



AGENDA
BOARD OF ZONING APPEALS
 Tuesday, November 1, 2016 – 5:00 p.m.
City Council Chambers
 125 East Avenue B, Hutchinson, Kansas

1. ROLL CALL

- | | | |
|--|---|-----------------------------------|
| <input type="checkbox"/> Macklin | <input type="checkbox"/> Woleslagel | <input type="checkbox"/> Bisbee |
| <input type="checkbox"/> Hamilton (Vice Chair) | <input type="checkbox"/> Peirce (Chair) | <input type="checkbox"/> Obermite |
| <input type="checkbox"/> Carr | <input type="checkbox"/> Hornbeck | <input type="checkbox"/> Peterson |

2. APPROVAL OF MINUTES – Meeting of October 18, 2016.

3. CORRESPONDENCE & STAFF REPORTS – Motion to accept documents into the official record.

4. PUBLIC HEARINGS

a. 16-BZA-05, Fence Height Variance

Request for a variance from the height limit of 4 feet for a semi-transparent fence in the front yard of a residential lot for property at 3908 N Monroe St
(Staff Representative: Aaron Barlow, Associate Planner)

Action: Motion to (APPROVE / DENY) 16-BZA-05 for a fence taller than 4 feet in the front yard at 3908 N Monroe St based upon a finding that the factors required for approval (are / are not) met.

5. TABLED ITEM

a. 16-SUP-05, Kenny’s Special Use Permit

Request for a Special Use Permit to open a bar/tavern at 1723 E 4th Avenue
(Staff Representative: Casey Jones, Senior Planner)

Action: None - Applicant has not provided the additional materials needed for review.

6. UPCOMING CASES

- a. None.

7. OPEN COMMENTS FROM THE AUDIENCE (Please limit comments to five minutes.)

8. ADJOURNMENT

Staff Contacts:	Jana McCarron	620-694-2681	Casey Jones	620-694-2667
	Amy Allison	620-694-2638	Stephanie Stewart	620-694-2635
	Charlene Mosier	620-694-2639		



1. **ROLL CALL**

The Board of Zoning Appeals meeting was called to order at 5:00 PM with the following members present: Harley Macklin, Darryl Peterson, Ken Peirce, Tom Hornbeck and Terry Bisbee. Janet Hamilton, Robert Obermite, Mark Woleslagel and Todd Carr were absent. Staff present were Jana McCarron, Director of Planning and Development; Casey Jones, Senior Planner; Aaron Barlow, Associate Planner; and Stephanie Stewart, Planning Technician.

2. **APPROVAL OF MINUTES**

The minutes of the May 17, 2016, meeting were approved on a motion by Hornbeck, seconded by Macklin, passed unanimously.

3. **CORRESPONDENCE & STAFF REPORTS**

The documents and staff reports were accepted into the official record on a motion by Bisbee, seconded by Peterson, passed unanimously.

4. **PUBLIC HEARINGS**

a. 16-SUP-05: Kenny's Special Use Permit

Request for a Special Use Permit approval to open a bar/tavern at 1723 E 4th Avenue. Staff requests the item be tabled to allow the applicant time to submit required information to the City.

Jones stated that staff requested this item to be tabled to the November 1, 2016 meeting. Staff has been in correspondence with the applicant and has requested more information before bringing this item to the Board for consideration. Due to the configuration of the lot, a recorded access easement and a certified survey are needed. The applicant has until November 23, 2016 to submit the requested items. If the applicant fails to meet the deadline, then either the applicant can request the case be withdraw or the board will deny the special use permit.

Motion by Macklin, seconded by Hornbeck, to table Special Use Permit number 16-SUP-05 for a bar/tavern at 1723 E 4th Avenue to the November 1, 2016, Board of Zoning Appeals meeting to allow the applicant time to submit required information to the City passed with the following vote: Yes - Macklin, Peterson, Peirce, Hornbeck, Bisbee.

b. 16-BZA-04: Sun Valley Paving Variance Request

Request for a Variance from the requirements of §27-701.D.2. of the City of Hutchinson Zoning Regulations to allow for a portion (20) of the required number of parking spaces associated with a truck repair/truck and trailer storage facility and the access drives to and from those 20 spaces to be surfaced with gravel rather than paved with asphalt or concrete.

McCarron reviewed the staff report and indicated the total number of required parking spaces is 45. The applicant has requested a variance from the paving standards (asphalt or concrete) for 20 of the required spaces. These spaces would be located at the rear of the site and would be used by truck driver employees who typically park adjacent to their semi-trucks. McCarron reviewed the five factors required for approval of a variance, and indicated that Staff did not believe they were met based upon the following analysis.

