AGENDA
Planning Commission Meeting
6:30 PM - Thursday, January 4, 2024
Council Room

Page

1. CALL MEETING TO ORDER
2. ROLL CALL
3. CONSIDERATION OF MINUTES
   - 3.1. Adoption of Minutes — 3 - 20
     Recommended Motion: Approve the regular meeting minutes of December 21, 2023, as presented.
     December 21, 2023 Meeting Minutes
4. PUBLIC FORUM
5. NEW BUSINESS
   - 5.1. Vacation: Access Easement on Lot 2, Block A, Hendricks Addition — 21 - 28
     Recommended Motion: Adopt a resolution recommending vacation of a 20 ft. access easement on Lot 2, Block A, Hendricks Addition and forward a resolution to the City Council for consideration at its regular meeting on January 23, 2024.
     Agenda Item Report - AIR-23-297 - Pdf
6. ANNOUNCEMENTS
7. ADJOURNMENT

MINUTES
Planning Commission Meeting

6:30 PM - Thursday, December 21, 2023
Council Room

The Planning Commission of the City of Derby was called to order on Thursday, December 21, 2023, at 6:30 PM, in the Council Room, with the following members present:

PRESENT: Jessica Rhein
Gary Renberger
Chris Voth
Dale Wells
Jamie Werbin
Michael Emond
Bruce Heseltine

ABSENT: Mitch Adams
Dana Quigley
Weston Heflin

1 CALL MEETING TO ORDER

2 ROLL CALL

3 CONSIDERATION OF MINUTES

3.1 Adoption of Minutes

Jamie Werbin moved, seconded by Dale Wells, to approve the regular meeting minutes of November 16, 2023, as presented.

RESULT:	**Carried**
MOVER:	Jamie Werbin
SECONDER:	Dale Wells
AYES:	Jessica Rhein, Gary Renberger, Chris Voth, Dale Wells, Jamie Werbin, Michael Emond, and Bruce Heseltine
ABSENT:	Mitch Adams, Dana Quigley, and Weston Heflin

4 PUBLIC FORUM

5 NEW BUSINESS

5.1 County One-Step Plat: Chambers Addition

BACKGROUND:

General Location: Southeast corner of 60th St. South and Southeast Dr., east of K-15 HIghway (Location Map attached).

Applicant/Agent:

- Applicant**:** Nathan Chambers
- Agent: Jeff Goering, Schwab Eaton

Reason for Request: Facilitate construction of a warehouse

Background Information:

- The subject property is approximately one acre in size, located within unincorporated Sedgwick County and within the City of Derby's subdivision jurisdiction. Properties within the subdivision jurisdiction are required to be platted in accordance with Derby's Subdivisions Regulations to ensure compliance with the regulations in the event the property is annexed.
- The request qualifies for one-step review in accordance with Article 418 of the Subdivision Regulations.
    - Non-residential uses qualify for one-step plat approval if the plat is no more than five acres, involves, no more than two lots, and no new public streets are proposed to be dedicated.
- The proposed plat (Preliminary Plat and Final Plat attached) would create one lot for the construction of a warehouse use.
- The Sedgwick County Board of County Commissioners recently approved a zone change for the subject property from LC "Limited Commercial" to GC "General Commercial". The purpose of the zone change was to permit the proposed warehousing use, which was not permitted under the original LC zoning.
    - The Derby Planning Commission reviewed the zone change September 21, 2023, recommending approval.
    - The GC zoning district is intended to accommodate retail, commercial, office, and other complementary land uses including warehousing uses.
    - In the event that the property is annexed into Derby, the owner would have the option of rezoning the property to one of the City's zoning districts. The most similar and appropriate City zoning district is the B-5 "Restricted Commercial, Warehousing, and Limited Manufacturing District."" For the purposes of this review, the plat will be reviewed under the standards of the County's GC district and the City's B-5 district.
    - The subject property is further encumbered by the AOD "Airport Overlay District," specifically within the Airport Overlay South District (A-O III-S), and the AFBP-O "Air Force Base Protection Overlay", due its proximity to McConnell Air Force Base. The AOD specifies land use controls in addition to those of the underlying zoning district.
        - The AOD/A-O III-S is equivalent to Derby's Accident Potential Zone II (APZ II), with similar use restrictions and requirements. Warehousing is permitted within both the AOD and APZ II
    - The bulk regulations for both districts are as follows:

•	GC District/ AOD / AFBP-O (County)	B-5 District/APZ II (Derby)
Minimum Lot Area	No Minimum	15,000
Minimum Lot Width	No Minimum	100 ft.
Minimum Lot Depth	Unspecified	150 ft.
Minimum Front Setback	20 ft.	35 ft.
Minimum Side Setbacks	0 ft.but if provided, it shall be no less than 5 ft.	0 ft.but if provided, it shall be no less than 5 ft.
Minimum Rear Setback	No Minimum	0 ft.but if provided, it shall be no less than 5 ft.
Maximum Lot Coverage	Unspecified	60% for Warehousing
Maximum Structure Height	25 ft.	65 ft.

As a multi-jurisdictional review, the Derby Planning Commission reviews the plat and forwards a recommendation to the City Council. If approved by the City Council, the plat will proceed to the Board of County Commissioners for final approval.

POLICY IMPLICATIONS:

1. **Plat Name & Certificates:**The proposed plat name is "Chambers Addition, an Addition to Sedgwick County, Kansas." The plat name does not duplicate the name of any existing plat.
    - The final plat contains language that indicates that the owner(s) will not protest annexation by the City of Derby if the City ever initiates the unilateral annexation process for the subject property. Note that the City is not intending to annex the property at this time or any planned future time.
2. **Legal Description:** The legal description is identified on the plat documents and has been reviewed and approved by the County Surveyor.
3. **Lots:** One 43,535 sq. ft. lot is proposed and meets the minimum size requirements for the County's GC district and the City's B-5 district.
    - Compliance with specific bulk regulations, such as setbacks and lot coverage, are reviewed as part site plan review and the construction permitting processes, overseen by the Metropolitan Area Planning Department (MAPD) and Metropolitan Area Building and Construction Department (MABCD).
4. **Blocks:** One block is proposed with the label properly identified.
5. **Streets and Access:** The site is adjacent to and accessible from 60th St. South and Southeast Dr., classified as local non-residential access streets. The Subdivision Regulations require 70 ft. wide right-of-way for

local non-residential access streets.
- Sufficient right-of-way is provided for Southeast Dr.
- 60th St. South currently has a 50 ft. wide right-of-way. An additional 10 ft. of right-of-way is provided, which provides 35 ft. from the centerline of the right-of-way and meets requirements.
- The applicant shall coordinate with MAPD and Sedgwick County Fire District 1 to ensure that access approaches are installed per County standards and the 2018 International Fire Code.
- Staff Recommendation:
    i. Applicant shall coordinate with MAPD and Sedgwick County Fire District 1 to ensure that access approaches are designed and installed per applicable codes and regulations.

