civic uses aimed to serve the needs of those living in nearby neighborhoods. Such uses are appropriate given the context of the surrounding zoning being primarily “SF” Single-Family Residential.

3. Extent to which removal of the restrictions will detrimentally affect nearby property.

The following uses are permitted, conditionally or by right, in the “MF4” Multi-Family Four Residential District that are not allowed in the “SF” Single-Family Residential District. Uses permitted conditionally are designated by a (C) behind the use.

- Two-Family
- Three- and Four-Family
- Multi-Family (C)
- Day Care, General (C)
- Hospital
- Nursing Facility (C)

Removing the restrictions of the “SF” Single-Family Residential zoning district may detrimentally affect nearby property if special considerations are not taken to ensure development occurs at “house-scale.”

If special considerations are taken, Two-Family and Three- and Four-Family developments can seamlessly blend into the fabric of an existing neighborhood and avoid detrimentally affecting nearby property. “House-scale” typically means smaller building footprints, lower perceived density, activated building fronts with street orientation and front porches, and hidden parking. Below are some examples of this type of development from Missing Middle Housing, a movement dedicated to building multi-unit development that blends with single-family development.

Duplex	Triplex	Fourplex
		
Gross Building SF 3,264	Gross Building SF 3,264	Gross Building SF 3,338
Number of Units 2	Number of Units 3	Number of Units 4
Price \$4,000 per unit	Price \$4,000 per unit	Price \$4,000 per unit

Additionally, the City has previously established provisions to protect single-family and two-family development from potential adverse effects on aesthetics from multi-family development.

Section 501-E. of the Landscaping Regulations requires all multi-family development above two-family to provide a landscaped buffer of 15 feet between all abutting single-family or two-family development.

A minimum of 1 shade tree, or their equivalent must be placed in the buffer for every 50 feet of common property line. At least 1/3 of all required plantings in the buffer must be evergreen.

This regulation also requires all parking to be screened from the abutting single-family or two-family development. Such screening shall be to a minimum of 3 feet above the parking surface. Walls and fences may be used in combination with plantings, but may not be the sole means of screening.

Staff does not recommend any use outside of residential be allowed on this property. The only access to the property is via South Sunnyside Road, a paved, one-way local street. The width of the street does not meet the City's minimum standards for local streets and has no available on-street parking. Thus, establishments that would generate traffic would detrimentally affect nearby properties and potentially cause issues with public safety. Non-residential uses could be considered if South Sunnyside Road was a two-way road or if other modes of transportation were accommodated for in the neighborhood.

4. *Length of time subject property has remained vacant as zoned.*

The subject property is undeveloped. It was platted in 1951.

5. *Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant.*

Staff foresees negative affects to the public safety as a result of the approval of this zone change. The subject property only has access to South Sunnyside Road, which is a paved one-way local street. The applicant requested access to 63rd Street but was denied by Sedgwick County Public Works. Depending on the location of the driveway, those exiting the property may be encouraged to drive the wrong way on South Sunnyside Road to exit onto 63rd Street. Staff did not witness any current residents driving the wrong way on South Sunnyside Road.

Approval of the zone change request would allow the applicant to use the property to the full extent of their intended use. Denial of the zone change would not limit the property owner's ability to use the subject property for a different approved use in the "SF" Single-Family Residential district, nor limit the property owner's ability to apply for a different zoning designation.

6. *Conformance of the requested change to the adopted or recognized comprehensive plan.*

The requested zone change is in conformance with the City of Haysville's Comprehensive Plan. The requested zone change supports Population Objective 3 "to increase housing diversification within the community," and the Housing Goal to "provide a variety of housing choices to current and future populations."

The City of Haysville's Comprehensive Plan includes the 2023 Land Use Plan Map. The Map identifies the area in which the subject site is located to be appropriate for Residential uses. The requested zoning district is "MF4" Multi-Family Four Residential, making the change in conformance with the City's Land Use Plan Map.

7. *Impact of the proposed development on the community facilities.*

Staff does not anticipate the proposed development to have any significant negative impact on community facilities.

