

HAYS AREA BOARD OF ZONING APPEALS MEETING AGENDA  
CITY COMMISSION CHAMBERS 1507 MAIN, HAYS, KS  
AUGUST 13, 2014  
8:15 A.M.

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

2. **CONSENT AGENDA.**

A. Minutes of the regular meeting of July 9, 2014

*Action: Consider approving the minutes of the 7/09/14 meeting.*

3. **PUBLIC HEARING ITEMS.**

A. A public hearing to consider a request from Danny Herman of D. J. Ventures LLC for a special use permit to remodel the building to convert to an eating establishment per Section 71-532 (7) within the "C-3" Central Business District at 230 W 9<sup>th</sup> Street (E 6.5' of Lot 4, all of lot 6 and W/2 of Lot 8, Hays Original Blk 14 thru end). (Case #09-14)

*Action: Consider approval of the special use permit for the property at 230 W 9<sup>th</sup> St.*

B. A public hearing to consider a request from Ronald Holweger of RJJ Enterprises LLC, for a special-use permit to permit the construction to convert the office space to residential rental space per Section 71-504 (18) within the "C-2" General Commercial & Service District at 1015 E 17<sup>th</sup> St (Lot 5 & W/2 Lot 6, Schwaller & Dechant 2<sup>nd</sup> Addition) (Case #10-14)

*Action: Consider approval of the special-use permit request for the property at 1015 E 17<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**  
**HAYS AREA BOARD OF ZONING APPEALS**  
**COMMISSION CHAMBERS IN CITY HALL**  
**MINUTES**  
**July 9, 2014**  
**8:15 A.M.**

**1. CALL TO ORDER:** The Hays Area Board of Zoning Appeals met on Wednesday, July 9, 2014 at 8:15 a.m. in Commission Chambers of City Hall.

**Roll Call:**

Present: Lou Caplan  
Jerry Sonntag  
Thomas Lippert

Absent: Gerald Befort  
Shane Pruitt

Chairman Lou Caplan declared a quorum was present and called the meeting to order.

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

**2. CONSENT AGENDA:**

**A. MINUTES:** Jerry Sonntag moved, Thomas Lippert seconded to approve the minutes from the June 11, 2014 meeting. There were no corrections or additions to those minutes.

Vote: Ayes: Lou Caplan  
Jerry Sonntag  
Thomas Lippert

**3. PUBLIC HEARING ITEMS:**

**A. CASE # 08-14 – REQUEST BY GARY STAAB FOR A THREE FOOT (3') VARIANCE TO REDUCE THE EAST SIDE YARD BUILDING SETBACK FROM THE REQUIRED SEVEN FEET TO FOUR FEET TO CONSTRUCT A 15' X 24' DETACHED GARAGE IN THE BACKYARD TO ACCESS FROM THE STREET AT 119 W 38<sup>TH</sup> STREET (LOT 3, BLOCK 2, SKYLINE 6<sup>TH</sup> ADDITION):** Jesse Rohr presented the above property on the overhead visual.

Gary Staab presented his application to request a three foot (3') variance to reduce the east side yard building setback from the required seven feet (7') to four feet (4') to construct a 15' X 24' detached garage in the backyard to access from the street at 119 W 38<sup>th</sup> Street. He pointed to the potential location of the proposed garage on the overhead visual to explain that with the lesser setback, the proposed detached garage would be in line for easier access from the street. The garage would match the house and be a nice

looking garage. There is a 6 foot privacy fence in the back yard. There is open space field behind him so it would not obstruct the view for those in the neighborhood. He stated that his neighbors said they had no problem with the proposed location of the garage.

Lou Caplan asked if he would have to remove a tree to access the garage from the street. Garry Staab answered that he would have to remove a tree.

Tom Lippert stated that Mr. Staab had answered his question about the reason he had about the angle he wanted to set the garage. It would provide easier access from the street.

Jesse Rohr added that from the city's standpoint, it is positive for street access rather than alley access. If approved he asked that it be conditional that the garage be front access only.

Lou Caplan asked if there were any comments from the audience. There were none.

Lou Caplan entertained a motion.