6. **Building Setbacks:** The GC district requires a minimum 20 ft. front building setback.
    - 35 ft. front setbacks are provided which complies with the City's B-5 zoning. If the property is annexed into the City in the future, it will be compliant with the B-5 district regulations.
    - Septic systems are typically required to observe a 25 ft. setback from property lines. The septic system, as proposed, is approximately 20 ft. from the east property line. Sedgwick County Wastewater has indicated a variance can be granted to reduce the setback.
    - Side and rear setbacks are not typically identified on a plat as compliance with these setbacks is reviewed as part of site plan review and the construction permit process.
    - Staff Recommendations:
        i. The applicant shall coordinate with Sedgwick County Wastewater to apply for a variance to reduce the required setback for the septic system from 25 ft. to 20 ft.
7. **Easements:** 30 ft. wide easements are required to accommodate utilities, sanitary sewer, and drainage improvements. 15 ft. wide easements are provided along the east and south property lines to accommodate future extensions of utilities, sanitary sewer, and drainage improvements. When the adjoining properties are platted, additional 15 ft. easements will be required bringing the total width to 30 ft. in compliance with the Subdivision Regulations.
8. **Reserves:** No reserves are proposed.
9. **Drainage:** Onsite drainage is proposed to continue flowing west into the existing ditch along Southeast Dr. Stormwater is conveyed north to a culvert beneath K-15 Highway that ultimately carries water to the Arkansas River. Sedgwick County Public Works and Derby Engineering have both reviewed the proposed drainage plan.
    - Onsite drainage was originally contemplated during a past platting attempt in 2003, with Sedgwick County and the City of Derby granting a detention waiver. The waiver was based on current drainage criteria so it is staff's opinion that it is still valid.
    - Sedgwick County Stormwater recommends that the developed site discharges to a common point, extending to a stormwater outfall to the ditch along Southeast Dr. If the Kansas Department of Transportation (KDOT) prefers sheet flow into the road right-of-way, County Stormwater defers to KDOT.
    - Staff Recommendations:

i. Site drainage shall be directed to a common point with a stormwater outfall to the ditch along Southeast Dr. The applicant shall contact KDOT to verify their preference.

10. **Public Improvements:**
    - Streets: No new public streets are proposed and no improvements are proposed to 60th St. South and Southeast Dr.
    - Sanitary Sewer: A septic system is proposed to provide onsite sanitary sewer service.
        - Sedgwick County Wastewater has reviewed the proposal and has indicated that the system may be used for restrooms and a breakroom; however, no floor drains in the warehouse may be connected to the system.
        - The applicant shall coordinate with Sedgwick County Wastewater when applying for necessary permits and obtaining necessary reviews and inspections.
    - Water: The utility plan indicates that the site will be serviced by a proposed service line from the existing 8 in. Rural Water District #3 main along the north side of 60th St. South. This conflicts with the platting application which indicates that an onsite water well will provide domestic water service.
    - Fire Protection: Sedgwick County Fire District #1 requires the plat to comply with the 2018 International Fire Code.
    - Staff Recommendations:
        i. No floor drains in the warehouse shall be connected to the proposed septic system.
        ii. The applicant shall coordinate with Sedgwick County Wastewater and MABCD to obtain all necessary reviews, permits, and inspections for the proposed septic system.
        iii. The applicant shall clarify whether water service will be provided by an on-site well or by RWD #3.
11. **Guarantee for Installation of Public Improvements:** The applicant shall coordinate with the Sedgwick County and Rural Water #3 in submitting any guarantees required for extension of public infrastructure.
    - Petition(s) for extending municipal sanitary sewer lines are typically required when a property within unincorporated Sedgwick County is within close proximity to City limits and existing municipal sanitary sewer infrastructure. In this case, the nearest existing sanitary sewer main is approximately 1,700 ft. to the east, along Commerce Dr. It is anticipated that when the lots along Commerce Dr. develop, a sanitary sewer line will be extended further west to serve those lots, bringing sanitary sewer within approximately 300 ft. of the subject plat. However, due to grading, the sanitary sewer line would become too shallow and will require a lift station and/or injector pump to serve the subject property. Staff does not believe a petition to extend sanitary sewer is necessary as part of this platting.
    - A note on the preliminary plat erroneously indicates that public improvements shall be financed and their installation guaranteed by the State of Kansas. It is the property owner who guarantees the financing through the petitioning process.
    - Staff Recommendations:
        - A petition for extension of municipal sanitary sewer shall not be required.

- The note on the preliminary plat shall be omitted or revised to indicate that financing and installation of public improvements shall be guaranteed by the property owner(s).

12. **Plat Binder**: A plat binder, identifying all encumbrances and interests, has been submitted.
13. **Developer's Agreement:** The applicant shall coordinate with Sedgwick County in submitting any developer's agreement, restrictive covenants, or other documents as required by the County.

RECOMMENDED MOTION

- Approve the one-step plat of Chambers Addition subject to staff comments and discussion, authorize the applicant to proceed with the final plat tracing, and forward a recommendation of approval to the City Council.

Everett Haynes, Assistant City Planner, presented the staff report.
Commissioner Rhein asked if the Southeast Dr. right-of-way is controlled by the Kansas Department of Transportation (KDOT) and if access controls are proposed.
Haynes answered that in the City's experience, the right-of-way is KDOT's, although it is unclear. In regards to access controls, access controls are not necessary since the streets are considered local commercial streets and access controls are not required per the Subdivision Regulations.
Scott Knebel, City Planner, confirmed that the streets are classified as local commercial streets and access controls are not required.
Rhein stated she was curious if KDOT was requiring access controls along Southeast Dr. and if the applicant had contacted KDOT.
Haynes answered he is uncertain and that the applicant's agent may be able to confirm.
Jeff Goering, Schwab Eaton and agent for the applicant, answered from the audience that they have not communicated with KDOT regarding access.

Chris Voth moved, seconded by Bruce Heseltine, to approve the one-step plat of Chambers Addition subject to staff comments and discussion, authorize the applicant to proceed with the final plat tracing, and forward a recommendation of approval to the City Council.

RESULT:	**Carried**
MOVER:	Chris Voth
SECONDER:	Bruce Heseltine
AYES:	Jessica Rhein, Gary Renberger, Chris Voth, Dale Wells, Jamie Werbin, Michael Emond, and Bruce Heseltine
ABSENT:	Mitch Adams, Dana Quigley, and Weston Heflin

5.2 Site Plan Review: Embrace

BACKGROUND:
General Location:

- East of Rock Rd. and Kay St. intersection (Location Map attached)

Applicant/Agent:

- Applicant:Tim Quiggle, Embrace
- Agent: Kevin Graham, MKEC Engineering

Reason for Request:

- Facilitate development of a medical service and clinic.

