

**BOARD OF ZONING APPEALS MEETING AGENDA  
CITY COMMISSION CHAMBERS 1507 MAIN, HAYS, KS  
MAY 14, 2014  
8:15 A.M.**

**1. CALL TO ORDER BY CHAIRMAN.**

**2. CONSENT AGENDA.**

A. Minutes of the regular meeting of March 12, 2014.

*Action: Consider approving the minutes of the 3/12/14 meeting.*

**3. PUBLIC HEARING ITEMS.**

A. A public hearing to consider a request from Andrea Carver for a special-use permit to allow a Group Day Care Center under Section 71-130 (3) within a "R-1" Single Family Residential Zoning District at 3002 E 14<sup>th</sup> Street (Lot 2, Block B, Tallgrass Addition) (Case #04-14)

*Action: Consider approval of the special-use permit request for the property at 3002 E 14<sup>th</sup> Street.*

B. A public hearing to consider a request from Adam W. Stenzel for a special-use permit to permit a multi-family dwelling under Section 71-742 (9) in the "I-2" Heavy Industrial District located at 1314 E 8<sup>th</sup> Street (Case #05-14)

*Action: Consider approval of the special-use permit request for the property at 1314 E 8<sup>th</sup> Street.*

**4. NON-PUBLIC HEARING ITEMS.**

A. None

*Action: None*

**5. OFF AGENDA ITEMS/COMMUNICATIONS.**

A. Citizen Comments

B. Other

**6. ADJOURNMENT.**

**DRAFT MINUTES  
HAYS AREA BOARD OF ZONING APPEALS  
COMMISSION CHAMBERS IN CITY HALL  
MINUTES  
MARCH 12, 2014  
8:15 A.M.**

**1. CALL TO ORDER:** The Hays Area Board of Zoning Appeals met on Wednesday, March 12, 2014 at 8:15 a.m. in Commission Chambers of City Hall. Chairman Lou Caplan declared a quorum was present and called the meeting to order.

**Roll Call:**

Present: Lou Caplan  
Jerry Sonntag  
Gerald Befort  
Thomas Lippert

Absent: Shane Pruitt

City Staff Present: I.D. Director of Public Works, Jesse Rohr, Superintendent of Planning, Inspection and Enforcement, and Linda Bixenman, Administrative Assistant of Planning, Inspection and Enforcement

**2. MINUTES:** There was a motion by Jerry Sonntag with a second by Gerald Befort to approve the minutes from the February 12, 2014 meeting. There were no corrections or additions to those minutes.

Vote: Ayes: Lou Caplan  
Jerry Sonntag  
Gerald Befort  
Thomas Lippert

**3 (a). CASE #03-14 DEBORAH AND KARL SCHMIDTBERGER OF NOVA PROPERTIES LLC, Owner – 709 MAIN – ZONED “C-3”:** Jesse Rohr presented the above property on the overhead visual.

Deborah and Karl Schmidtberger of Nova Properties LLC, Owner, came before the board to request a special use permit to convert a commercial space to a single dwelling unit within the “C-3” Central Business District under Section 71-532 (1) at 709 Main Street.

Mrs. Schmidtberger gave a history of the building and that it has been in their family since the 1930's. She pointed out that there are dwelling units in some commercial buildings downtown.

Lou Caplan asked if there was anyone in the audience for comments.

Ken Gottschalk, owner of the drinking establishment (Wild Rose) at 111 W 7<sup>th</sup> Street, stated that he had no objections to the request, although he was concerned that it would be difficult to lease with the drinking establishment behind them because of the noise coming from customers early in the morning.

Jerry Sonntag explained to the Schmidtbergers that “this is more about you and who you lease it to by making the tenant aware of the potential noise”. The Schmidtberger’s stated that they have had experience with their own residential units and this would not be a party building.

Tom Lippert and Lou Caplan asked if they would control the environment at the front of the building. Mr. Caplan stated that he would hate to see the appearance from Main Street be portrayed as a storage building. The Schmidtberger’s explained that per the process through the State Historical Preservation Office, they are to keep the historical appearance maintained as a store front.

Jesse Rohr explained that dwelling units are allowed on the second story of two-story buildings in this zoning district without a special use permit. The special use permit is required for a dwelling unit to be allowed on the main floor.

The board noted other nice dwelling units nearby.

