

WICHITA-SEDGWICK COUNTY BOARD OF ZONING APPEALS

AGENDA

Thursday, February 19, 2015

1:30 p.m.

The regular meeting of the Wichita-Sedgwick County Board of Zoning Appeals will be held on **Thursday, February 19, 2015**, in the Planning Department Conference Room, 10th Floor, Wichita City Hall, 455 North Main, Wichita, Kansas **no earlier than 1:30 p.m.**

1. Approval of the minutes of the January 8, 2015 Meeting.
2. **BZA2015-00001** - City variance request to install a temporary parking surface material in conjunction with construction of a temporary pop-up park generally located east of Main Street, on the south side of East Douglas Avenue (111-123 E. Douglas Ave.)
Presented by Derrick Slocum

WICHITA-SEDGWICK COUNTY BOARD OF ZONING APPEALS

MINUTES

January 8, 2015

The regular meeting of the Wichita-Sedgwick County Board of Zoning Appeals was held on Thursday, January 8, 2015 at 1:59 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Matt Goolsby, Chair; Carol Neugent, Vice Chair; David Dennis; Bill Johnson; Don Klausmeyer; John McKay Jr.; M.S. Mitchell; Debra Miller Stevens and Chuck Warren. David Foster; Joe Johnson; Bill Ramsey; Don Sherman and George Sherman were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Jeff Vanzandt, Assistant City Attorney, Robert Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. Approval of the December 4, 2014 Meeting minutes.

MOTION: To approve the December 4, 2014 meeting minutes.

B. JOHNSON moved, **WARREN** seconded the motion, and it carried (5-0-4).
DENNIS, GOOLSBY, MILLER STEVENS and **MITCHELL** - Abstained.

2. **BZA2014-00075** – City Variance to allow an increase in building height from 35 feet to 50 feet in SF-5 Single-family Residential zoning generally located South and East of Pawnee and 127th Street East on property described as:

Lot 1, Block 1, USD 259 4th Addition to Wichita, Sedgwick County, Kansas.

JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

BACKGROUND: The applicant is requesting a variance to Section III-B.5.d (7) of the Unified Zoning Code to permit a 50-foot high structure a proposed high school. The subject property is located south of East Pawnee Avenue and west of South 12th St. East. The subject property is zoned SF-5 Single-family Residential (“SF-5”), and is currently undeveloped.

USD 259 will be constructing a new high school at the subject site and included in the new structure, like in all high schools, is a gymnasium. As stated in the attached letter, the applicant proposes to construct the new gymnasium that will reach 50-foot high. The request for the building height increase is for the gymnasium section of the school structure and is similar to other school structures that have gyms with high roofs.

Elementary, Middle and High Schools are permitted by right or by Conditional Use in every zone district except OW Office Warehouse, IP-A Industrial Park-Airport District and IP Industrial Park zoning. If the school were to be built in a MF-18 or MF-29 Multi-family zone, the applicant would just need an administrative adjustment for this structure height since the maximum heights in those zone districts is 45-feet. Also, if the school were to be built in the B Multi-family zone district, the applicant would not have to apply for an adjustment or variance because that zone district allows for a maximum building height of 55-feet. This variance will allow the building height for the school in the SF-5 zone district, which would be allowed or allowed by adjustment in the other zone districts in where the use is permitted.

Property to the north is zoned SF-5 Single-family Residential and LC Limited Commercial and is developed with single-family residences (across Pawnee) and undeveloped LC property at the corner of Pawnee and 127st East. Property to the south is zoned SF-20 Single-family Residential and is currently open agricultural land. Property to the east is zoned SF-20 and is currently farmland. Property to the west is also zoned SF-20 and developed with single-family residences.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5 and LC	Single-family residences
SOUTH:	SF-20	Open Agricultural Land
EAST:	SF-20	Farmland
WEST:	SF-20	Single-family residences

The five criteria necessary for approval as they apply to the requested variance.

UNIQUENESS: It is staff's opinion that this property is unique in that SF-5 zoning allows institutional uses and the size of this property is substantially larger than lots that are developed with single-family residences. The increase in building height for the proposed structure will be lessened in impact due to the location of the proposed building and the setback from all other property lines, leaving the structure a greater distance away from any surrounding properties.