8. *Opposition or support of neighborhood residents.*

At the time of publication of this staff report, staff had not received any comment on the zone change request.

RECOMMENDATION

Based upon information available prior to the public hearings, planning staff recommends that the request for a zone change from “SF” Single-Family Residential District to “MF4” Multi-Family Four Residential District be **APPROVED** with the addition of a protective overlay. This recommendation is based on the above listed findings.

The protective overlay shall read as follows:

- **PERMITTED USES:** The following uses shall be permitted by right:
 - Single-Family
 - Two-Family
 - Three- and Four-Family
 - Group Home
 - Home occupations that typically do not generate additional vehicular traffic. Examples of such uses and occupations include offices for sales persons, sales representatives, manufacturer’s representatives, etc. when no retailing or wholesaling is made or transacted on the premises; offices for architects, engineers, lawyers, doctors, dentists and members of similar professions; offices for service type businesses such as insurance agents, brokers, decorators, painters, business consultants, tax advisors, and photographers; home crafts, such as model making, rug weaving, etc.; and ministers, rabbis, and priests for counseling purposes only.
 - Short-Term Residential Rental
- **SITE DEVELOPMENT STANDARDS:** In keeping with the spirit and intent of the Zoning Regulations and the character of the existing neighborhood, the following site development standards shall be applied to the property:
 - The principal structure shall be oriented to face South Sunnyside Road;
 - The maximum height of all structures shall be 25 feet or two stories, whichever is lesser;
 - A covered porch shall be erected at the front entrance(s) of the principal structure. Such porch shall be built at the building setback line or encroaching upon the building setback line; and
 - The exterior of all structures shall be either brick or vinyl siding.
- **PARKING:** All required off-street parking spaces shall be located in the rear of the property behind the principal structure, other than those located on hard surface drives.
- **ACCESS:** Complete access control shall be dedicated for the north 30 feet of street frontage along South Sunnyside Road.

It should be known that the Planning Commission has the authority to recommend a zone change to a lesser zoning district (“TF” Two-Family Residential) than what has been proposed without republication of a notice. The Planning Commission is granted this authority by K.S.A. 12-757. The City’s zoning district classification chart can be found at www.haysvilleks.gov/planning-zoning.

Staff has prepared an alternative recommendation with that authority in mind. If the Planning Commission chooses to recommend approval of a zone change from “SF” Single-Family Residential to “TF” Two-Family

Residential, staff recommends **APPROVAL** with the addition of a protective overlay. This recommendation is based on the above finds.