Lou Caplan entertained a motion.

Jerry Sonntag moved, Gerald Befort seconded the motion to grant the exception for a special use permit to convert a commercial space to a single dwelling unit within the “C-3” Central Business District under Section 71-532 (1) at 709 Main Street that has met the approval of the first point of action from the State Historical Preservation Office and it meets the factors required to be considered for a special use permit.

Vote: Ayes:

Lou Caplan  
Jerry Sonntag  
Gerald Befort  
Thomas Lippert

The board adjourned at 8:30 a.m.

Submitted by: Linda K. Bixenman, Administrative Assistant  
Planning, Inspection and Enforcement

## Board of Zoning Appeals Action Report

AGENDA ITEM: Exception Application #04-14  
ADDRESS: 3002 E. 14<sup>th</sup> St.  
OWNER: Jeremy Daugherty, Owner  
Andrea Carver, Applicant  
TYPE OF REVIEW: Exception – Special Use  
PRESENTED BY: Jesse Rohr, P.I.E. Superintendent  
AGENDA DATE: May 14, 2014

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### **SUMMARY AND RECOMMENDED ACTION:**

The applicant is requesting a special use permit to allow a group daycare center to be operated out of an existing home in a single-family zoned district. After taking into consideration all known factors, staff recommends **approval** of the special use permit due to the request meeting the criteria for approval (as further detailed below).

### **BACKGROUND:**

- The applicant is requesting a special use permit as allowed in Section 71-130(3) of the Zoning Regulations to allow the use of a group daycare center in an area zoned R-1 (Single-Family).
- All other required permits/licenses/inspections required of the City will be met.

### **STANDARDS OF EVALUATION:**

*Per State Statute 12-759 (e) and City Ordinance Sec. 71-1250 (3)*

In taking into consideration applications for a special use permit, the BZA shall give consideration to the comprehensive zoning plan, the health, safety, morals, comfort and general welfare of the inhabitants of the community, including, but not limited to, the following factors:

- The stability and integrity of the various zoning districts
- Conservation of property values
- Protection against fire and casualties
- Observation of general police regulations
- Prevention of traffic congestion
- Promotion of traffic safety and the orderly parking of motor vehicles

- Promotion of the safety of individuals and property
- Provision for adequate light and air
- Prevention of overcrowding and excessive intensity of land uses
- Provision for public utilities
- Invasion by inappropriate uses
- Value, type and character of existing or authorized improvements and land use
- Encouragement of improvements and land uses in keeping with overall planning
- Provision for orderly and proper urban renewal, development and growth

*By ordinance, the BZA does have the authority to impose certain restrictions, conditions, terms, time limitations, landscaping, and other appropriate safeguards to protect adjoining property.*

**STAFF ANALYSIS:**

Staff feels that the request is reasonable and will not have a detrimental effect on the subject building or surrounding buildings. There seem to be no obvious conflicts with allowing a group daycare on this property. The applicant is securing or has secured all required licensing through the State of Kansas Department of Health and Environment. Little or no disruption should occur with this use. The applicant has operated a home-based daycare for several years in another location and would now like to operate in a new home and new neighborhood.

Several of these types of permits have been granted by the BZA over the past several years. Staff knows of no issues from any of the permits granted.

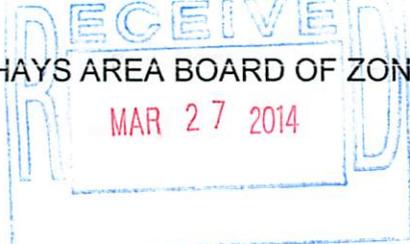
Up to 12 children will be on the premises for approximately 3 months and then the provider will be reducing the number to 7 in August and as many as 10 during the following summer.