Factor	Analysis	Met Not Met
<p>1. The request for a variance must arise from a condition which is unique to the property in question, is not commonly found on other parcels in the same zone or district, and is not created by an action or actions of the property owner or applicant.</p>	<p>The property is unique in that it involves a large amount of tractor-trailer parking. The City has typically allowed fleet parking on gravel surfaces. Parking spaces associated with the standards established in §27-702 of the Zoning Regulations have been required to be paved for new development, including development in Industrial Zones.</p>	<p><input checked="" type="checkbox"/> Not Met</p>
<p>2. Granting of the variance must not adversely affect the rights of adjacent property owners or residents.</p>	<p>There is a potential for negative impacts associated with dust and proximity of employee parking to the lot line for the property located immediately to the east of this lot. Other impacts are not anticipated.</p>	<p><input checked="" type="checkbox"/> Met <input checked="" type="checkbox"/> Not Met</p>
<p>3. Strict application of the zoning regulations must cause an unnecessary hardship for the property owner. The variance must not merely serve as a convenience to the applicant but must alleviate some demonstrable or unusual hardship or difficulty.</p>	<p>The Zoning Regulations allow for fleet vehicles (trucks) to be parked on gravel. However, employee parking is required to be paved. This will result in an additional expense to the applicant, but this is the same requirement that has been placed upon other new industrial developments.</p>	<p><input checked="" type="checkbox"/> Not Met</p>
<p>4. Granting of the variance must not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.</p>	<p>Employee parking is typically located on paved surfaces for new development, regardless of the type of use. This request could establish a new baseline and open the door for future requests to have unpaved employee parking areas, which could represent an adverse impact on the general welfare, order and prosperity of the community.</p>	<p><input checked="" type="checkbox"/> Not Met</p>

Factor	Analysis	Met Not Met
<p>5. Granting of the variance must not be contrary to the general spirit and intent of the Zoning Regulations.</p>	<p>While §27-701 of the Zoning Regulations does not contain an intent statement, the overall purpose and intent statements of the regulations (§27-102) include:</p> <ul style="list-style-type: none"> • Promote the health and general welfare of the citizens • Facilitate adequate provisions for transportation water, wastewater, schools, parks and other public requirements • Protect property values <p>The proposal does not appear to be consistent with these and the overall standards established in the regulations.</p>	<p><input checked="" type="checkbox"/> Not Met</p>

McCarron added that if the Board decides to override the Staff recommendation, specific findings for all of the factors will need to be stated as part of the record.

Keith Bauer, 931 Wheat State Road, Burrton, KS, provided a Prezi presentation to the Board. He showed several similar operations that have gravel parking for semi-trucks and the drivers' personal vehicles. He stated this is "normal practice" for this industry. Peterson asked how many trucks they have on an average day, and Bauer answered that his current operations average around 50 trucks a day and that he expects that to increase with the new proposed facility. He informed the Board that because of the size and weight of the semi-trucks, asphalt will not hold up. He explained that they will have to use 8" thick concrete with rebar, and based on a mock up provided by Mann & Co., the total estimated cost will exceed \$200,000 for employee parking, or 10% of the entire project budget, to comply with the City's standards for all employee parking. He also stated that the property sits on 8 acres and the employee/truck parking will be situated at the rear of the site, away from the building. Discussion ensued.

McCarron stated several of the examples shown by the applicant are trucking operations that are located in the County. Those that are in the City appear to have developed while located in the County or are on existing lots that had a change of use. She stated that the City's table of land use categories (Zoning Regulations) does not have a category where this project neatly fits so the required parking spaces have been interpolated by Staff.

Jason Ball, President Hutchinson Chamber of Commerce, 117 N Walnut, addressed the Board. He stated that he was speaking on behalf of economic development for the community and did not have formal approval from the Chamber Board with respect to this specific project. He pointed out that because this project does not fit clearly in the table of land use categories and because the property is situated at the edge of town, it appears to him that an accommodation by the Board for a portion of the required parking spaces to be unpaved would be a step towards encouraging growth.

Bisbee mentioned that he agreed with the analysis and the factors presented by Staff but felt that this case represents a unique project with unusual conditions. Peirce said he drove by a couple of

similar sites and noticed that the concrete has not held up to the large trucks. He then drove by the applicants existing site that contains a gravel parking lot (located in the County) and stated it was well kept.