Background Information:

- The subject property was originally zoned R-1 "Single-Family Residential." The proposed medical service and clinic is not permitted in the R-1 district and necessitated a zone change to I-1 "Institutional District" which permits medical services and offices by-right.
    - The Planning Commission reviewed a zone change application from R-1 "Single-Family Residential" for the subject property and a larger parcel April 20, 2023. The City Council approved the zone change for the subject property and larger parcel May 28, 2023 contingent on the zone change only becoming effective when the subject property and larger parcel were platted (Ordinance 2528).
    - The subject property was platted as the singular lot in the Rock & Kay Addition September 26, 2023. Upon the recording of the plat, the zone change to I-1 became effective for the subject property.
    - The plat also dedicated right-of-way for the future extension of Kay St. east of Rock Rd. and included petitions for extension of water, sanitary sewer, paving of Kay St., acceleration and deceleration lanes on Rock Rd., and a future, potential traffic signal at Rock Rd. and Kay St. At this time, only the extension of water and sanitary sewer are necessary to facilitate development of the subject lot.
- Site plan review is required for all new commercial developments.
    - As contemplated during platting, site access will temporarily be achieved from Rock Rd., at the northwest corner of the site. Permanent access will be achieved from Kay St. upon the completion of the extension. Extension of Kay St. is not planned at this time and will most likely be initiated as the parcel further east develops.
    - The site plans indicate that the site will be developed in two phases, with the building and a portion of the parking lot constructed in Phase 1 while the far east parking lot will be completed in Phase 2. The applicant has indicated that the completion date of Phase 2 is unknown at this time.

POLICY IMPLICATIONS:

1. **Legal Description**: The subject property is platted as Lot 1, Block 1, Rock & Kay Addition. The legal description is accurately provided in the Site Data table on Sheet C1.0
2. **Building Setbacks and Bulk Regulations:** The I-1 district and the Rock & Kay Addition plat require the following building setbacks and bulk regulations:
    - Minimum Building Setbacks:
        - Front Yard (West, Along Rock Rd.): Easements along Rock Rd. effectively create a 102.82 ft. setback.
        - Front Yard (South, Along Kay St.): 25 ft. Platted Setback

- Side Yard (North): The Southern Star pipeline easement and pipeline setback effectively create a 83.27 ft. along the north property line.
- Rear Yard (East): 10 ft., as required by both the I-1 zoning and a platted drainage and utility easement.
- Proposed: 1 ft. of the building overhang encroaches into the 50 ft. pipeline setback along Rock Rd. Southern Star has reviewed the plans and finds the encroachment acceptable.

- Maximum Structure Height: 45 Ft.
  - Proposed: Sheets A2.1 - A2.2 and the Site Data Table on Sheet C1.0 indicate that the total height is 23 ft.
- Maximum Lot Coverage: 50%
  - Proposed: 6,875 sq. ft. (6,560 sq. ft. building + 315 sq. ft. waste receptacle enclosure) / 94,082 sq. ft. lot area = 7.3% lot coverage which is acceptable.

3. **Easements**: The following are the easements of record that encumber the property:
   - Along West Property Line/Rock Rd.:
     - 10 ft. platted utility easement
     - 66 ft. wide Southern Star Central Gas Pipeline Right-of-Way Easement with 50 ft. pipeline setback, measured east from the centerline of the pipeline easement, recorded by separate instrument (Film/Pg. 29006055)
       - 1 ft. of the building overhang encroaches into the 50 ft. pipeline setback. Southern Star has reviewed the plans and finds the encroachment acceptable.
   - Along North Property Line:
     - 66.27 ft. wide Southern Star Pipeline Right-of-Way Easement with 50 ft. pipeline setback, measured east from the centerline of the pipeline easement, recorded by separate instrument (Film/Pg. 29006055)
   - Along East Property Line:
     - 10 ft. platted utility and drainage easement
   - Along South Property Line:
     - 20 ft. platted utility easement
4. **Streets and Access**: The site is adjacent to Rock Rd. and right-of-way for the future extension of Kay St.
   - Complete access control is platted along Rock Rd., prohibiting permanent access points to and from Rock Rd. However, the Planning Commission authorized a temporary access approach to Rock Rd. during review of the plat, with the condition that this temporary approach would closed, removed, and relocated to Kay St. upon its extension.
     - A Drive Approach Closure Covenant was required with the final plat. The property owners acknowledged the temporary nature of the drive approach and the requirement for its removal and relocation to Kay St. The covenant was recorded with the Register of Deeds (Film/Pg. 30267348).
     - The paving petition and resolution (Resolution 50-2023) for the extension of Kay St. includes the removal of the temporary driveway and site restoration. Once the petition is triggered, Kay St. will be extended and the temporary

driveway removed and restored. The extension of Kay St. is not contingent on the completion of Phase 2 site improvements and will be triggered as necessary, most likely when property/properties to the east develop.
    - The site plans propose a 26 ft. wide concrete driveway from Rock Rd. at the northwest corner of the lot, which is acceptable.
    - Note 7 on Sheet C1.0 notes that upon the completion of the future Kay St. extension, the driveway connection to Rock Rd. will be removed and a new driveway will be constructed to connect to Kay St. .
  - Permanent site access will be gained from Kay St., near the southeast corner of the lot, with a 27 ft. wide driveway.
    - The future extension of Kay St. will be classified as part of the Derby Grand Tour, a specialized collector street that promotes multi-modal transportation that caters not only to motorists but also pedestrians and bicyclists with a parkway design. Access points onto the Derby Grand Tour are intended to be restricted and shared in order to promote walkability, cycling, and parkway aesthetics.
    - During review of the plat, the Planning Commission elected not to require a cross-lot access easement with the adjoining property to the east. The proposed site plans do not identify a future connection point in the Phase 2 parking lot to the east. While acceptable, the applicant is notified that this may limit access to future properties to the east and may necessitate some lots to share driveways and dedicate cross-lot access easements.

5. **Parking:** Minimum parking standards are calculated based on the proposed uses of a site. Medical clinics and offices are required to provide a minimum of one parking space per 400 sq. ft. of of building floor area. A total of 16 parking stalls are required (6,560 sq. ft. building area / 400). 39 parking stalls are proposed with Phase 1 site improvements, satisfying the requirement. Upon the completion of Phase II, 32 additional stalls will be provided for a total of 71 parking stalls.
   - Parking Design: Parking stalls are required to have a minimum width of 8.5 ft. and depth of 19 ft. Sheet C1.0 indicates that the stalls will be 9 ft. wide and 19.5 ft. deep, meeting the requirement.
     - Parking stall dimensions are required to be measured from the faces of curbs. Note 5 on Sheet C1.0 correctly references this requirement.
     - The east edge of the Phase I parking lot do not have curb and gutter in anticipation of Phase II improvements. Wheel stops are provided for the east stalls to prevent vehicles from encroaching into the undeveloped area.
     - Phase II parking improvements will require the submission, review, and approval of a separate Parking Lot Construction Permit. In addition to the parking lot design itself, landscaping and screening will also be reviewed as part of the permitting process.
   - Bicycle Parking: Article 501 requires parking for bicycles equal to 5% of the number of off-street vehicular parking spaces provided