**RECOMMENDED ACTION:**

**Motion to APPROVE the application for a special use permit due to many factors including conservation of adjacent property values, no known invasion of inappropriate uses, and encouragement of uses of existing facilities.**

**ATTACHMENTS:**

- Exception application
- Statement of justification from owner



APPLICATION FOR EXCEPTION

I. Name of Applicant Andrea Carver Phone 785-656-2208  
 Mailing Address 1410 main st. HAYS, KS 67601 639-6440  
 Name of Owner (if different from applicant) Jeremy J. Dougherty Phone 785-639-6222

Mailing Address 3002 E. 14th St. Hays, KS 67601  
 Name of Authorized Agent N/A Phone N/A  
 Mailing Address N/A  
 Relationship of applicant to property is that of purchaser  
(Owner, tenant, lessee, other)

II. Application is made for an exception as provided in Section 11-130<sup>(3)</sup> of the Zoning Regulations to permit the installation or construction of for use of a group daycare for 12 kids until Aug 2014. It will then be 7 kids on property zoned R1, located at 3002 E. 14th and legally described as: Lot(s) 2, Block(s) 8 of the Tallgrass Addition to Ellis County.

Give metes and bounds description below or on attached sheet: (Required only if property is not part of a legally recorded plat)

- III. The applicant and owner herein, or authorized agent and owner:
- A. Acknowledges receipt of an instruction sheet concerning the filing and hearing of this exception request.
  - B. Acknowledges the fee requirements established; and that the appropriate fee is herewith tendered.
  - C. Agrees to conform to all requirements of the appropriate section of the Zoning Regulations if this application is approved.
  - D. Acknowledges right to appeal the decision of the board to the District Court.

Andrea Carver  
 APPLICANT Andrea Carver  
Jeremy J. Dougherty  
 OWNER Jeremy J. Dougherty

N/A  
 AUTHORIZED AGENT (IF ANY)

OFFICE USE ONLY:  
 RECEIVED IN THE PLANNING, INSPECTION, AND ENFORCEMENT DIVISION, ON March 27, 2014,  
 TOGETHER WITH THE APPROPRIATE FEE OF \$ 50.00.  
Sinda Bismann, Administrative Assistant  
 NAME AND TITLE

I am applying for a special use permit to allow me to run my daycare business out of my home. My daycare is called Little Footsteps and has been open since February of 2011. I am currently a group daycare home with a capacity of 12 children and one employee. Starting in August 2014 I will be going back to a single provider daycare. My capacity at that time will be 7 children throughout the school year and 10 children during the summer.

Submitted by Andrea Carver

- (c) **Multiple child care facilities.**
- (1) Each applicant with a temporary permit and each licensee who operates more than one child care facility, as defined in K.S.A. 65-503 and amendments thereto, shall maintain each child care facility as a separate entity.
  - (2) A license for an additional child care facility shall not be granted until all existing child care facilities for which the licensee has been granted a license are in compliance with licensing regulations.
- (d) **Multiple licenses.** No licensee shall be licensed concurrently for or provide more than one type of child care or child and adult care on the same premises.
- (e) **License capacity for day care homes.** Each applicant with a temporary permit and each licensee shall ensure that the requirements of this subsection are met.
- (1) The maximum number of children for which a day care home may be licensed shall be the following:

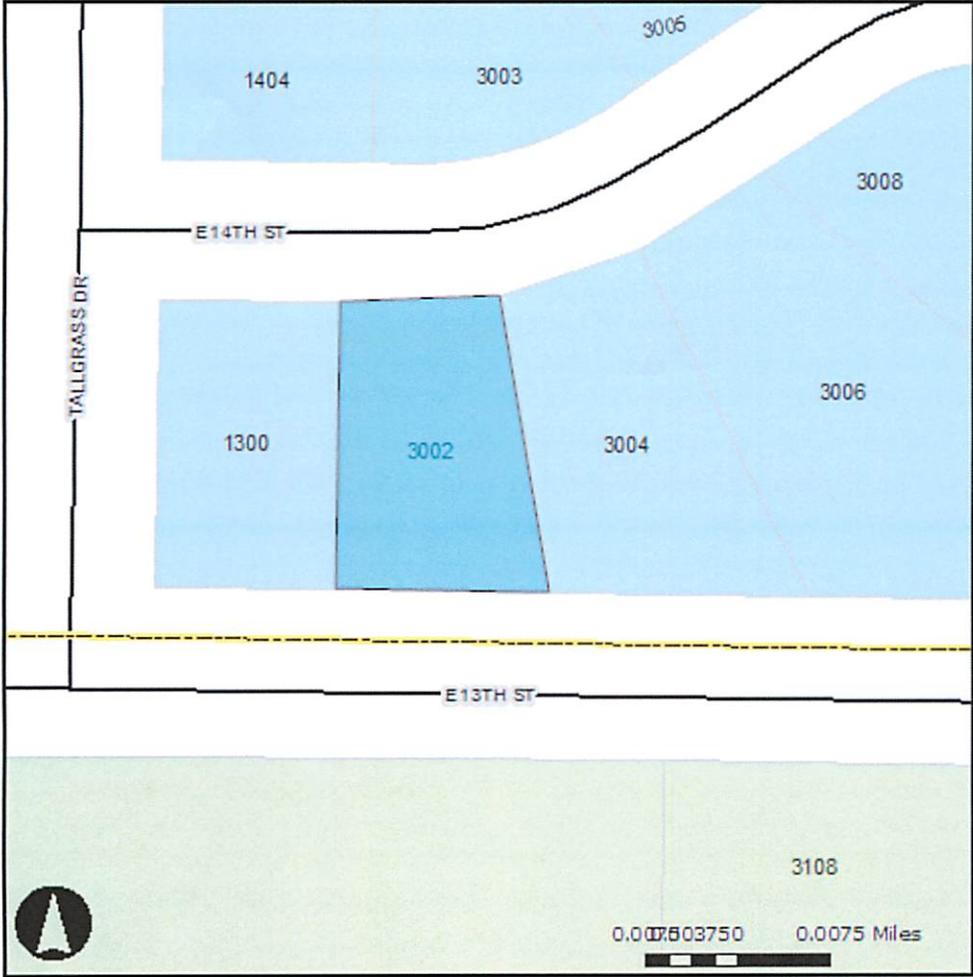
**TABLE I – LICENSE CAPACITY, ONE PROVIDER**