Motion by Macklin, seconded by Peterson, to approve Variance request number 16-BZA-04 from the requirements of §27-701.D.2., Parking Lot Design for Non-Residential Uses, of the City of Hutchinson Zoning Regulations for property located at 00000 E Blanchard Avenue (Lot 1, Sun Valley), based upon due consideration of the findings of fact required for approval of Variance requests and a determination that said findings are met per the following factors:

- 1. The request for a variance must arise from a condition which is unique to the property in question, is not commonly found on other parcels in the same zone or district, and is not created by an action or actions of the property owner or applicant.**

Finding: It is a common practice for truck drivers to park their vehicles next to their rigs for this type of use. Properties that have paved parking involving large trucks do not hold up as well as gravel. A number of other properties in the area have a lot of trucks and have unpaved parking. The unique aspect of this use is the amount of trucks involved.

- 2. Granting of the variance must not adversely affect the rights of adjacent property owners or residents.**

Finding: No neighboring properties had concerns about the unpaved parking areas. The only true neighbors are a truck wash that has some unpaved surfaces and a storage unit. Dust would not be a concern due to the nature and type of neighboring uses.

- 3. Strict application of the zoning regulations must cause an unnecessary hardship for the property owner. The variance must not merely serve as a convenience to the applicant but must alleviate some demonstrable or unusual hardship or difficulty.**

Finding: Paving with concrete or asphalt to and including the proposed parking spaces would be cost-prohibitive, which represents an unnecessary hardship for the property owner. Since drivers park next to their vehicles, paving an area adjacent to the building would not be convenient to the operation and would likely not be used.

- 4. Granting of the variance must not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.**

Finding: It encourages business and economic development when we accommodate them. The driving and parking of trucks on gravel is already occurring on other properties that have trucking, including the applicant's existing site, and there have been no known complaints or adverse impacts.

- 5. Granting of the variance must not be contrary to the general spirit and intent of the Zoning Regulations.**

Finding: The spirit and intent of the Zoning Regulations include accommodating growth in a reasonable manner. The project represents desired economic growth.

The motion passed with the following vote: Yes - Macklin, Peterson, Peirce, Hornbeck, Bisbee.

5. **UPCOMING CASES**

November 1, 2016

- a. 16-BZA-05: Variance for fence height, 3908 N Monroe St

6. **OPEN COMMENTS FROM THE AUDIENCE** – None.

7. **ADJOURNMENT** – The meeting adjourned 5:45 PM.

Respectfully Submitted,
Stephanie Stewart, Planning Technician

Approved this _____ day of _____, 2016

Attest: _____

Staff Report

Board of Zoning Appeals

Case: 16-BZA-05

October 25, 2016

Hearing Date: November 1, 2016

REQUEST:

Variance, five-foot wrought-iron fence in front of property (four-foot allowed)

Staff

Staff Representative:

Aaron Barlow
Associate Planner

Subject Property: 3908 N Monroe St



Applicant:

Frank Suarez
Rylko Fence
507 N Whiteside St
Hutchinson KS 67501

Owner:

Dusty & Jonna Moore
3908 N Monroe St
Hutchinson KS 67502

Application Materials:

[Link to Materials](#)

Application Information

STAFF RECOMMENDATION: DENIAL

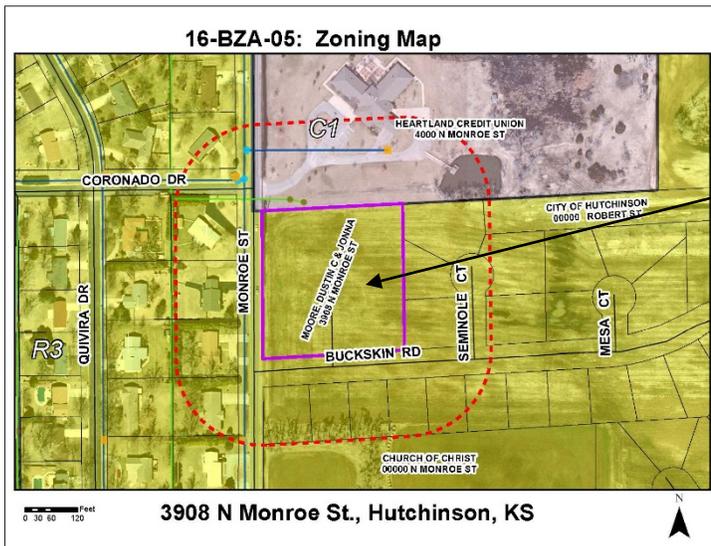
MOTION:

Approve/deny Variance request number 16-BZA-05 from the requirements of §27-907.A.1, Fences, of the *City of Hutchinson Zoning Regulations* for property located at 3908 N Monroe St, based upon due consideration of the findings of fact required for approval of Variance requests and a determination that said findings are met/not met.