onsite when 25 or more parking stalls are required. Two bicycle parking spaces are required with Phase 1 improvements while one additional space will be required with Phase II, for a total of three. A rack for bicycle parking for three is proposed south of the east main entrance.
    - Phase II parking will be reviewed under a Parking Lot Construction Permit. Note 9 on Sheet C1.0 correctly notes this.
6. **Circulation Aisles:** Two-way circulation is proposed, requiring aisles to be a minimum of 24 ft. wide. All circulation aisles meet the minimum width requirement for two-way circulation.
7. **ADA:** ADA Standards for Accessible Design require accessible parking spaces based upon the total number of spaces provided. When 26 to 50 parking spaces are provided, two accessible parking spaces are required. When 51 to 75 parking spaces are provided, three accessible parking spaces are required. Two accessible parking stall are proposed.
    - Phase I improvements will provide 39 stalls, immediately necessitating two ADA stalls. However, with the completion of Phase II, three ADA stalls will be necessary. Staff recommends that the applicant provide three ADA stalls with Phase I in order to minimize the amount of alterations that will be necessary to provide a future ADA stall with Phase II.
    - A minimum of one of the ADA stalls must also be van accessible. Van accessible stalls are required to have a minimum width of 11 ft. with a 5 ft. wide accessible aisle. Both ADA stalls are van accessible.
    - One stall must be signed as "Van Accessible." A label is provided on Sheet C1.0 that indicates a van accessible parking sign will be provided.
    - Staff Recommendations:
        i. The applicant or their designated agent shall ensure that all accessible parking spaces and routes meet the requirements of ADA standards, including locations, widths, aisles, slopes, signage, and pavement markings. Final inspection of accessible parking spaces and accessible routes shall be coordinated with the Building Trades Official.
8. **Pedestrian Access:** All new developments are required to provide pedestrian connections from the building to adjacent sidewalks. Pedestrian connections are required to be ADA accessible.
    - A 6 ft. wide sidewalk connection to the existing hike and bike path along Rock Rd.
    - A connection to the future sidewalk along the Kay St. street extension will be required. Sheet C1.0 identifies a future sidewalk connection to Kay St. Note 8 on Sheet C1.0 indicates that the sidewalk connection will be installed upon the completion of Kay St.
    - Staff Recommendations:
        i. The applicant is responsible for repairing and/or replacing public sidewalks that may be damaged during site development.
9. **Signage:**
    - Ground Sign: Ground signs within the I-1 district are restricted to a maximum height of 20 ft., width of 3 ft., and length of 15 ft. A ground sign is not identified on the plans.

- Wall Signage: Wall signs in the I-1 district are restricted to 25% of the wall area upon which they are installed or a maximum of 900 sq. ft., whichever is less. No individual sign may exceed 300 sq. ft. The following are the calculations for maximum allotted wall signage for each elevation followed by the sizes proposed.
  - North Elevation: 1,207 sq. ft. wall area x 0.25 = 302 sq. ft. of wall signage permitted. No signage is proposed.
  - East Elevation : 1,445 sq. ft. wall area x 0.25 = 361 sq. ft. of wall signage permitted. 60 sq. ft. of wall signage is proposed, which is permissible.
  - South Elevation (Faces Kay St.) : 800 sq. ft. wall area x 0.25 = 200 sq. ft. of wall signage permitted. No signage is proposed. Upon the completion of Kay St., the site will take access from Kay St. and the south facade will be a main, visible facade. Staff recommends that the applicant consider adding wall signage to provide better visibility along the future Kay St. frontage and provide additional design interest on the south elevation.
  - West Elevation (Faces Rock Rd.): 1,445 sq. ft. wall area x 0.25 = 361 sq. ft. of wall signage permitted. 55 sq. ft. of wall signage is proposed, which is permissible.
- Directional/Informational Signage: Cannot exceed 6 sq. ft. in size. Directional signs are not proposed.
  - Pole signs are not permitted. If directional signs are proposed, the supports must enclosed.
- Staff Recommendations:
  i. Applicant shall consider adding a wall sign to the south elevation to provide visibility along the future Kay St. extension.
  ii. All signage requires separate permitting.

10. **Site Lighting:** The photometric plan (Sheet ES1.0) identifies pole-mounted lights as the method of site illumination.
    - The regulations restrict light from encroaching offsite. The light intensity is not zero along the north property line, a residential property, which is not acceptable.
    - The City's design criteria restricts pole-mounted lights to 25 ft. in total height. The light fixture schedule indicates that the lights will be mounted on 12 ft. poles on 3 ft. bases, for a total height of 15 ft.
    - Staff Recommendations:
      i. All site lighting shall shall be shielded and/or directed to eliminate encroachment offsite. Light intensities are required to be zero at the property lines.
11. **Landscaping/Screening and Buffering:** Article 304 of the Zoning Regulations requires landscaped street yards and other screening. The regulations specify that lots with depths between 251 ft. and 400 ft. are required to provide a minimum 15 ft. wide landscaped street yard. The required street yard shall be located between the lot's public and/or private street right-of-way lines and any building. Sheets L1.0 - L1.1 provide the proposed landscape plan
    - Landscaped Street Yards: Within the landscaped street yard, one shade tree is required for every 500 sq. ft. of the required yard. Ornamental trees or shrubs may be used to meet the shade tree

requirement at a rate of two ornamental trees per one shade tree or 10 shrubs per one shade tree. Furthermore, shrubs may be substituted for up to one-third of the required shade trees. The minimum number of shade trees required for the landscaped street yards is based upon the following calculations:

- Rock Rd.: 287 ft. street frontage x 15 ft. = 4,305 sq. ft. / 500 = 9 shade trees required. Seven shade trees and 20 shrubs are proposed for an equivalent of nine shade trees, meeting the requirement.
  - The Southern Star Central Gas Pipeline controls the 66 ft. wide gas line easement along Rock Rd. and prohibits trees within the easement and restricts the planting of shrubs within 5 ft. of the pipeline. The trees are located outside of the pipeline easement but within the pipeline setback, which is acceptable.
- Kay St: 333 ft. street frontage x 15 ft. = 4,995 sq. ft. / 500 = 10 shade trees required. Seven shade trees and 30 shrubs are proposed for an equivalent of 10 shade trees, meeting the requirement.