Maximum Number of Children Under 18 Months	Maximum Number of Children at Least 18 Months but Under 5 Years of Age	Maximum Number of Children at Least 5 Years but Under 11 Years of Age*	License Capacity
0	7	3	10
1	5	4	10
2	4	3	9
3	3	2	8

\*Children five years of age and over may be substituted for younger children in the license capacity.

- (2) Children at least 11 years of age but under 16 years of age who are unrelated to the provider shall be included in the license capacity if child care for this age group as a whole exceeds three hours a week.
- (f) **Maximum capacity for group day care homes.** Each applicant with a temporary permit and each licensee shall ensure that all of the requirements of this subsection are met.
- (1) The maximum number of children for which a group day care home may be licensed shall be the following:

# Map Title



**THIS IS THE LIST OF PROPERTY OWNERS ABUTTING THE SUBJECT PROPERTY THAT WERE MAILED THE NOTIFICATION OF THE PUBLIC HEARING.**

Property	First Name	Last Name	Address	City	State	Zip
3002 E 14th St	Andrea	Carver	1410 Main St	Hays	KS	67601
3002 E 14th St	Jeremy J	Dougherty	3002 E 14th St	Hays	KS	67601
3004 E 14th St	Rilee	Scheibler	3004 E 14th St	Hays	KS	67601
1300 Tallgrass Dr	Jason T & Renee R	Pfeifer	1300 Tallgrass Dr	Hays	KS	67601
1404 Tallgrass Dr	Connie & Gerold	Linenberger	1404 Tallgrass Dr	Hays	KS	67601
3003 E 14th St	Alexius & Marilyn R	Leiker	3003 E 14th St	Hays	KS	67601
E 13th St	Philanco LLC		P O Box 206	Hays	KS	67601

(Published in The Hays Daily News April 7, 2014)

**BEFORE THE HAYS AREA BOARD OF ZONING APPEALS THE CITY OF HAYS, KANSAS NOTICE**

TO: Andrea Carver  
 The Hays Area Planning Commission  
 The City of Hays, Kansas,  
 and all other persons concerned

You are hereby notified that pursuant to the provisions of K.S.A. 12-716 through K.S.A. 12-724 et seq. as amended, and Ordinance 3721 of the Code of Ordinances of the City of Hays, and Resolution

2007-8 of the Board of County Commissioners of Ellis County, Kansas, that a hearing will be had before said Board upon the appeal filed by Andrea Carver.

The subject of the hearing shall be a request by Andrea Carver for an exception as may be deemed by the Hays Area Board of Zoning Appeals of said City, from existing legal requirements to permit a Group Day Care Center within the "R-1" Single-Family Dwelling District under Section 71-130 (3) with the issuance of a special use permit, on the following real property situated in the City of Hays, Ellis County, Kansas to wit: Lot 2, Block B of Tallgrass Addition more generally located at 3002 E 14th Street, Hays, KS.