Jerry Sonntag moved, Tom Lippert seconded the motion to grant the three foot (3') variance to reduce the east side yard building setback from the required 7 feet to 4 feet to construct a detached garage in the rear yard to access from the street at 119 W 38<sup>th</sup> Street (Lot 3, Block 2, Skyline 6<sup>th</sup> Addition) based on the consideration it does meet the 5 statutory requirements subject to the following condition: That the detached garage be front access only.

Vote: Ayes: Lou Caplan  
Jerry Sonntag  
Thomas Lippert

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

**A. Zoning Regulation Rewrite – Presentation by Kendig Keast Collaborative on the Strategic Assessment and Annotated Outline on July 28, 2014:** Jesse Rohr explained the status of the above and invited the board to the Planning Commission meeting for discussion on this topic. (Site Visit #2)

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

**A. Citizen Comments:** None.

**6. ADJOURNMENT:** Lou Caplan adjourned the meeting at 8:50 a.m.

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

## Board of Zoning Appeals Action Report

AGENDA ITEM: Exception Application #09-14  
ADDRESS: 230 W 9<sup>th</sup>  
OWNER: DJ Ventures LLC  
TYPE OF REVIEW: Exception – Special Use  
PRESENTED BY: Jesse Rohr, P.I.E. Superintendent  
AGENDA DATE: August 13, 2014

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

The applicant is requesting a special use permit to allow an existing commercial space to be converted into a restaurant (located at 230 W 9<sup>th</sup>). 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 71-532(7) of the Zoning Regulations to allow for an existing commercial space to be converted to a full service restaurant.
- The property is zoned C-3, Central Business District. The property was most recently PrintCraft Printers and is currently vacant.
- All restaurants with an occupant load greater than 49 persons located within a C-3 zoning district require a special use permit from the BZA.

### **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 (particularly the **bolded** 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:**

After considering all factors, and evaluating the surrounding properties, staff feels that the request is reasonable and will not have a detrimental effect on the subject building or surrounding buildings. Similar requests have been approved within the downtown C-3 District, including Gutch's, Gella's, and the former Semilino's (presently TK's BBQ) There is an existing bar/restaurant (Golden Q) adjacent to this property, therefore the proposed use is not out of line with the character of the existing neighborhood. The one and relatively minor concern is the apartment unit immediately abutting the subject property to the west. This could be an issue for a tenant of the residential unit. The owner of the residential unit is fully aware of and somewhat involved in this project.

Parking should not be an issue either since this district requires no off-street parking and expects patrons to park within available space in the downtown area and walk to the establishment.

#### **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 DANNY HERMAN Phone 785 639 1261

Mailing Address 2508 Pine

Name of Owner (if different from applicant) DJ Ventures LLC Phone 639-1261

Mailing Address 809 Ash

Name of Authorized Agent DANNY HERMAN Phone SAME

Mailing Address 809 Ash

Relationship of applicant to property is that of OWNER  
(Owner, tenant, lessee, other)

II. Application is made for an exception as provided in Section 71-532 (C7) of the Zoning Regulations to permit the installation or construction of RESTAURANT

\_\_\_\_\_ on property zoned C-3, located at 230 W 9th and legally described as:

Lot(s) 6e w 1/2 Lot 8, Block(s) \_\_\_\_\_ of the \_\_\_\_\_  
HAYS ORIGINAL Block 14 TURN END 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.

[Signature]  
 APPLICANT  
DJ Ventures DANNY HERMAN  
 OWNER

[Signature]  
 AUTHORIZED AGENT (IF ANY)

OFFICE USE ONLY:  
 RECEIVED IN THE PLANNING, INSPECTION, AND ENFORCEMENT DIVISION, ON July 1, 2014,  
 TOGETHER WITH THE APPROPRIATE FEE OF \$ 50.00. Receipt #610616  
Simdo Bijlman, Administrative Assistant  
 NAME AND TITLE

To: Hays Area Board of Zoning

Our Plans for 230 w 9th are to  
gut interior & remodel for a sit down  
eating establishment. We also would like to  
Deliver food eventually.