- Landscape Buffer/Screening: Screening is required along all side or rear lot lines of non-residential uses when adjacent to any residential zoning district. Screening may be omitted for property zoned I-1 "Institutional" when a minimum 25 ft. wide landscaped yard adjacent to such lot line. Screening may be provided through the use of walls, fencing, evergreen vegetation, or landscaped earth berms, or a combination thereof. One shade tree or two ornamental trees are required for each 40 ft. of lot line abutting a residential district.
  - North Property Line (R-1C): The adjacent property to the north is zoned R-1C "Suburban Single-Family Residential" and is currently occupied by a single-family residence, with a 330 ft. shared property line. 330 ft. property line / 40 ft. = 9 shade trees required. A 43 ft. wide open space buffer is provided between the property line and north edge of the access driveway and parking lot. The plans also identify an existing tree row along the north property line. Satellite imagery appears to show that the majority of the trees are on the neighboring property rather than the subject property, which does not meet the requirements of the regulation. However, the presence of the Southern Star Pipeline easement severely restricts trees, as Southern Star prohibits trees within the easement. Southern Star does permit certain types of fencing in the outer 5 ft. of the easement. However, the north 5 ft. of the easement conflicts with some of the trees in the existing row. Due to the conflicts with the pipeline and the wide buffer provided, staff recommends that the Commission consider waiving the landscaping requirements.
  - East Property Line (R-1): The property to the east is currently zoned R-1 "Single-Family Residential" and undeveloped. The City Council approved the zone change from R-1 to I-1 May 28, 2023 contingent on the property being platted within three years. While it remains zoned R-1

in the interim, it is anticipated that this property will be platted within the three year period and screening will not be required. Staff recommends that the Commission waive the screening requirement

- Parking Lot Screening/Landscaping: Article 304.K requires solid visual screening to screen parking areas along street frontages. Shrubs that reach a minimum height of 3 ft. within the third year after planting may be used to satisfy this requirement.
  - Rock Rd.: Shrubs are proposed along the west edge of the parking stalls along the north aisle. Upon the completion of Kay St. and the closure of the temporary Rock Rd. access point, additional screening will be necessary where the aisle once was to provide total screening.
  - Kay St.: A combination of shrubs and ornamental grasses are proposed along the south end of the Phase 1 parking lot to provide screening. The construction of the Phase II parking lot will necessitate additional screening which will be addressed with the Parking Lot Construction permit when the time comes. Note 9 on Sheet C1.0 notes this requirement.
  - Interior Landscaping: Parking lots with 50 or more parking spaces are required to provide one shade tree or two ornamental trees for each 25 vehicular parking spaces. 39 parking stalls will be provided with Phase 1 while an additional 32 stalls will be provided with Phase 2, for a total of 71 stalls. While parking lot trees are not required with Phase 1, a total of two shade trees will be required once Phase II is complete. One shade tree is proposed within a peninsula near the northeast corner of the building. One additional shade tree will be required with Phase II, which can be addressed with the separate Parking Lot Construction Permit that will be required with Phase II.
- Waste Receptacle and Ground-Level Equipment Screening: Article 304.I requires screening to conceal from ground level and street level view all roof-mounted and ground-mounted mechanical equipment, loading docks, waste receptacles, and similar uses.
  - Waste Receptacle: The waste receptacle enclosure is proposed at the south end of the Phase I parking lot. Sheet SA1.1 provides the details for the enclosures. Materials include concrete masonry unit walls (CMU) coated with EIFS (synthetic stucco) with metal gates,
  - Ground-Level Mechanical Equipment:
    - An electric transformer is proposed west of the waste receptacle enclosure. Ornamental grasses and shrubs are proposed to provide screening around the transformer, meeting the requirement.
    - If additional ground-mounted mechanical equipment is proposed or present during site inspection, adequate screening is required.
- Miscellaneous Landscaping Notes:
  - A permanent water supply is required to provide for the perpetual maintenance of landscape materials. Note 14 on Sheet L1.1 indicates that the site will be served by an

automatic irrigation system.
    - If a separate water meter is desired for the irrigation system, the applicant shall coordinate with the water department to submit the necessary permits and set the meter.
  - The applicant is advised that non-paved areas within street right-of-ways are required to be planted with grass and maintained by the property owner.
  - The applicant is required to maintain landscaping in good condition, including replacement of dead or diseased plants and trees, in accordance with the approved landscape plan.
  - The applicant is advised that final acceptance of the landscaping and screening is required prior to issuance of a Certificate of Occupancy. Acceptance will be based upon the landscape plan as approved at site plan review.
  - Any alterations to the landscape plan subsequent to site plan approval shall be submitted to the Zoning Administrator for review and approval. Substantial changes to the plan require further review and approval by the Planning Commission.
- Staff Recommendations:
  i. The shade tree requirement for the landscape buffer and screening along the north property line should be waived.
  ii. The screening requirement along the east property line should be waived.

12. **Drainage:** Sheet C3.0 provides the grading and drainage plan. Onsite drainage is proposed to be divided into two basins. Basin A will drain to Rock Rd. and the existing stormwater sewer system and Basin B will drain south and east, ultimately being conveyed to Spring Creek.
    - Drainage around the building will be directed to a proposed swale that will convey water south and the east. Parking lot drainage will sheet flow east. While acceptable for Phase I, the plans do not clearly indicate how drainage will be complete after the completion of Phase II, which will enclose the parking lot with curb and guttering. Drainage will be addressed further during the permitting process for Phase II parking.
13. **Utilities:** Sheet C5.0 provides the utility plan for the site.
    - Fire Protection: Planning staff has provided plans for review and received no comments from Derby Fire & Rescue.
    - Water:
      - An 8 in. water main will be extended along the south side of the future Kay St. extension from the existing main along Rock Rd. Fire hydrants are proposed at both ends of the extension.
      - A 2 in. water service line will extend from the new 8 in. water main. The applicant shall coordinate with El Paso Water Company for installation of the meter.
    - Sanitary Sewer:
      - An 8 in. sanitary sewer main extension is proposed from the existing 8 in. main east of the property. The extension will terminate at the southeast corner of the lot with a manhole. A 6 in. service line is proposed to extend from the main extension to serve the building.

- Others: The applicant is responsible for coordinating with private companies to ensure that all utilities are installed underground. As a courtesy, the City sends site plans to private utility agencies for reviews and comments to mitigate potential conflicts and issues. The following are responses received from private utility agencies with regard to the subject project:
  - Evergy: Evergy has reviewed the plans and has sufficient easements to service the location of the transformer. Evergy did note that the future extension of Kay St. may require the relocation of an inline pole and a street light pole.
  - Kansas Gas Service: Kansas Gas Service has indicated there are no conflicts with lines or equipment.
  - Southern Star Central Gas Pipeline: Southern Star has provided the following comments:
    - An encroachment agreement is required for site improvements that encroach into the pipeline easement
    - Trees and berms are not permitted within the pipeline easements. Fencing may be accommodated along the outer 5 ft. of the easement but Southern Star will need to review the type of fencing to ensure it is acceptable.