You are hereby notified that a hearing will be had upon said appeal on the 14th day of May, 2014, at 8:15 a.m., in the City Commission Chambers of City Hall, in the City of Hays, Kansas, at which time said appeal will be determined.

Lou Caplan, Chairman  
 Hays Area Board of Zoning Appeals

**The Parcel Number for this Property is 026-137-35-0-40-01-006.00-0  
Quick Ref ID: 3133**

**Owner(s) Name and Mailing Address**

<b>Owner Name</b>	Dougherty, Jeramy J
<b>Address</b>	3002 E 14th ST Hays, KS 67601

**Property Situs Address**

<b>Address</b>	3002 E 14TH ST, Hays, KS 67601
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## Board of Zoning Appeals Action Report

AGENDA ITEM: Exception Application #05-14  
ADDRESS: 1314 E 8<sup>th</sup> St.  
OWNER: Adam W. Stenzel  
TYPE OF REVIEW: Exception (Special Use) for Dwelling Unit  
PRESENTED BY: Jesse Rohr, P.I.E. Superintendent  
AGENDA DATE: May 14, 2014

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### **SUMMARY AND RECOMMENDED ACTION:**

The applicant is requesting a special use permit to allow construction of additional dwelling units on property currently zoned I-2 (Heavy Industrial). After taking into consideration all known factors, staff recommends **DENIAL** of the special use permit due to the request not meeting the criteria for approval (as further detailed below).

### **BACKGROUND:**

- The applicant is requesting a special use permit as allowed in Section 71-642(9) of the Zoning Regulations to allow for a living units to be constructed in an Industrial Zoned District
- The property is zoned I-2, Heavy Industrial District
- One dwelling is currently located on the property and is considered “existing, nonconforming”

### **STANDARDS OF EVALUATION:**

*Per State Statute 12-759 (e) and City Ordinance Sec. 71-1250 (3)*

In taking into consideration applications for a special use permit, the BZA shall give consideration to the comprehensive zoning plan, the health, safety, morals, comfort and general welfare of the inhabitants of the community, including, but not limited to, the following factors:

- **The stability and integrity of the various zoning districts**
- **Conservation of property values**
- Protection against fire and casualties
- Observation of general police regulations
- Prevention of traffic congestion

- Promotion of traffic safety and the orderly parking of motor vehicles
- Promotion of the safety of individuals and property
- Provision for adequate light and air
- Prevention of overcrowding and excessive intensity of land uses
- Provision for public utilities
- **Invasion by inappropriate uses**
- **Value, type and character of existing or authorized improvements and land use**
- **Encouragement of improvements and land uses in keeping with overall planning**
- **Provision for orderly and proper urban renewal, development and growth**

*By ordinance, the BZA does have the authority to impose certain restrictions, conditions, terms, time limitations, landscaping, and other appropriate safeguards to protect adjoining property.*

#### **STAFF ANALYSIS:**

This particular request is very difficult to consider approving due to the existing zoning of the area and existing surrounding uses. Dwelling units do not belong in an industrial zoned district and often cause problems for future development. If approved, additional dwelling units could have a detrimental effect on surrounding uses. Having residential uses in this area can lead to complaints of noise, fumes, dirt, dust, traffic or a multitude of other issues causing the tenants to render complaints.

Although there is currently an existing dwelling on the property, it is considered "existing nonconforming" and has been in place long before the current zoning regulations were enacted. Adding to this use would be inappropriate and would be considered an invasion of inappropriate uses in an Industrial Zoned area.

#### **RECOMMENDED ACTION:**

**Motion to DENY the application for a special use permit due to many factors including conservation of adjacent property values, invasion of inappropriate uses, and the stability and integrity of the existing Industrial zoned district.**

#### **ATTACHMENTS:**

- Exception application
- Statement of justification and site drawings from owner

APPLICATION FOR EXCEPTION

I. Name of Applicant Adam W Stenzel Phone 785-639-1539  
 Mailing Address 1331 285<sup>th</sup> Avenue Hays, KS 67601  
 Name of Owner (if different from applicant) N/A Phone N/A  
 Mailing Address N/A  
 Name of Authorized Agent N/A Phone N/A  
 Mailing Address N/A  
 Relationship of applicant to property is that of \_\_\_\_\_  
 (Owner, tenant, lessee, other)

II. Application is made for an exception as provided in Section 71-642<sup>(9)</sup> of the Zoning Regulations to permit the installation or construction of Duplex, tri-plex, or six-plex depending on final lot dimensions on property zoned I-2, located at 1314 E. 8<sup>th</sup> St and legally described as: Lot(s) N/A, Block(s) N/A of the N/A Addition to Ellis County.