David  
7-1-14

**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
230 W 9th St	DJ Ventures LLC	Danny Herman	2508 Pine St	Hays	KS	67601
232 W 9th St	Twilight Rentals LLC		404 E 14th St	Ellis	KS	67637
234 W 9th St	Twilight Rentals LLC		404 E 14th St	Ellis	KS	67637
235 W 8th St	Chandler & Jacqueline A	Schumacher	2700 Woodrow Ct	Hays	KS	67601
220 W 9th St	W T C Enterprises LC		1602 Elm St	Hays	KS	67601
229 W 10th St	Garrett L	Geist	P O Box 177	Hays	KS	67601
229 W 10th St	Matthew D	Zellmer	P O Box 177	Hays	KS	67601
235 W 10th St	John C	Herman	P O Box 998	Hays	KS	67601

(Published in The Hays Daily News July 13, 2014)  
**BEFORE THE HAYS AREA BOARD OF ZONING APPEALS THE CITY OF HAYS, KANSAS NOTICE**

TO: Danny Herman of D. J. Ventures LLC  
 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 Danny Herman of D. J. Ventures LLC.

The subject of the hearing shall be a request by Danny Herman of D. J. Ventures LLC for an exception as may be deemed by the Hays Area Board of

Zoning Appeals of said City, from existing legal requirements to permit the construction of a remodel to convert to an eating establishment within the "C-3" Central Business District per the Zoning and Subdivision regulations Section 71-532 (7) with the issuance of a special use permit, on the following real property situated in the City of Hays, Ellis County, Kansas to wit: E 6.5 feet of Lot 4, all of lot 6 and W/2 of Lot 8, Block 26, Hays Original Blk 14 thru end, Ellis County, Kansas more generally located at 230 W 9<sup>th</sup> Street, Hays, KS.

You are hereby notified that a hearing will be had upon said appeal on the 13th day of August, 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,  
 Chairperson  
 Hays Area Board of  
 Zoning Appeals

# Map Title



Item(s)	Owner Information	Legal Description	Property Class	Appraised Entities	Previous Values
<input type="checkbox"/>	<u>026-138-33-0-30-42-007.00-0</u> DJ VENTURES LLC Property Address: 230 W 9th St Hays, KS 67601	HAYS ORIGINAL BLK 14 THRU END, S33, T13, Commercial & R18, BLOCK 26, E 6.5' OF LOT 4, ALL OF LOT 6 Industrial - C AND W2 OF LOT 8			

## Board of Zoning Appeals Action Report

AGENDA ITEM: Exception Application #10-14  
ADDRESS: 1015 E 17<sup>th</sup>  
OWNER: RJJ Enterprises LLC  
TYPE OF REVIEW: Exception – Special Use  
PRESENTED BY: Jesse Rohr, P.I.E. Superintendent  
AGENDA DATE: August 13, 2014

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

The applicant is requesting a special use permit to allow an existing commercial space to be converted into a single apartment (located at 1015 E 17<sup>th</sup>). 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 71-504(18) of the Zoning Regulations to allow for an existing commercial space to be converted to a single rental dwelling unit.
- The property is zoned C-2, General Commercial and Service District
- The property has housed a variety of various office type spaces and has rear storage area as well currently used by the owner. It is believed the office space has been vacant for some time.
- All dwelling units located within a C-2 zoning district require a special use permit from the BZA

### **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 (particularly the **bolded** 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:**

After considering all factors, and evaluating the surrounding properties, staff feels that the request is reasonable and will not have a detrimental effect on the subject building or surrounding buildings. There is adequate parking for the proposed use, both on street and off. There are existing dwelling units on 2 sides of this property (east and south), therefore the proposed use is not out of line with the character of the existing neighborhood.

#### **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 and site drawings from owner

mailing 07-15-2014

APPLICATION FOR EXCEPTION

I. Name of Applicant Ronald Holweger Phone 625-4363  
 Mailing Address 2503 Canterbury Dr  
 Name of Owner (if different from applicant) RJD Enterprises LLC Phone 625-4363  
 Mailing Address 2503 Canterbury Dr  
 Name of Authorized Agent N/A Phone N/A  
 Mailing Address N/A  
 Relationship of applicant to property is that of Owner  
 (Owner, tenant, lessee, other)

II. Application is made for an exception as provided in Section 71-504 (18) of the Zoning Regulations to permit the installation or construction of Remodeling From offices to apartment on property zoned Commercial-C-2, located at 1015 E 17th St and legally described as: Lot(s) 5 + w 1/2 Lot G, Block(s) N/A of the N/A Schwaller + Dechant 2nd 34-13-18 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.