14. **Design Standards:** Sheets A2.1 and A2.2 provide the building elevations and materials of the building. The rendered elevation sheet provides the colors of the building.
    - Rooftop Screening: All rooftop mechanical units and equipment are required to be screened from ground-level and street-level view.
      - The applicant has indicated that roof-mounted mechanical units are proposed. Sheets A2.1 and A2.2 identify mechanical screening in the form of a parapet wall. The applicant is advised that if roof-mounted mechanical units are visible at the time of site inspection, additional rooftop screening will be required prior to the issuance of a certificate of occupancy.
    - Exterior Materials: The Design Criteria identifies brick, architectural concrete, glass, stucco, synthetic stucco, stone, and decorative block as acceptable exterior finishes. The design criteria also permit the use of wood and metal materials if appropriately integrated into the overall building design.
      - The primary exterior materials include EIFS (synthetic stucco),stone veneer, and glass which are acceptable.
    - Building Design and Theme: The design criteria require that the building's overall design theme be expressed on all exterior elevations. The criteria also requires architectural interest and style by varying horizontal and vertical elements of exterior walls in height and projection. During review of the plat, the Commission indicated a desire that the building face Kay St. as to indicate that final access to the site will be gained from Kay St.
      - Not all building materials are included on all facades, with the stone veneer being absent on the south and north elevations. The west and south elevations will be the most visible elevations along Rock Rd. and Kay St.

        - The applicant proposes landscaping to provide additional visual interest on the west and south elevations of the building. The Commission shall determine if the proposed design is acceptable.
    - Staff Recommendation:
        i. The Commission shall determine if the proposed building design, materials, and landscaping are acceptable and meet the intent of the Design Criteria.
        ii. The following note shall be added to the elevation sheets: All roof-mounted mechanical units shall be screened from ground and street-level views. If units are visible at the time of inspection, additional rooftop screening will be required prior to the issuance of a certificate of occupancy.

15. **No Smoking:** City Ordinance 2399 prohibits smoking in public places and places of employment. "No Smoking" signs are required to establish a 20-foot smoke free zone at all entrances to the facility.
    - The elevation sheets indicate that "No Smoking" signs will be posted. The entrances/exists on the south elevation do not have the required signage.
    - Staff Recommendation:
        i. "No Smoking" signs shall be provided at all entrances/exists to the facility in order to establish the required 20-foot smoke free zones.
16. **Corrected Site Plans:** Following Planning Commission approval, the applicant will need to revise the site plan documents to incorporate all corrections or comments and submit three revised hard copies and a digital copy to the City. Changes on the site plan sheets shall be clouded, and a list of all changes provided, noting which comment each is addressing. The applicant is advised that building plans will not be reviewed until revised site plans are approved.

RECOMMENDED MOTION

- Approve the site plans for Lot 1, Block 1, Rock & Kay Addition, subject to staff comments and Planning Commission discussion.

Everett Haynes, Assistant City Planner, presented the staff report.
Commissioner Renberger asked if the Commission has comments regarding the proposed design of the building and if it meets the Design Criteria and previous discussions.
Commissioner Edmond asked if a ground sign is proposed along Rock Rd.
Haynes answered that a ground sign is not identified on the plans.
Commissioner Rhein added that she does not believe ground/monument signs are permitted within the Southern Star gas pipeline easement.
Haynes responded that there have been some exceptions, with property owners entering into agreements with Southern Star to permit signs within the easement but they can become complicated. Wall signage provides nearly the same amount of visibility as ground signs.
Rhein asked how onsite drainage will be accommodated with the completion of Phase II improvements.
Haynes answered that staff is uncertain but it will need to be addressed with the

permitting of Phase II improvements.
Rhein asked if a bike rack is proposed.
Haynes answered that a bike rack is proposed south of the east/main entrance of the facility..
Commissioner Voth stated he finds the proposed design of the building to be sufficient.
Haynes elaborated that the staff comments reference a discussion by the Commission during review of the Rock & Kay plat where it was stated that the building needs to have a design relationship with Kay St., where it will ultimately take access from. Haynes added that he believes the intent of the open area south of the building is to provide space for a possible future expansion of the building.
Voth stated he finds the proposed design acceptable.

Jamie Werbin moved, seconded by Chris Voth, to approve the site plans for Lot 1, Block 1, Rock & Kay Addition, subject to staff comments and Planning Commission discussion.

RESULT:	**Carried**
MOVER:	Jamie Werbin
SECONDER:	Chris Voth
AYES:	Jessica Rhein, Gary Renberger, Chris Voth, Dale Wells, Jamie Werbin, Michael Emond, and Bruce Heseltine
ABSENT:	Mitch Adams, Dana Quigley, and Weston Heflin

Stan Shelden, Shelden Architecture and agent for the applicant, thanked the Commission for waiving the screening requirements.

6 ANNOUNCEMENTS

Commissioner Renberger asked for announcements. None were provided. Renberger announced that the next meeting is January 4 and asked if any agenda items had been submitted.
Scott Knebel, City Planner, answered there is one agenda item, an access easement vacation within Hendricks Addition.
Renberger asked if any Commissioners anticipated being absent from the January 4 meeting. No Commissioners indicated they would be absent.

7 ADJOURNMENT

Jessica Rhein moved, seconded by Dale Wells, to adjourn at 6:59 p.m.

RESULT:	**Carried**
MOVER:	Jessica Rhein
SECONDER:	Dale Wells
AYES:	Jessica Rhein, Gary Renberger, Chris Voth, Dale Wells, Jamie Werbin, Michael Emond, and Bruce Heseltine
ABSENT:	Mitch Adams, Dana Quigley, and Weston Heflin

Everett Haynes, Recording Secretary

Mitch Adams, Chair

New Business Item

Subject: Vacation: Access Easement on Lot 2, Block A, Hendricks Addition
Meeting: Planning Commission: January 4, 2024
Presented by: Everett Haynes, Assistant City Planner

BACKGROUND:

General Location:

- Northwest of Rock Rd. and Windmill Rd. intersection, south of Fire Station 82, east of water tower (location map attached)

Applicant/Agent:

- Applicant: Cang Phu, Quik Invest LLC (Property Owner)
- Agent: Parker Gehrer, K.E. Miller Engineering P.A.

Reason for Request:

- Vacate a platted 20 ft. wide access easement along the northwest and north property lines of the subject property to facilitate construction of a retaining wall and parking lot for an event center.

Background Information:

- The subject 20 ft. wide access easement was established with the platting of Hendricks Addition in 2018.The easement is adjacent to and partially encompasses the landscaped slope south of Fire Station 82. The original purpose of dedicating the easement during platting was to facilitate maintenance of the landscaping on the slope.
- The property owner intends to regrade the property and construct a retaining wall and parking lot as part of the site improvements for an event center/venue. In order to permit the construction of the retaining wall and parking lot, the access easement must first be vacated. The attached exhibit provides a preliminary design of the proposed event center and the location of the subject access easement.
- Site plan review and approval by the Planning Commission are required prior to site improvements on the property. The vacation of the access easement is the first step in the process.

LEGAL CONSIDERATIONS:

- KSA 12-505 requires the Planning Commission to consider specific findings of fact which serve as the basis for the Commission's recommendation to the City Council. The findings to be determined by the Planning Commission are as follows:
    - Notice of petition to vacate and notice of the public hearing has been given in accordance with State law;

    - No private rights will be injured or endangered if the vacation is granted;
    - The Public will suffer no loss or inconvenience if the vacation is granted; and
    - In justice to the petitioner, the vacation should be granted.
- At the conclusion of the public hearing, the Planning Commission should adopt a resolution stating its recommendation, with or without conditions, and announce the date upon which the City Council will consider the vacation.
    - A draft resolution has been prepared based upon staff's review of the vacation request.
    - The Planning Commission may instruct staff to modify the resolution as necessary to reflect the decision of the Commission.