Give metes and bounds description below or on attached sheet: (Required only if property is not part of a legally recorded plat)

- II. The applicant and owner herein, or authorized agent and owner:
- A. Acknowledges receipt of an instruction sheet concerning the filing and hearing of this exception request.
  - B. Acknowledges the fee requirements established; and that the appropriate fee is herewith tendered.
  - C. Agrees to conform to all requirements of the appropriate section of the Zoning Regulations if this application is approved.
  - D. Acknowledges right to appeal the decision of the board to the District Court.

Adam W Stenzel  
 APPLICANT  
Adam W Stenzel  
 OWNER

\_\_\_\_\_  
AUTHORIZED AGENT (IF ANY)

OFFICE USE ONLY:

RECEIVED IN THE PLANNING, INSPECTION, AND ENFORCEMENT DIVISION, ON 04-09, 2014,

TOGETHER WITH THE APPROPRIATE FEE OF \$ 50.00  
Linda Bixenman, Administrative Assistant  
 NAME AND TITLE

To: Board of zoning

I have submitted application for exception for a special use permit. This is contingent on the owner selling adjacent land, so that I can stay off the rear property line as stated in the rules and regulations. The land I own right now is Zoned I-2 and there is a remodeled residential duplex sitting on the lot. There is one 2 bedroom and a 3 bedroom on the north side. I want to acquire the land to increase my lot size to abide by rules and regulations to stay off the property lines as stated. I am then asking the board to allow a special build permit to add another residential unit. I want to construct a duplex, four-plex or 6-plex on the south side of my existing residential duplex to increase my units. I have talked to the owner of the adjacent land. He knows that I am trying to purchase the land in order to build another dwelling for rental property. I have attached a sketch that is in 1/4" per 8' scale. I have drawn the existing lot with separate lines. Then I added another line for the property that I plan to attain from Lampton welding. I then drew the units I plan to construct on the south side of the existing duplex.