ADJACENT PROPERTY: It is staff's opinion that granting the requested variance would not adversely affect the rights of adjacent property owners. The proposed height increase will be minimized due to the scale of the structure and the increased setbacks from surrounding properties.

HARDSHIP: It is staff's opinion that the strict application of the provisions of the code would constitute a hardship upon the applicants. Without the requested height increase variance, the applicants could not feasibly construct the school gymnasium as designed and as to what is similar to other school gymnasiums in the school district.

PUBLIC INTEREST: It is staff's opinion that the requested variance for a building height increase will not adversely affect the public interest, as further improving this property is in the public interest, and the size of the property is large enough to protect against impacts of the surrounding properties.

SPIRIT AND INTENT: It is staff's opinion that granting the requested variance for a building height increase does not oppose the general spirit and intent of the Zoning Code. Due to the size and the property and the scale of the proposed building, the variance should not detract from the adjacent uses and maintain the intent of the code.

RECOMMENDATION: It is staff's opinion that the requested variance of the Zoning Code to increase the building height requirement from 35 feet to 50 feet is appropriate for this site. Should the Board determine that the criteria necessary to grant a variance exists, the Secretary recommends that the variance be GRANTED, subject to the following conditions:

1. The building height increase shall apply only to school building as proposed. Any future buildings on this site shall conform to Zoning Code required building heights unless a separate Administrative Adjustment or Variance is approved.
2. The building shall meet building code, fire code and all other applicable code requirements. The applicant shall obtain all permits necessary to build the structure within one year of variance approval, unless such time is extended by the BZA.
3. The above conditions are subject to enforcement by any legal means available to the City of Wichita.

DERRICK SLOCUM, Planning Staff presented the Secretary's Report.

MOTION: To approve subject to staff recommendation.

DENNIS moved, **WARREN** seconded the motion, and it carried (9-0).

The Wichita-Sedgwick County Board of Zoning Appeals adjourned at 2:00 p.m.

State of Kansas)
Sedgwick County) ^{SS}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Board of Zoning Appeals do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Board of Zoning Appeals, held on _____, is a true and correct copy of the minutes officially approved by such Board.

Given under my hand and official seal this _____ day of _____, 2015.

John L. Schlegel, Secretary
Wichita-Sedgwick County Board of
Zoning Appeals

SECRETARY'S REPORT

CASE NUMBER: BZA2015-00001

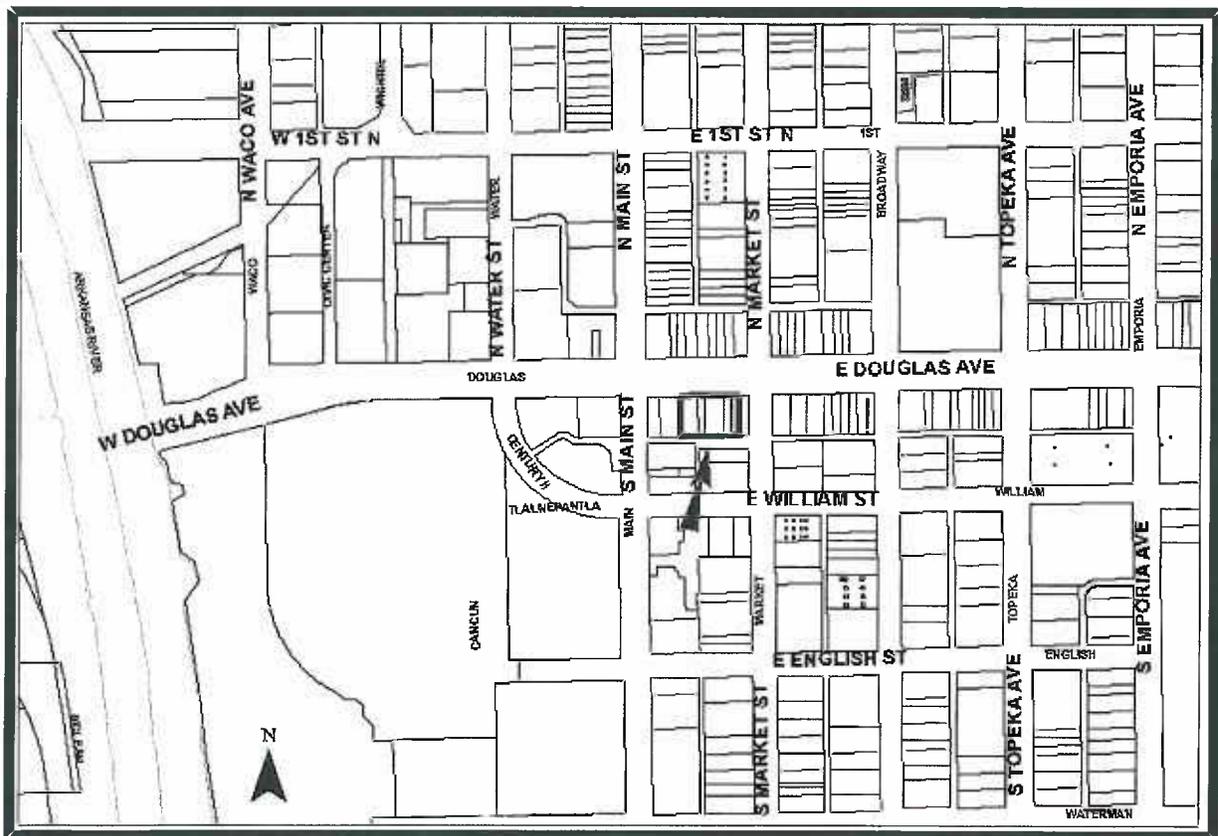
APPLICANT/AGENT: Eyster Properties, LLC c/o Michael Ramsey (Owner/Applicant)