FINDINGS OF FACT:

1. Notice of petition to vacate and notice of public hearing has been given in accordance with State law:
    - Notice was published in the City's official newspaper, *The Derby Informer,* on December 13, 2023.
    - Official notice was mailed to property owners within the required notification area on November 30, 2023.
    - Signs advertising the public hearing were placed on the subject property on December 8, 2023.
2. No private rights will be injured or inconvenienced if the vacation is granted:
    - While not a utility easement, notice was provided to the following private utility agencies: Evergy, Kansas Gas Service, AT&T, Cox Communications, and Southern Star Central Gas Pipeline as part of the City's general notification process.
        - Evergy does not object to the request but provided the standard language that any relocation or removal of existing Evergy equipment will be a the applicant's expense.
        - Kansas Gas Service does not object and does not have any lines or equipment in the easements.
        - AT&T does not object to the request.
        - Southern Star Central Gas Pipeline does not object to the vacation request.
    - The subject property does not have direct access to Rock Rd. due to platted complete access control along Rock Rd. Instead, access to the site is achieved via a 30 ft. wide access easement along the west property lines that provides access to Sunset Dr. and Windmill Rd. The subject 20 ft. wide access easement is separate from the 30 ft. access easement and was never intended to provide public access to the subject site. Vacating the subject access easement will not inhibit access to the property.
    - Owners of surrounding private properties will not be injured or inconvenienced if the vacation is granted. The access easement was platted to facilitate maintenance of the landscaped slope south of Fire Station 81, a city-owned public property, and not intended to provide access to private properties.
3. The Public will suffer no loss or inconvenience if the vacation is granted:
    - The subject easement is not a utility easement and was only intended to provide maintenance access. There are no public sanitary sewer, water, or stormwater sewer lines in the easement
    - Derby Fire and Rescue and Derby Public Works do not object to the vacation. Access to maintain the landscaped slope can be achieved without the access easement.
    - Staff has not received any additional inquiries or comments after mailing of the public hearing notification. The Commission will need to consider any testimony provided during the public hearing.
4. In justice to the petitioner, the vacation should be granted:

- Vacating the easement will allow the applicant to proceed with site plan review and design of a retaining wall and parking lot to facilitate the development of an event center/venue space on the subject property.
- There are no conflicts with private or public utilities.
- A copy of the applicant's written statement, indicating why the vacation should be granted, is attached.

RECOMMENDED MOTION:

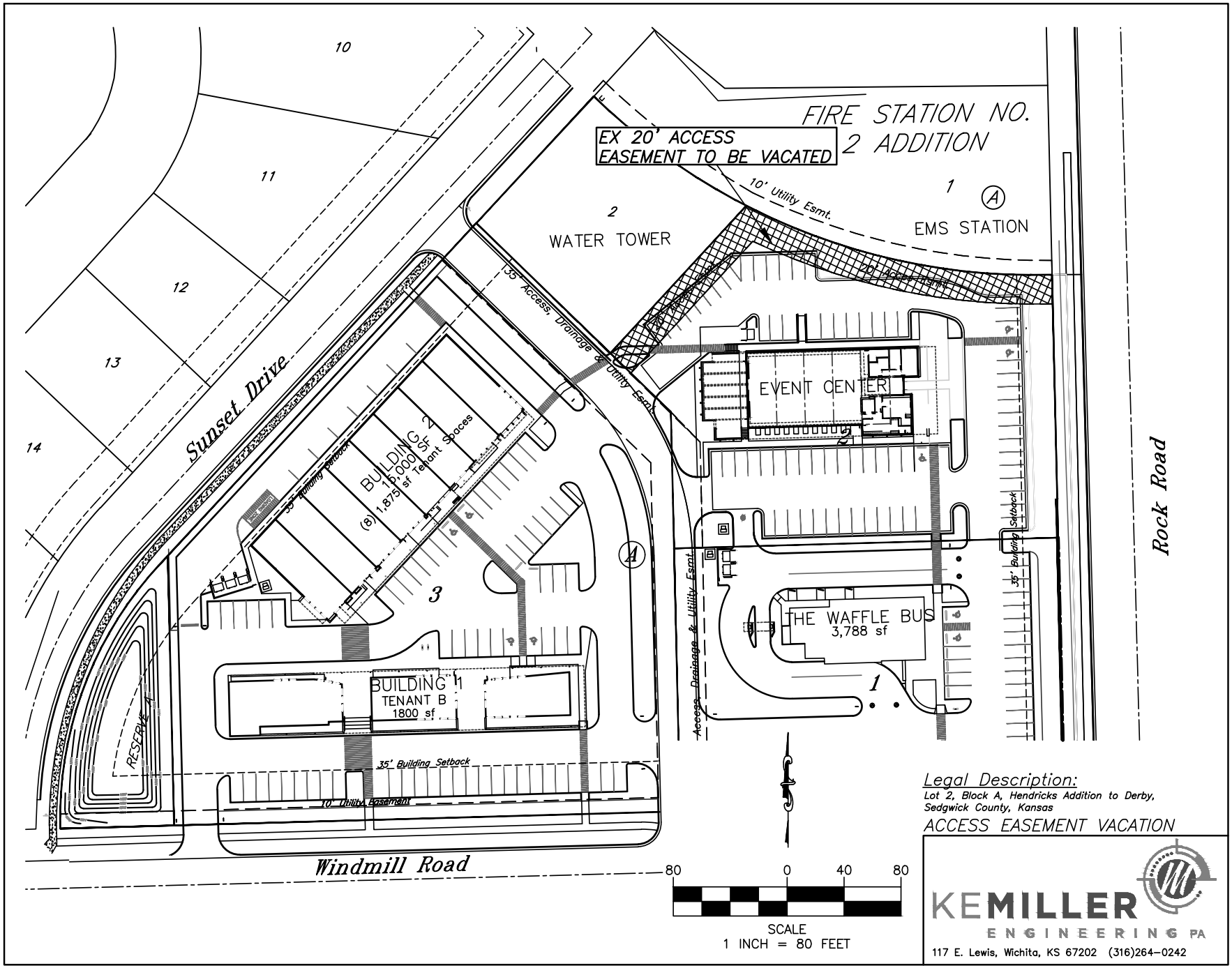
- Adopt a resolution recommending vacation of a 20 ft. access easement on Lot 2, Block A, Hendricks Addition and forward a resolution to the City Council for consideration at its regular meeting on January 23, 2024.