Thank you for considering my application

Adam Wayne Stenzel

785-639-1539



# CUSTOM METALS

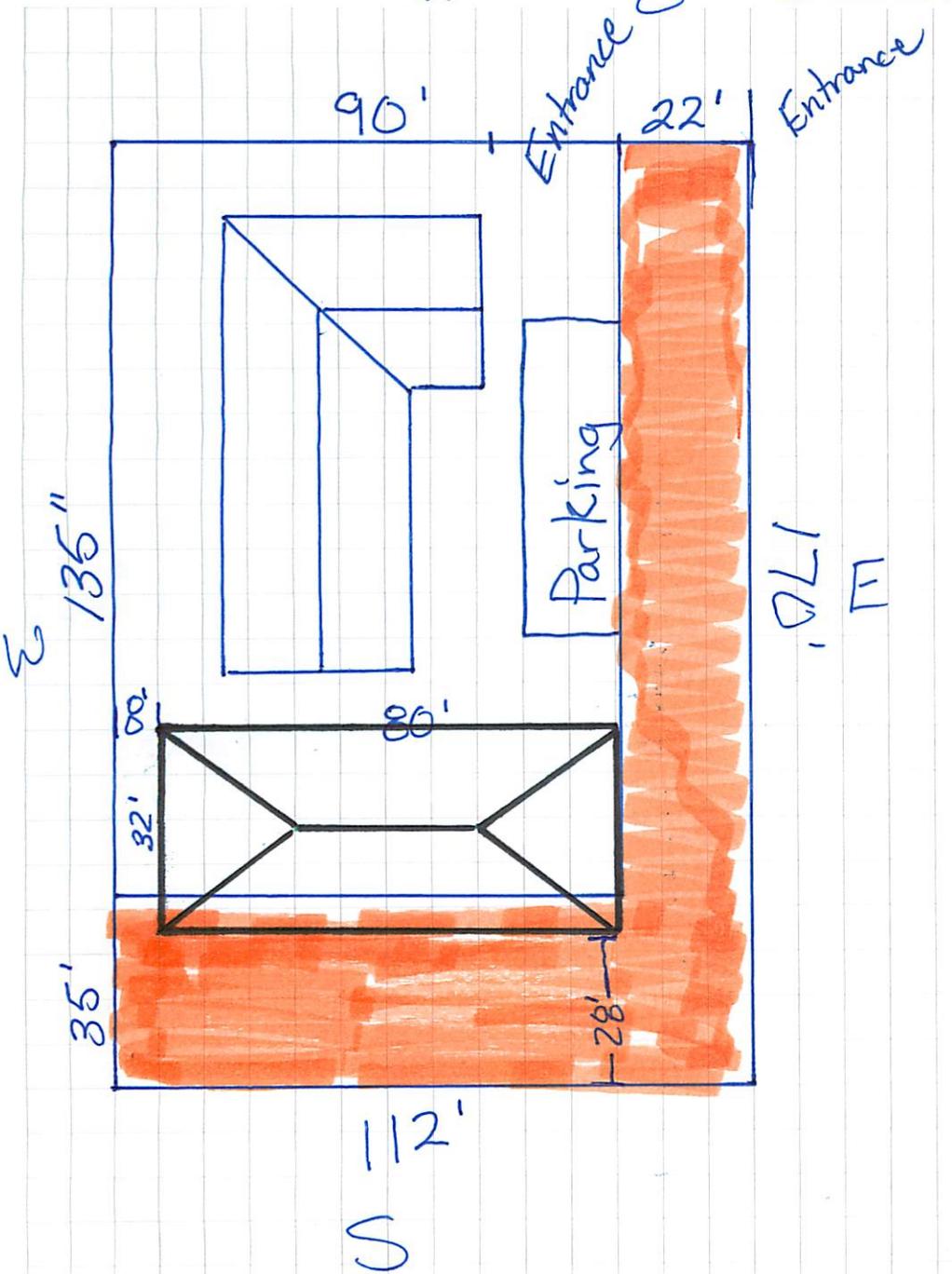
rmcustommetals.com

HAYS, KANSAS  
785-628-7663 N

JOB NO. \_\_\_\_\_ PAGE \_\_\_\_\_ OF \_\_\_\_\_

SUBJECT 1314 E 8<sup>th</sup> St

BY \_\_\_\_\_ DATE \_\_\_\_\_



~~Contingent on owner selling~~

Purposed  
4-Plex  
6-Plex



Google earth

feet  
meters





Google earth

feet  
meters



**THIS IS THE LIST OF PROPERTY OWNERS ABUTTING THE SUBJECT PROPERTY THAT WERE MAILED THE NOTIFICATION OF THE PUBLIC HEARING.**

Property	First Name	Last Name	Address	City	State	Zip
1314 E 8th St	Adam	Stenzel	1331 285th Ave	Hays	KS	67601
1080 E 8th St	Central Coast Inc		P O Box 1197	Hays	KS	67601
1002 Vine St	City of Hays		P O Box 490	Hays	KS	67601
1039 Hwy 40 BYP	Lampton Investments II LLC		P O Box 1114	Wichita	KS	67201
1410 E 8th St	Lang Investments LLC		4105 Smoky Hill Dr	Hays	KS	67601

(Published in The Hays Daily News April 15, 2014)

**BEFORE THE HAYS AREA BOARD OF ZONING APPEALS THE CITY OF HAYS, KANSAS NOTICE**

TO: Adam W Stenzel  
 The Hays Area Planning Commission  
 The City of Hays, Kansas,  
 and all other persons concerned