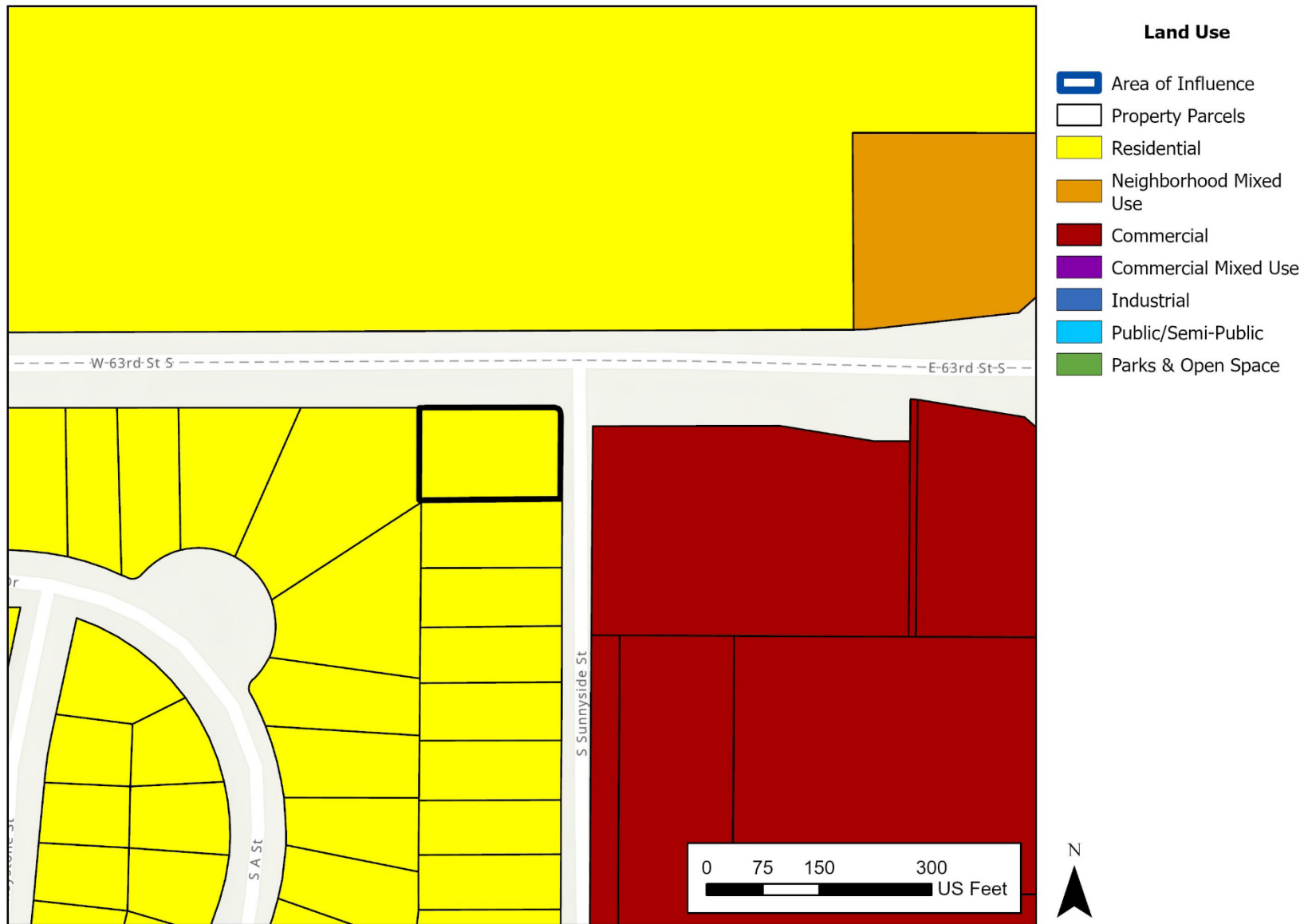
The protective overlay shall read as follows:

- **PERMITTED USES:** The following uses shall be permitted by right:
 - Single-Family
 - Two-Family
 - Group Home
 - Home occupations that typically do not generate additional vehicular traffic. Examples of such uses and occupations include offices for sales persons, sales representatives, manufacturer's representatives, etc. when no retailing or wholesaling is made or transacted on the premises; offices for architects, engineers, lawyers, doctors, dentists and members of similar professions; offices for service type businesses such as insurance agents, brokers, decorators, painters, business consultants, tax advisors, and photographers; home crafts, such as model making, rug weaving, etc.; and ministers, rabbis, and priests for counseling purposes only.
 - Short-Term Residential Rental
- **SITE DEVELOPMENT STANDARDS:** In keeping with the spirit and intent of the Zoning Regulations and the character of the existing neighborhood, the following site development standards shall be applied to the property:
 - The principal structure shall be oriented to face South Sunnyside Road;
 - The maximum height of all structures shall be 25 feet or two stories, whichever is lesser;
 - A covered porch shall be erected at the front entrance(s) of the principal structure. Such porch shall be built at the building setback line or encroaching upon the building setback line; and
 - The exterior of all structures shall be either brick or vinyl siding.
- **PARKING:** All required off-street parking spaces shall be located in the rear of the property behind the principal structure, other than those located on hard surface drives.
- **ACCESS:** Complete access control shall be dedicated for the north 30 feet of street frontage along South Sunnyside Road.