ATTACHMENTS:

Location Map
Exhibit
Written Statement
Resolution

Vacation Location Map:
Access Easement
Lot 2, Block A, Hendricks Addition




FIRE STATION NO. 2 ADDITION
EX 20' ACCESS EASEMENT TO BE VACATED
10' Utility Esmt.
EMS STATION
WATER TOWER
35' Access, Drainage & Utility Esmt.
EVENT CENTER
Sunset Drive
BUILDING 2
16,000 SF
(8) 1,875 sf Tenant Spaces
35' Building Setback
Rock Road
THE WAFFLE BUS
3,788 sf
BUILDING 1
TENANT B
1800 sf
RESERVE A
35' Building Setback
10' Utility Easement
Windmill Road
10
11
12
13
14
1
2
3
A
80 0 40 80
SCALE
1 INCH = 80 FEET
Legal Description:
Lot 2, Block A, Hendricks Addition to Derby, Sedgwick County, Kansas
ACCESS EASEMENT VACATION
KEMILLER ENGINEERING PA
117 E. Lewis, Wichita, KS 67202 (316)264-0242

KE MILLER ENGINEERING PA
117 E LEWIS
316-264-0242

CITY OF DERBY
611 N MULBERRY RD
316-788-1519

ACCESS EASEMENT VACATION APPLICATION

LOT 2, BLOCK A, HENDRICKS ADDITION TO DERBY, KANSAS

WRITTEN STATEMENTS

PURPOSE OF VACATION REQUEST:

THE VACATION OF THE ACCESS EASEMENT FOR LOT 2, BLOCK A, HENDRICKS ADDITION IS TO ALLOW THE CONSTRUCTION OF A PROPOSED RETAINING WALL TO ALLOW LOT 2 TO BE DEVELOPED AS DESIGNED. LOT 2 WILL BE USED FOR AN EVENT CENTER BUILDING AND ACCOMPANIES OTHER ONGOING DEVELOPMENT OF THE HENDRICKS ADDITION.

HOW THE VACATION WILL NOT BE DETRIMENTAL TO THE RIGHTS OF PRIVATE ENTITIES:

THE VACATION OF THE ACCESS EASEMENT WILL HAVE NO IMPACT ON ANY UTILITIES IN THE AREA. THE PURPOSE OF THE EASEMENT WAS TO PROVIDE ACCESS ACROSS THE LOT TO THE DEVELOPED INTERNAL DRIVE. THIS ACCESS IS ACHIEVED AS PART OF THE OVERALL DEVELOPMENT OF THE HENDRICKS ADDITION AND THE ACCESS EASEMENT IS NOT NEEDED.

HOW THE PUBLIC WILL SUFFER NO LOSS OR INCONVENIENCE IF THE VACATION IS GRANTED:

ACCESS TO LOT 2, AS WELL AS THE REST OF THE HENDRICKS ADDITION DEVELOPMENT, IS ACHIEVED VIA AN INTERNAL DRIVE THAT CONNECTS ALL PROPOSED DEVELOPMENTS. THERE WILL BE NO LOSS OF ACCESS TO THESE DEVELOPMENTS WITH THE VACATION OF THE ACCESS EASEMENT ON LOT 2.

THE HARDSHIP IMPOSED ON THE APPLICANT IF THE VACATION REQUEST IS DENIED:

THE APPLICANT WOULD NOT BE ABLE TO CONSTRUCT A PORTION OF THE PROPOSED RETAINING WALL STRUCTURE IF THIS REQUEST IS DENIED. THE RETAINING WALL IS VITAL TO THE DEVELOPMENT OF LOT 2 AS IT ALLOWS ACCEPTABLE GRADES FOR THE BUILDING AND SURROUNDING PARKING TO MEET ADA AND CITY STANDARDS. WITHOUT THE RETAINING WALL, APPROPRIATE GRADES CAN NOT BE MEET AND DEVELOPMENT OF LOT 2 CAN NOT REASONABLY CONNECT TO THE REST OF THE HENDRICKS ADDITION DEVELOPMENT DUE TO GRADING CONSTRAINTS.

Passed: _____

RESOLUTION NO. PC2024 -01

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DERBY, KANSAS RECOMMENDING THAT THE GOVERNING BODY OF THE CITY OF DERBY GRANT A REQUEST FOR VACATION OF THE PLATTED 20-FOOT WIDE ACCESS EASEMENT ON LOT 2, BLOCK A, HENDRICKS ADDITION, DERBY, SEDGWICK COUNTY, KANSAS.

WHEREAS, K.S.A., 12-504, *et seq*., provides a procedure for the City's Planning Commission to consider the vacation of certain plats, streets, easements or reservations; and

WHEREAS, the Applicant has initiated vacation of the following described platted access easement:

The North 20 Ft. of Lot 2, Block A, Hendricks Addition to Derby, Sedgwick County, Kansas

WHEREAS, vacating a platted access easement requires a public hearing process for the City to consider whether said vacation request is acceptable; and

WHEREAS, on January 4, 2024 and in compliance with K.S.A. 12-504, *et seq*., the Derby Planning Commission held a public hearing to consider the above-described request to vacate the access easement; and

WHEREAS, K.S.A. 12-505 provides that no vacation shall be granted if a written objection thereto is filed with the City Clerk, at the time of the hearing, by any owner or adjoining owner who would be a proper party to the petition but has not joined therein; and

WHEREAS, no such written objections to the vacation were filed with the City Clerk at the time of or before the required hearing on January 4, 2024; and

WHEREAS, K.S.A. 12-505 provides that the Planning Commission shall make a recommendation regarding the vacation and submit such recommendation to the Governing Body; and

WHEREAS, the City of Derby Planning Commission voted to recommend approval of the vacation to the Governing Body.

NOW THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Derby, Kansas that:

Section 1. Determination. It is hereby determined that due and legal notice of the petition to vacate and of the January 4, 2024 hearing on the requested vacation of the following described platted access easement located within the corporate limits of the City of Derby, Kansas:

The North 20 Ft. of Lot 2, Block A, Hendricks Addition to Derby, Sedgwick County, Kansas

has been given by publication and other means as provided by law, no private rights will be injured or endangered by such vacation, the public will suffer no loss or inconvenience thereby, and in justice to the petitioner, the prayer of the petitioner ought to be granted.

Section 2. Recommendation. Based on the Determinations stated in Section 1 above, vacation of the above-described platted access easement is hereby recommended to the Governing Body of the City of Derby, Kansas in accordance with the requirements of K.S.A. 12-505.

Section 3. Submission. This resolution will be submitted to the Governing Body of the City of Derby, Kansas for consideration at the January 23, 2024 meeting to be held in the Council Room at City Hall, 611 N. Mulberry, Derby, Kansas, and shall commence at 6:30 p.m.

Section 4. Severability. Should any section, clause, sentence, or phrase of this resolution be found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any remaining provisions herein.

Section 5. Effective Date. This resolution shall be effective from and after its adoption.

PASSED by the Planning Commission of the City of Derby, Kansas, on January 4, 2024 and SIGNED by the Chairman.

_____
Mitchell J. Adams, Chairman

ATTEST:

_____
Scott Knebel, Secretary