PROJECT SUMMARY:

Variance to allow for a proposed fence to be five feet high rather than the four-foot requirement. **Please note, the applicant has installed fence posts without first obtaining a permit.**

LOCATION MAP:



Subject Property

Zoning:

R-3 Moderate Density Residential District

Comprehensive Plan Designation:

Low-density Residential

Subdivision:

Kisiwa West Addition

Zoning

Development Review:

10/11/2016

Legal Ad Published:

10/10/2016

Property Owner Notice:

10 owners, 20 properties,
10/03/2016

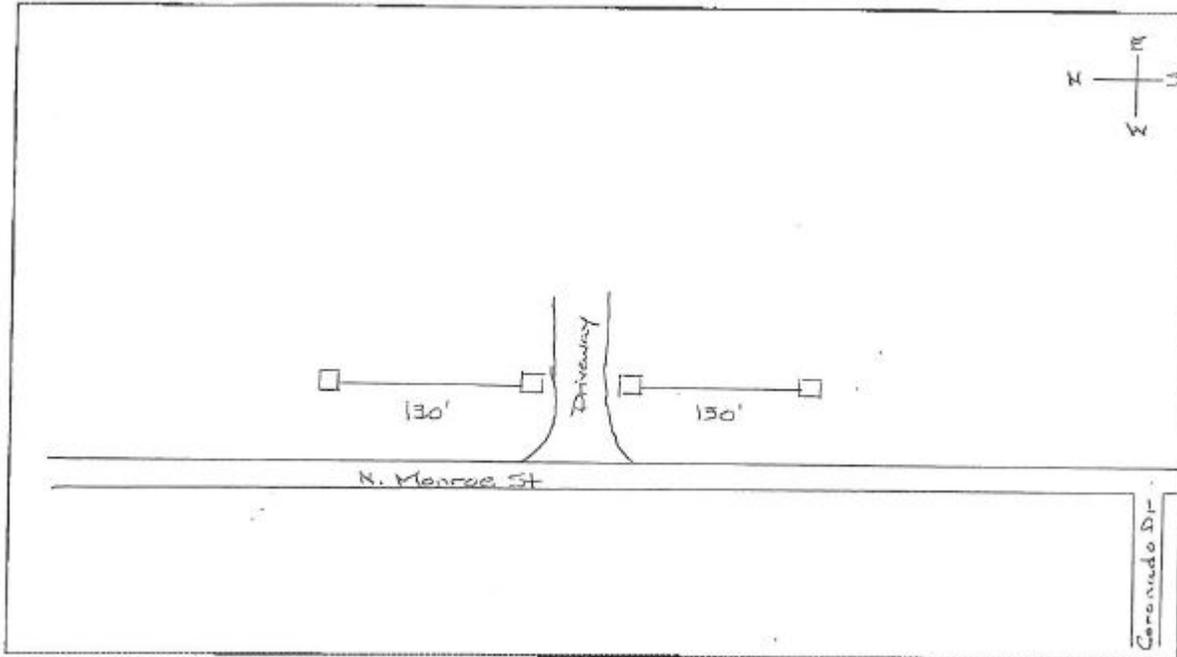
Notice & Review

ANALYSIS OF FINDINGS OF FACT REQUIRED FOR VARIANCE REQUESTS:

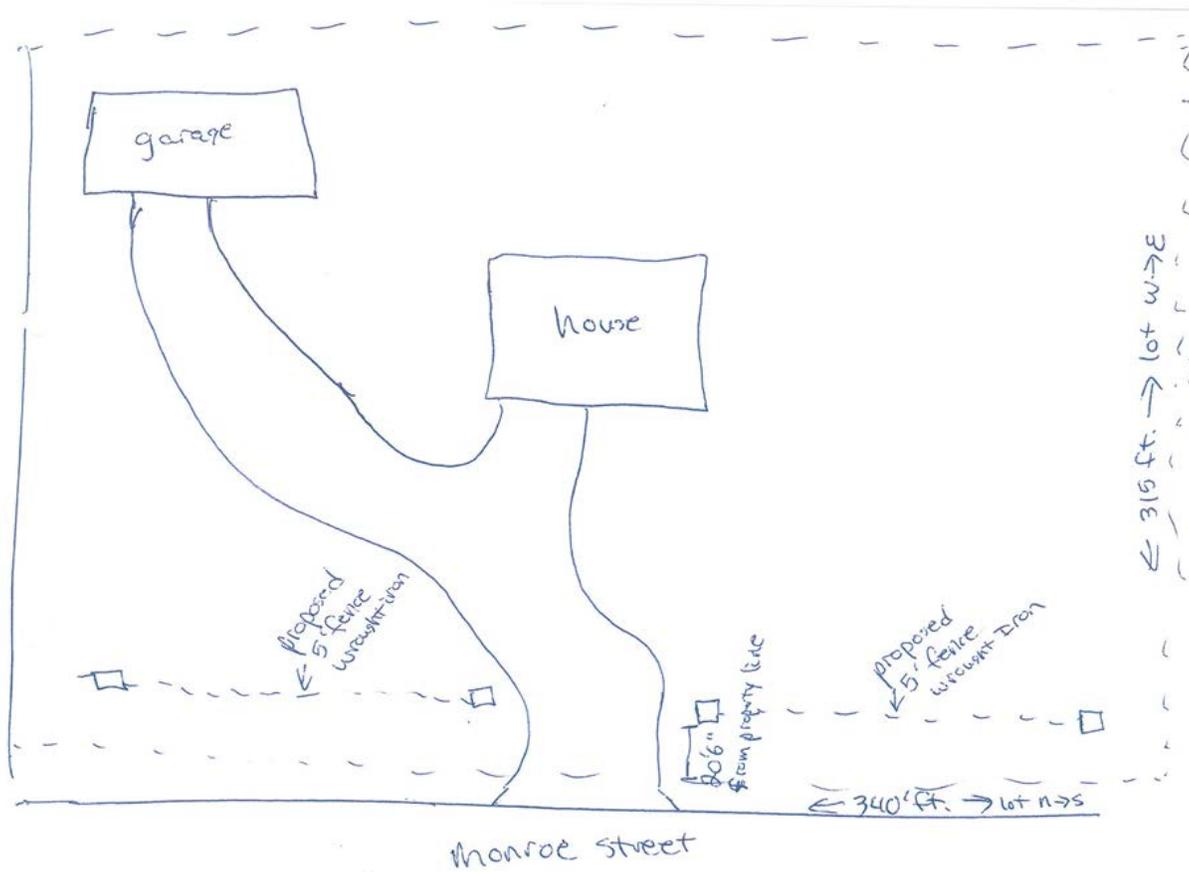
Factor	Analysis	Met	Not Met
<p>1. The request for a variance must arise from a condition which is unique to the property in question, is not commonly found on other parcels in the same zone or district, and is not created by an action or actions of the property owner or applicant.</p>	<p>The unique hardship provided in the applicant’s proposal was the 6’ columns that the City “approved”. Columns would not require a permit; however, an electrical permit is required if the columns are to be lighted. No permit has been obtained. The property does have two characteristics that are relatively unique to the neighborhood:</p> <ol style="list-style-type: none"> 1. The lot is large (roughly 6 ½ acres) 2. The lot sits on a (proposed) corner <p>Given these conditions, a 5’ fence may provide a visual benefit to the property owner not allowed by the 4-foot standard.</p>	✓	✓
<p>2. Granting of the variance must not adversely affect the rights of adjacent property owners or residents.</p>	<p>The fence is proposed to be installed along only the front of the property. Since the proposed fence is not abutting any neighbors, the fence is not blocking views or preventing use of neighboring properties. In addition, the material, height, and size of the proposed fence will not deter from the character of the neighborhood due to its location.</p>	✓	
<p>3. Strict application of the zoning regulations must cause an unnecessary hardship for the property owner. The variance must not merely serve as a convenience to the applicant but must alleviate some demonstrable or unusual hardship or difficulty.</p>	<p>The applicant could easily install a 4-foot fence without any issue—a property of similar size to the south did just that. In this situation, the desired fence height serves as a convenience for the property owner. The fence is not being used for security or to hold in anything or anyone, instead it is providing an accent to the front of the property. <i>Allowing a 5’ fence would serve as a convenience to the applicant and there is no demonstrable hardship or difficulty other than the fact that the applicant believes attaching a 4-foot fence to 6-foot pillars will look strange.</i></p>		✓
<p>4. Granting of the variance must not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.</p>	<p>The fence will be set back 20.5’ from the property line, allowing enough space for pedestrian movement along the city’s unimproved street (which does not have a sidewalk). Also, the design of the proposed fence allows for visibility into the property, facilitating effective police patrol. <i>Installation of the proposed fence will not have an adverse effect on the public health, safety, morals, order, convenience, prosperity, or general welfare due to the size of the lot and the fact that the fence is transparent. However, as of October 21, 2016, the applicant has installed posts for the proposed fence without first obtaining a permit, which adversely affects the public order and convenience.</i></p>		✓