ATTACHMENTS

1. Aerial Map
2. Land Use Map
3. Site Photos
4. Neighboring Property Photos
5. Copy of the Public Hearing Notice





Looking north away from property



Looking south away from property



Looking east away from property



Looking west towards property









NOTICE OF PUBLIC HEARING

TO WHOM IT MAY CONCERN: At 6:00 p.m. on Thursday, August 28, 2025, in the Council Chambers at City Hall, 200 W Grand, Haysville, Kansas, the Haysville Planning Commission will hold a public hearing to consider a request for a zone change from "SF" Single-Family Residential to "MF4" Multi-Family Four Residential. The property under consideration is generally located at 6401 South Sunnyside Road, Haysville, KS 67217, and is legally described as follows:

LOT 1, BLOCK 1, WARD'S 4TH ADDITION to Haysville, Sedgwick County, Kansas.

Comments, both written and oral, will be heard by the Planning Commission at the time of the hearing. Comments can be submitted to: City of Haysville, Attn: Planning Department, 200 W Grand Ave, P.O. Box 404, Haysville, Kansas 67060 or by email to khogan@haysvilleks.gov. Written comments will be accepted up to 4:00 p.m. on the day of the meeting.

For additional information call (316) 529-5900 or visit the City's website at www.haysvilleks.gov.

(to be published August 7, 2025)



Simplify this document for me



...

6401 S Sunnyside Rd #00296743

From Debra Holder <debra.m.holder@gmail.com>

Date Thu 8/28/2025 11:59 AM

To Kailyn Hogan <khogan@haysvilleks.gov>

 4 attachments (349 KB)

1000 W WALLINGFORD.pdf; 5836 S JONES.pdf; S PATTIE.pdf; S PATTIE 2.pdf;

[You don't often get email from debra.m.holder@gmail.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

Good Morning Ms. Hogan,

Even though we do intend upon attending the meeting this evening at 6pm in relation to the zoning change request on the property at 6401 S Sunnyside, I wanted to get this email sent just in case anything happens to prevent us from attending.

I am the next door neighbor to that property at 6415, I have been in this residence since 2007, most on this block are long time property owners and have seen some people come and go throughout the years.

I am very aware of what this zoning change would open the door to and I am firmly opposed to it.

We just recently had nuisance neighbors move out of the rental property to the south and then given this requested zoning change, that opens that property to the north up to potentially getting multiple residence on one parcel of land that will most likely also become rentals.

One nuisance family is bad enough but the potential to have four possible nuisance families or people moving in on the north after duplexes are built will cause problems in our neighborhood.

Also, after looking in to the history of the property owner and him being a contractor who has a history of building structures like this, I would really like to see this request denied to change the zoning. We would maybe handle one single family residence but to deal with that many new people on an already well traveled, sometimes congested south bound street would cause issues really quickly.

I have also attached history of the property owner and recent pictures of the upkeep of the lot after being mowed for only the fourth time this year. In the two years that he has owned it, his mowing crew only comes to mow once every six weeks to two months, grass normally is almost as tall as me and also given that entire lot is known to be a sticker patch, their inadequate, haphazard mowing as caused stickers to also begin encroaching on our lot.

Given what we have observed, trends and the history is ultimately all deciding factors of why we are very much against the proposal of zoning change.

Thank you for your time and allowing the opportunity for input.













Sent from Debra Holder's iPhone

NOTICE OF PUBLIC HEARING

TO WHOM IT MAY CONCERN: At 6:00 p.m. on Thursday, August 28, 2025, in the Council Chambers at City Hall, 200 W Grand, Haysville, Kansas, the Haysville Planning Commission will hold a public hearing to consider a request for a zone change from "SF" Single-Family Residential to "MF4" Multi-Family Four Residential. The property under consideration is generally located at 6401 South Sunnyside Road, Haysville, KS 67217, and is legally described as follows:

LOT 1, BLOCK 1, WARD'S 4TH ADDITION to Haysville, Sedgwick County, Kansas.

Comments, both written and oral, will be heard by the Planning Commission at the time of the hearing. Comments can be submitted to: City of Haysville, Attn: Planning Department, 200 W Grand Ave, P.O. Box 404, Haysville, Kansas 67060 or by email to khogan@haysvilleks.gov. Written comments will be accepted up to 4:00 p.m. on the day of the meeting.

For additional information call (316) 529-5900 or visit the City's website at www.haysvilleks.gov.

(to be published August 7, 2025)



Simplify this document for me



...