RJD Enterprises LLC by  
 APPLICANT  
Ronald Holweger  
 OWNER

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

OFFICE USE ONLY:

RECEIVED IN THE PLANNING, INSPECTION, AND ENFORCEMENT DIVISION, ON July 3, 2014,  
 TOGETHER WITH THE APPROPRIATE FEE OF \$ 50.00. Receipt # 610618  
Sinda Bilenman, Administrative Assistant  
 NAME AND TITLE

Date: 3-July-2014

To: Hays Area Board Of Zoning Appeals  
Planning, Inspection, and Enforcement Division  
1002 Vine St  
Hays, KS 67601

From: RJJ Enterprises LLC  
2503 Canterbury Dr  
Hays, KS 67601

Purpose: Convert light industrial/office space to more productive residential space.

The subject property has served at various times as construction equipment storage, cabinet shop, internet office, personal storage space, an auto detail shop and touring office with tour bus parking area.

At the present time the property has little probability for productive rental activity at current local rental rates. Internet services are adequately provided elsewhere. the space is quite marginal for a small service business and while it could be used for small business office space significant renovations would have to be made to doorways and rest room space to be considered handicapped accessible.

It is proposed that the front part of the building (as per drawing) be converted to a single unit apartment of about 1500 sqft with either 2 or 3 bedrooms and 2 full baths with one being handicapped accessible. New energy efficient HVAC will be installed as well. There is adequate on street curbside parking for 3 vehicles and additional tenant parking can be designated on the concrete apron on the west side of the building. Fencing can be added as appropriate.

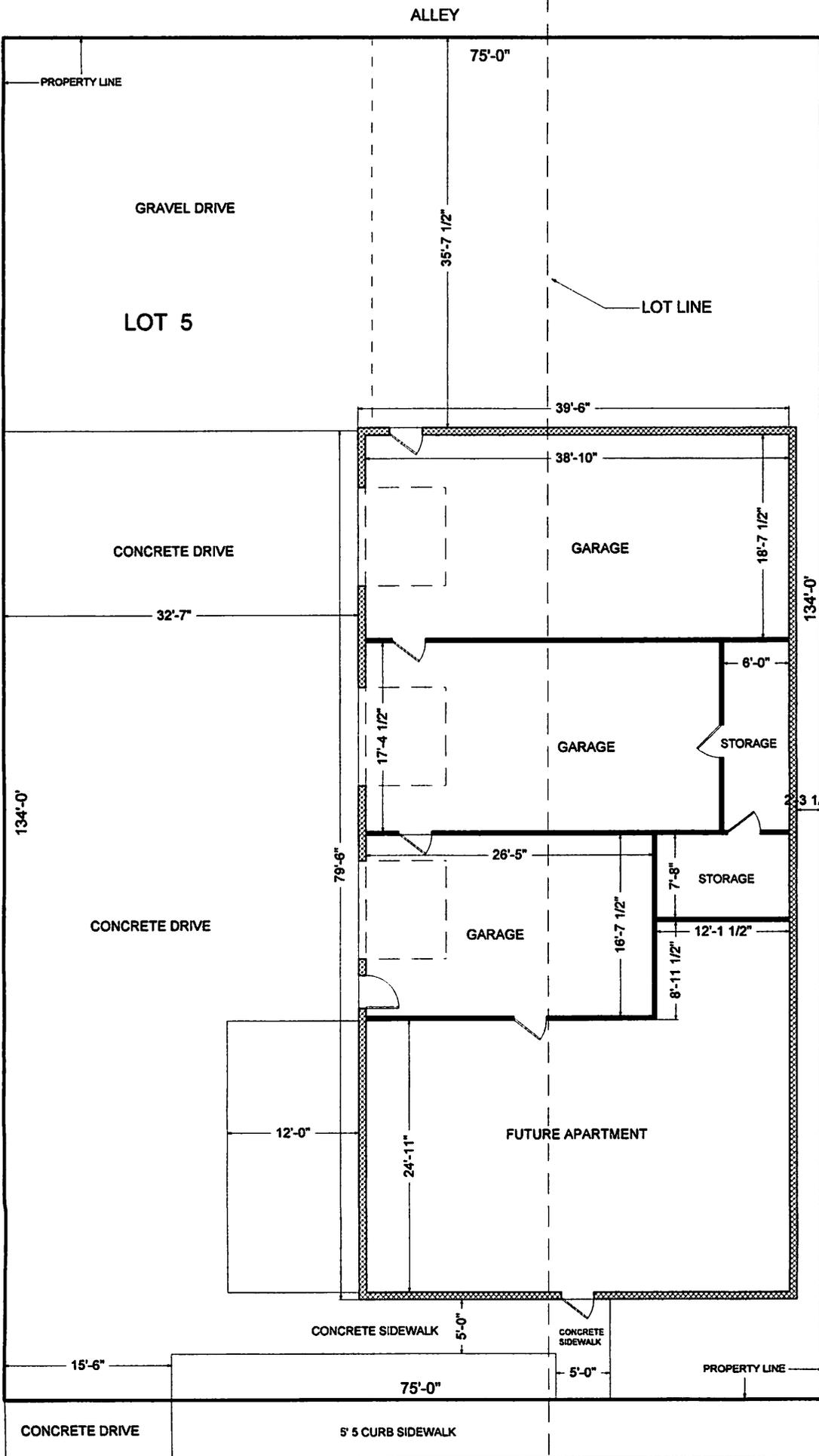
This project would be fit the current neighborhood environment which is made up of residential units to the East and South and light industrial the the West. Residential units are needed in Hays, KS and this project will be environmentally friendly with a low outdoor water requirement.