REQUEST: City Variance request to install temporary parking surface material in conjunction with the construction of a temporary pop-up park.

CURRENT ZONING: CBD Central Business District ("CBD")

SITE SIZE: 1 acre

LOCATION: Located east of Main Street, on the south side of East Douglas Avenue (111-123 East Douglas Avenue.)



JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

BACKGROUND: The applicant requests a variance to install a temporary parking area with crushed rock surfacing for a temporary pop-up park on property zoned CBD Central Business District (“CBD”). The applicant purchased the property in 2011 with plans to redevelop the property with a new, mixed-use commercial building. Yet due to current commercial real estate market conditions, there is currently little support for a new building to be constructed at this time. The interim plan for the current time is to fill in the existing hole created when the past building occupying the site was demolished. On the filled area, the applicant plans to occupy the site with a proposed pop-up park with temporary furnishings including planters with landscaping, lighting, seating, tables and art. The plan will also include a space for food trucks to operate during the day for visitors to the park. Additional temporary parking will be designated for the remaining south portion of the site for the adjacent Woolf Bros. building tenants.

The proposed plan is to have a crushed rock temporary surfacing for the parking area. This would be temporary in nature, much cheaper for the applicant, better for drainage and easily removed when a new building is constructed on the site in the future. The variance request is for the use of a crushed rock surface material for the temporary parking area. Article IV, Section A, 2.b of the Unified Zoning Code states “all Parking areas, Loading areas and driveways on all Developments other than low-density residential Developments shall be surfaced with concrete, asphaltic concrete, asphalt or other comparable surfacing and shall be maintained in good condition and free of all weeds, dust, trash and other debris.” The variance request would allow for the crushed rock material to be used for the temporary parking area.

All surrounding properties are zoned CBD Central Business District. Property north of the subject site, across Douglas Avenue, is zoned CBD and is developed with a parking garage. Properties south, east and west of the subject site are zoned CBD and are developed with office buildings.

ADJACENT ZONING AND LAND USE:

NORTH:	CBD	Parking Garage
SOUTH:	CBD	General Office Building
EAST:	CBD	General Office Building
WEST:	CBD	General Office Building

The five criteria necessary for approval as they apply to the requested variance.

UNIQUENESS: It is staff’s opinion that this property is unique inasmuch as the site has been vacant and dangerous to the public with the presence of a large, deep hole taking up the majority of the site. The uniqueness of the site is due to the fact the subject site is suited for a large commercial building operation, but currently, the conditions do not exist to support such a development. The crushed rock surface would be temporary and used in conjunction of the proposed pop-up park.

ADJACENT PROPERTY: It is staff’s opinion that granting the requested variance to allow for crushed rock temporary parking will not adversely affect the rights of adjacent property owners, inasmuch as surrounding properties will take advantage of the additional parking and the current visual eyesore and public hazard, that is the large hole, will be filled and

developed with a more aesthetically visually pleasing pop-up park with parking for food car vendors and building occupants.