<p>5. Granting of the variance must not be contrary to the general spirit and intent of the Zoning Regulations</p>	<p>§ 27-907 of the City's zoning regulations do not explicitly provide the intent of the existing regulations. However, front yard fence height is generally established to prevent the proliferation of fortress-like properties, creating uninviting communities. Article IX does establish that the regulations are meant to guide development to protect the public's general health, safety and welfare. As discussed in the section above, the proposed fence <i>will not adversely affect the public and is not contrary to the spirit of the regulations.</i></p> <p><i>However, as of October 21, 2016, the applicant has installed posts for the proposed fence without first obtaining a permit, contrary to the general spirit and intent of the Zoning Regulations.</i></p>		<p>✓</p>
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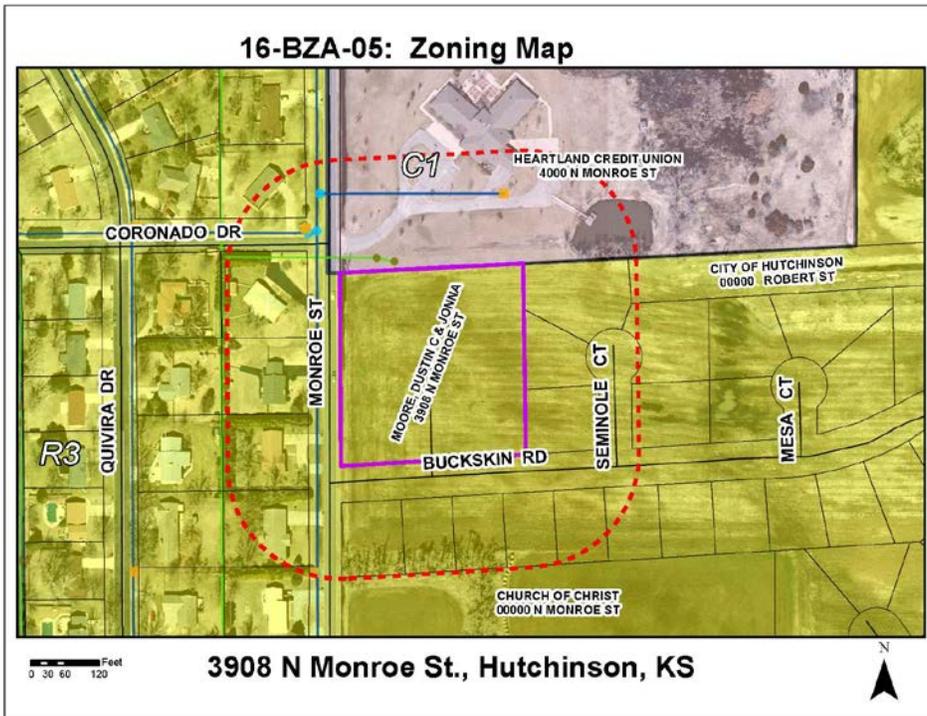
SITE PLAN 1:



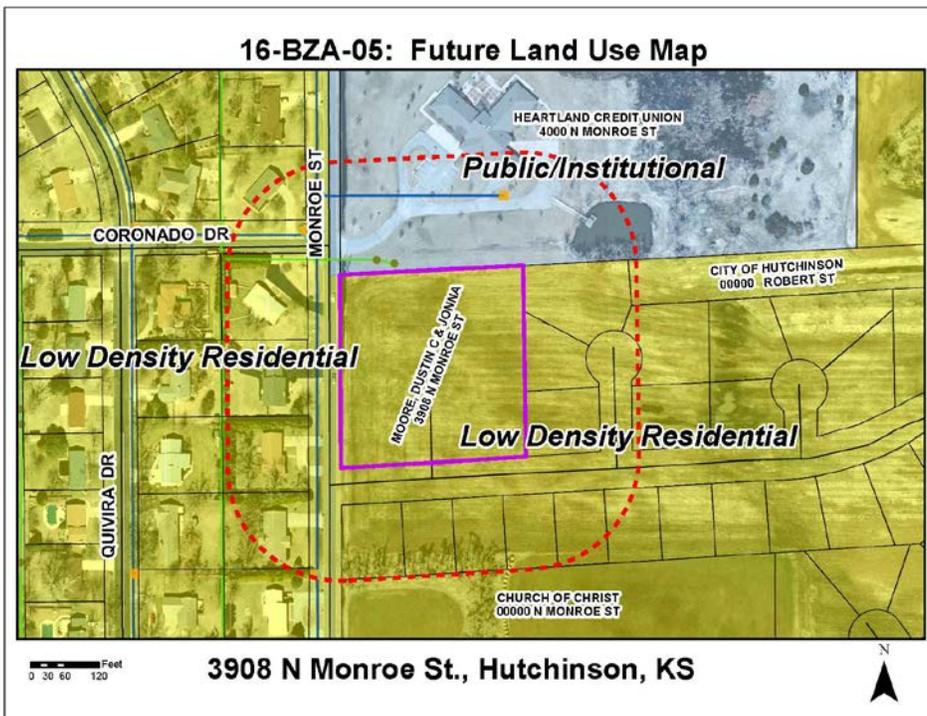
SITE PLAN 2:



ZONING MAP:



COMPREHENSIVE PLAN MAP:



SUBJECT PROPERTY 10/07/2016



SUBJECT PROPERTY 10/21/2016



501 Coronado Dr (Property on West side of Monroe St)



3901 N Monroe St (Property on West side of Monroe St)



3500 N Monroe (similar sized property with 4' fence)



3500 N Monroe (similar sized property with 4' fence)



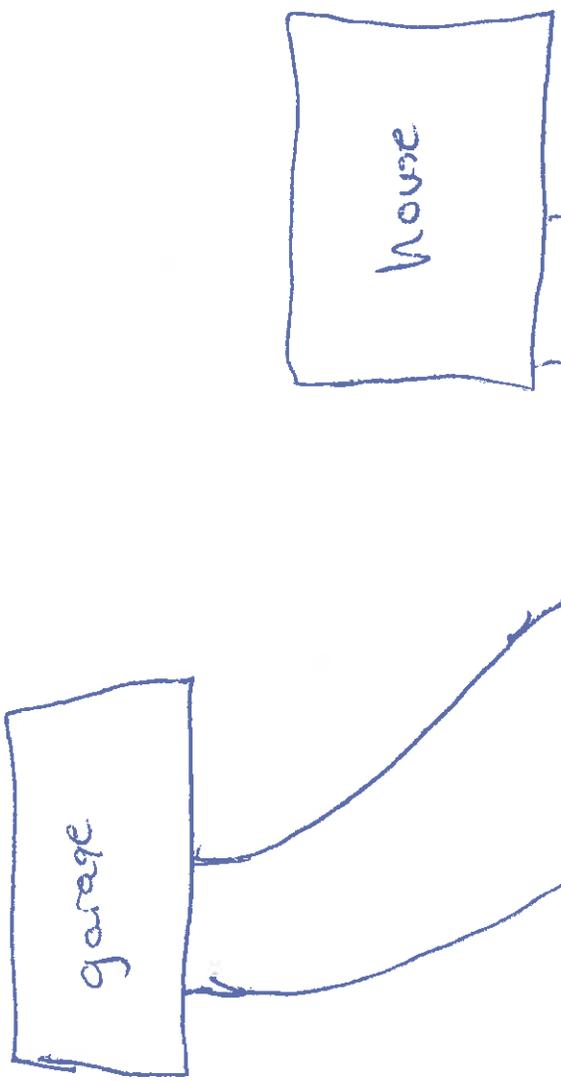
EXHIBITS:

- A. Site Plan
- B. Example of proposed fence material

← 315 ft → lot W →

← 340' ft → lot N → S

Monroe Street



Proposed
5' Fence
Wrought Iron

80' 6" from property line

Proposed
5' Fence
Wrought Iron

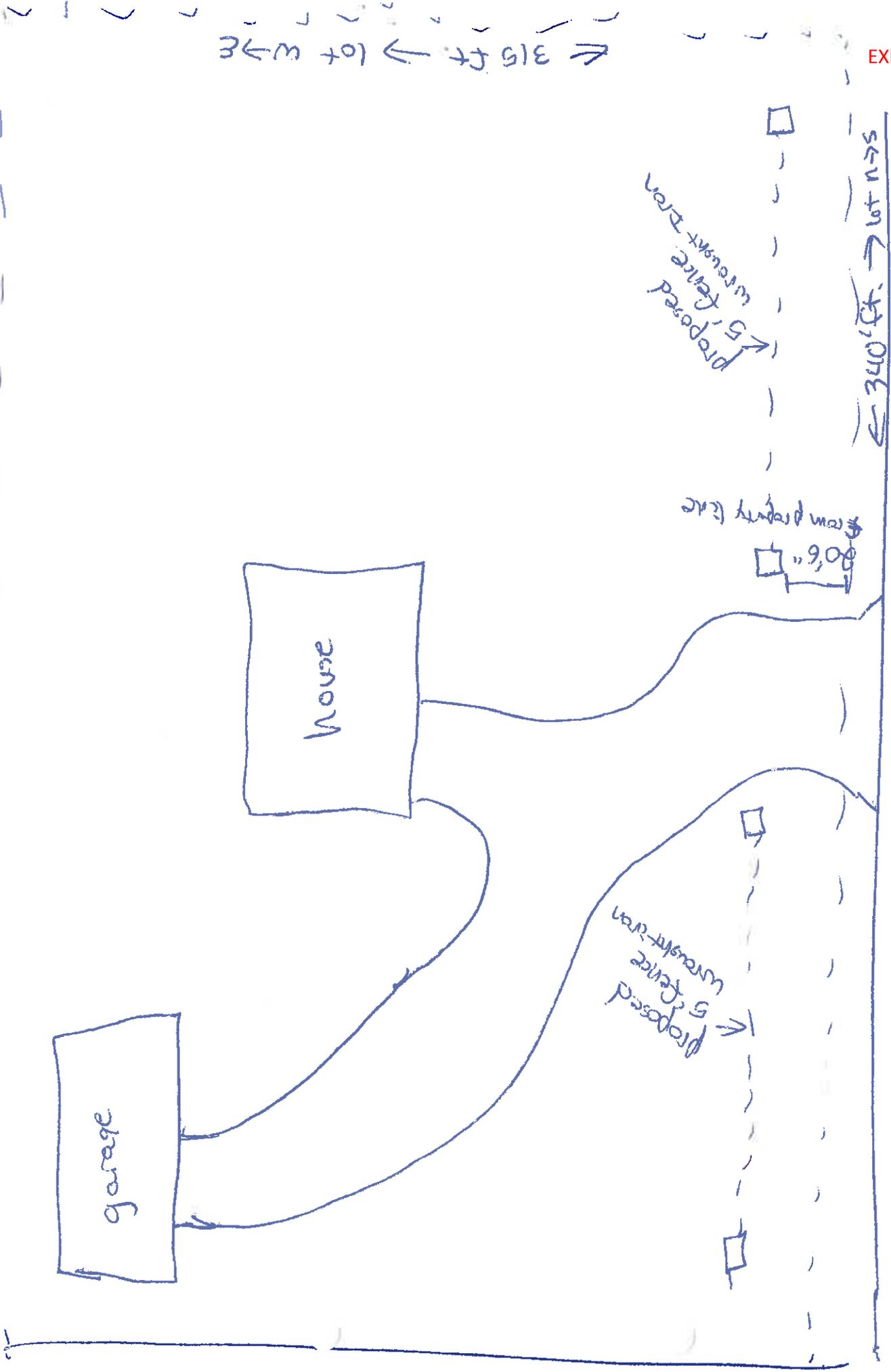
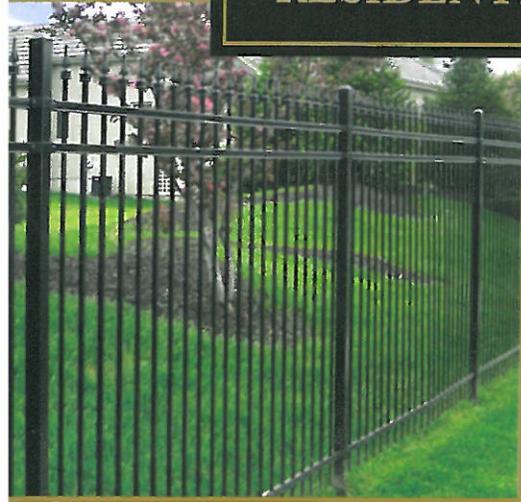


EXHIBIT B

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