For further information contact Ronald Holweger at 785 625 4363.

Sincerely,



Ronald Holweger



LOT 6

RJJ ENTERPRISES LLC  
 1015 E 17TH ST  
 HAYS KS 67601

LEGAL DESCRIPTION:  
 LOT 5 & W 1/2 LOT 6  
 SCHWALLER & DECHANT  
 2ND ADD TO THE CITY  
 OF HAYS

PLOT PLAN FOR SPECIAL  
 USE PERMIT

THIS DOES NOT CONSTITUTE  
 A BOUNDARY SURVEY

LARRY BIEKER  
 GENERAL CONTRACTOR  
 BIEKER CONSTRUCTION

EAST 17TH ST.

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

#10-14

Property	First Name	Last Name	Address	City	State	Zip
1015 E 17th	RJJ Enterprises LLC	Ronald Holweger	2503 Canterbury Dr	Hays	KS	67601
1005 E 17th St	Leon & Janet Kay	Frank	115 W 35th St	Hays	KS	67601
1730 Vine St	Larry J Fugate Revocable Trust		208 S Maize Rd	Wichita	KS	67209
1017 E 17th St	Robbie L & Lacey S	Davis	212 W 36th St	Hays	KS	67601
1014 E 17th St	Terry	Schaffer	P O Box 307	Hays	KS	67601
1008 E 17th St	Merlin J	Romme	P O Box 815	Hays	KS	67601

(Published in The Hays Daily News July 13, 2014)

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

TO: Ronald Holweger of RJJ Enterprises LLC  
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