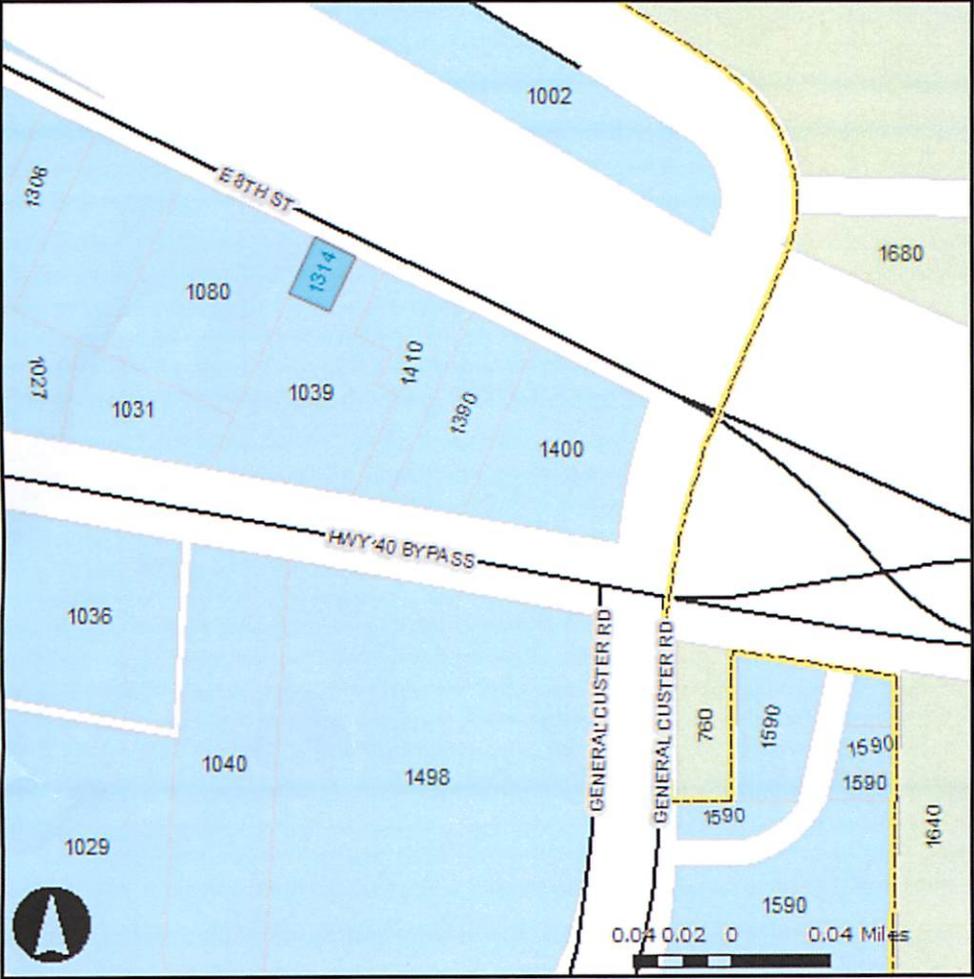
You are hereby notified that pursuant to the provisions of K.S.A. 12-716 through K.S.A. 12-724 et seq. as amended, and Ordinance 3721 of the Code of Ordinances of the City of Hays, and Resolution 2007-8 of the Board of County Commissioners of Ellis County, Kansas, that a hearing will be had before said Board upon the appeal filed by Adam W Stenzel.

The subject of the hearing shall be a request by Adam W. Stenzel for an exception as may be deemed by the Hays Area Board of Zoning Appeals of said City, from existing legal requirements to permit a multi-family dwelling in the "I-2" Heavy Industrial District per the zoning and subdivision regulations under Section 71-642 (9) with the issuance of a special use permit, on the following real property situated in the City of Hays, Ellis County, Kansas to wit: Annexed Territory East End, PT SW4, Pt SW4 Beg 724 NWLY of INT S/S 8th St & East 1/4 Line TH SWLY 130 TH SELY 95th NELY 130th NWLY 95 TO POB Section 03 Township 14 Range 18, More generally located at 1314 E 8th Street, Hays, Kansas.

You are hereby notified that a hearing will be had upon said appeal on the 14th day of May, 2014, at 8:15 a.m., in the City Commission Chambers of City Hall, in the City of Hays, Kansas, at which time said appeal will be determined.

Lou Caplan, Chairman  
 Hays Area Board of  
 Zoning Appeals

# Map Title



**The Parcel Number for this Property is 026-182-03-0-30-01-005.00-0  
Quick Ref ID: 11783**

**Owner(s) Name and Mailing Address**

<b>Owner Name</b>	STENZEL, ADAM
<b>Address</b>	1331 285TH AVE HAYS, KS 67601

**Property Situs Address**

<b>Address</b>	1314 E 8TH ST, Hays, KS 67601
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