HARDSHIP: It is staff's opinion that the strict application of the provisions of the code would constitute a hardship upon the applicants, inasmuch in that the economic cost to the property owner to pave an area which will, in the future, be developed as a commercial building, would put a burden on the applicant due to the cost associated with paving a large parking. Also, when a building is developed on the site, the paved surface would have to be removed for the construction, which would also come at a greater cost than removing or working with the crushed rock surface.

PUBLIC INTEREST: It is staff's opinion that the requested variance to allow for a crushed rock temporary parking area for food trucks associated with the pop-up park and parking for surrounding building occupants will not adversely affect the public interest, inasmuch the project fills in the existing hole that was left when the former buildings were torn down. The hole currently is a safety hazard that must be fenced. The temporary improvements planned for this site will also improve the aesthetics and activate the site with programmed uses, inviting the public to utilize the temporary park.

SPIRIT AND INTENT: It is staff's opinion that granting the variance requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch the property had been used for a commercial office building that was demolished and the property is currently an unsafe site and this request will develop the property and create a safe site and fill in an existing undeveloped property.

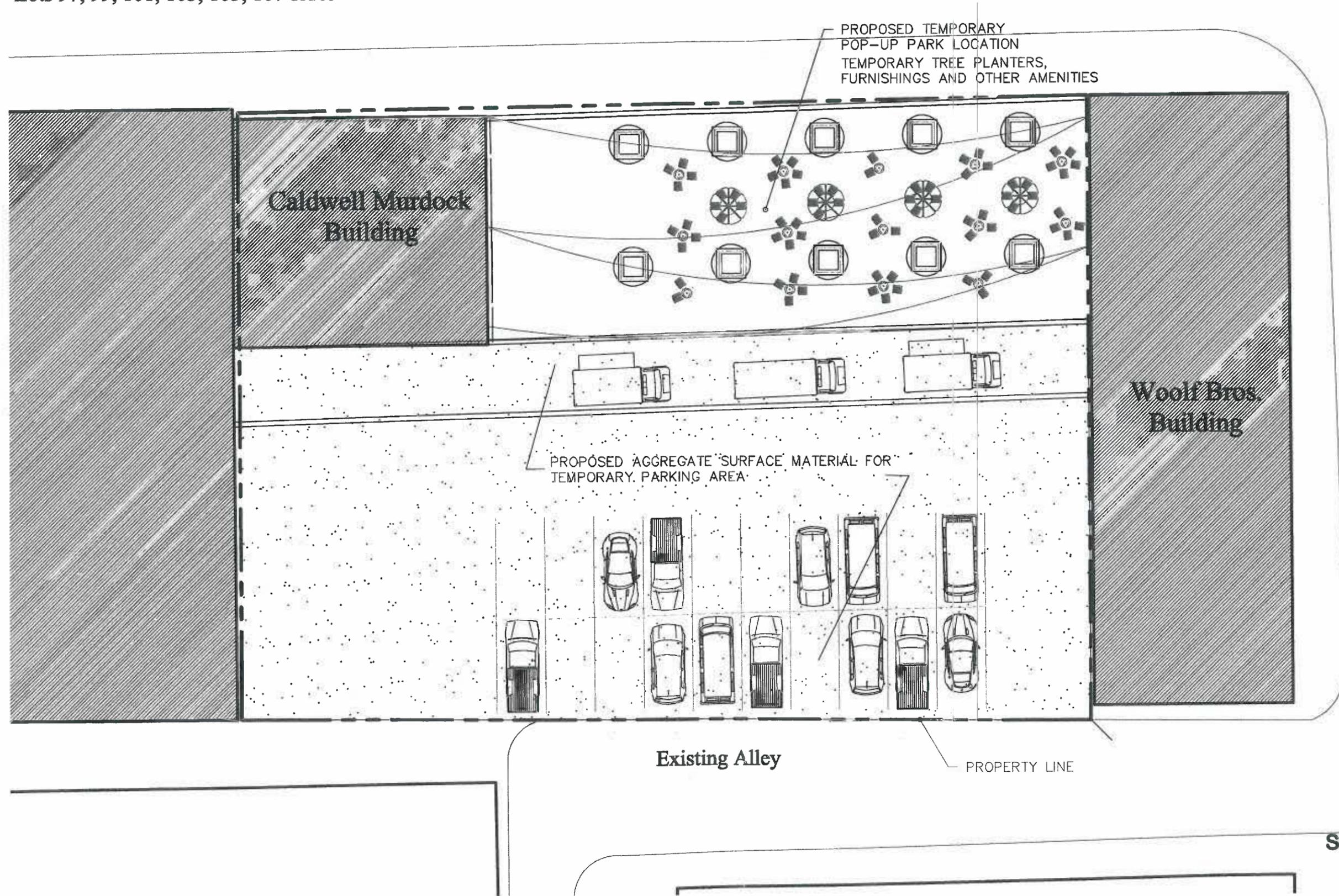
RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the Variance can be found to exist, then it is the recommendation of the Secretary that the Variance for a crushed rock temporary parking area for food trucks associated with the pop-up park and parking for surrounding building occupants be GRANTED, subject to the following conditions:

1. The site shall be developed in substantial conformance with the approved site plan.
2. The applicant shall obtain all local permits necessary to complete any and all needed improvements.
3. The resolution authorizing this Variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

Proposed Site Plan

111-123 E. Douglas Avenue
Lots 97, 99, 101, 103, 105, 107 & 109

Douglas Avenue



Caldwell Murdock Building

Woolf Bros. Building

Market Street

PROPOSED TEMPORARY POP-UP PARK LOCATION
TEMPORARY TREE PLANTERS, FURNISHINGS AND OTHER AMENITIES

PROPOSED AGGREGATE SURFACE MATERIAL FOR TEMPORARY PARKING AREA

Existing Alley

PROPERTY LINE



NORTH

Scale: 1" = 20'-0"

POP UP URBAN PARK

CONCEPTUAL SITE PLAN

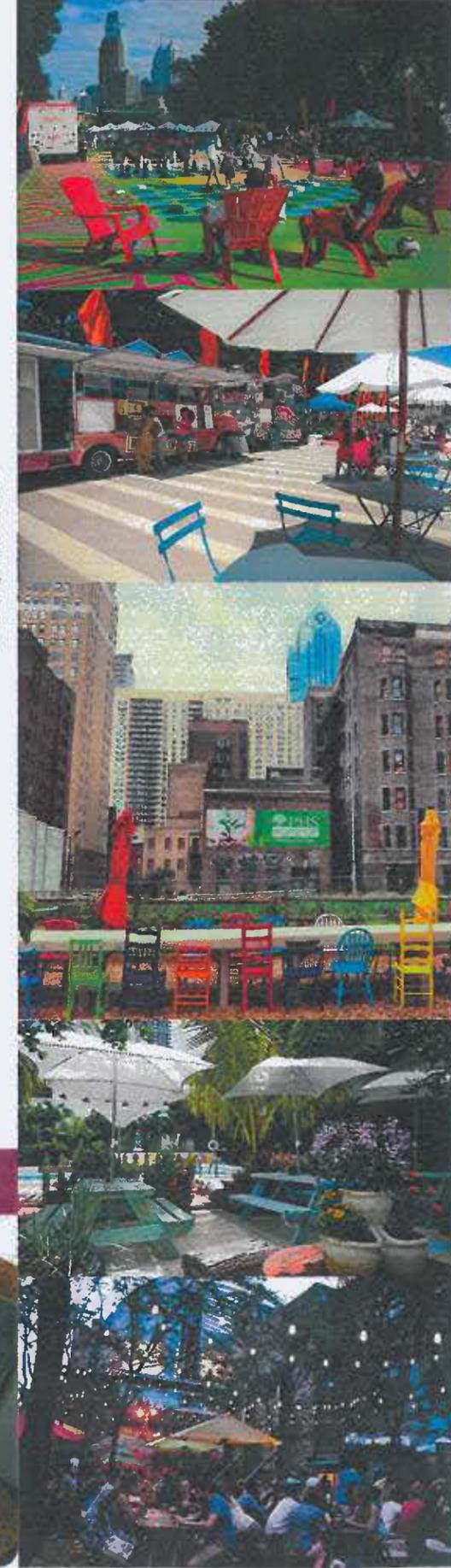
DOWNTOWN WICHITA, KS

Attachment B

DOUGLAS AVENUE



PRECEDENT



PROPOSED SITE ELEMENTS