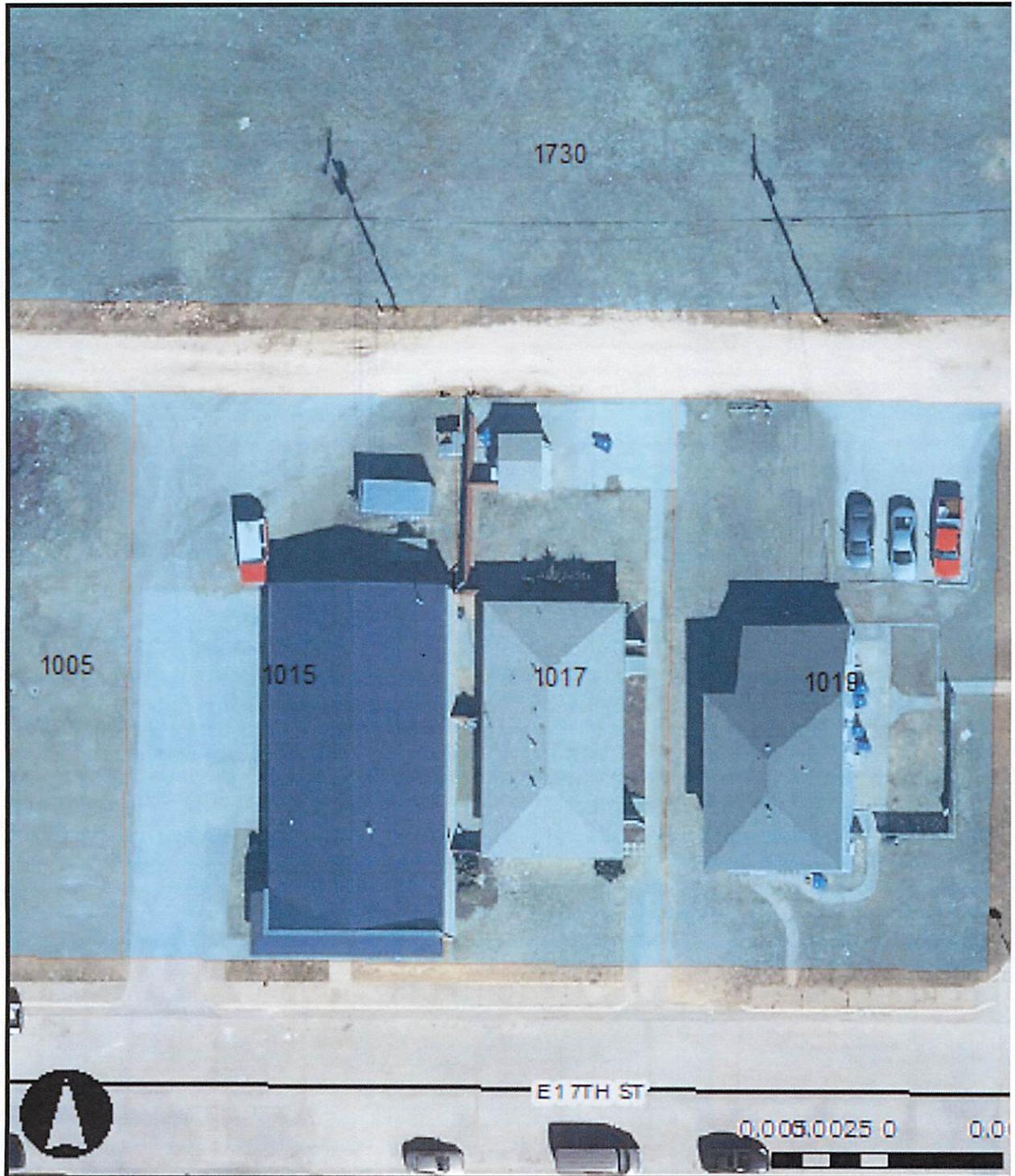
2007-8 of the Board of County Commissioners of Ellis County, Kansas, that a hearing will be had before said Board upon the appeal filed by Ronald Holweger of RJJ Enterprises LLC. The subject of the hearing shall be a request by Ronald Holweger of RJJ Enterprises LLC for an exception as may be deemed by

the Hays Area Board of Zoning Appeals of said City, from existing legal requirements to permit the construction to convert from office space to residential rental space within the "C-3" Central Business District per the Zoning and Subdivision regulations Section 71-504 (18) 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 5, & W/2 Lot 6, Schwaller & Dechant 2nd Addition Ellis County, Kansas more generally located at 1015 E 17th St, Hays, KS.

You are hereby notified that a hearing will be had upon said appeal on the 13th day of August, 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,  
Chairperson  
Hays Area Board of  
Zoning Appeals

# Map Title



026-138-34-0-30-04-019.00-0 SCHWALLER & DECHANT 2ND ADD , LOT 5 & W Commercial &  
RJJ ENTERPRISES LLC 1/2 LOT 6 SECTION 34 TOWNSHIP 13 RANGE 18 Industrial - C

Property Address:  
1015 E 17th St  
Hays, KS 67601