CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

May 5, 2017

Thomas and Tina Herzberg
9820 E. Raini Road
Wichita, KS 67210

RE: **CON2017-00011** - County Conditional use request to allow an accessory apartment on SF-20 Single-Family Residential zoned property; generally located one-third mile south of 31st Street South on the east side of South Webb Road (9820 E. Raini Rd.)

Dear Applicants:

At its regular meeting on **April 20, 2017**, the Wichita - Sedgwick County Metropolitan Area Planning Commission considered the above captioned request. The action of the MAPC was to **APPROVE** the request, subject to the following conditions on the attached resolution per the approved site plan.

This case received no protests during the two-week period, therefore the MAPC decision is final. If you have any questions concerning this application, please contact out office at 268-4421.

Sincerely,

Kathy L. Morgan, Senior Planner
Current Plans Division

Copies to: BoCC 5, Jim Howell, Mail Stop 320
County Law, Justin Waggoner, Mail Stop 359
County Public Works, Jim Weber, 1144 South Seneca, Wichita, KS 67213
MABCD

CONDITIONAL USE RESOLUTION NO. CON2017-11

WHEREAS, Thomas E. and Tina R. Herzberg (owners); pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requests a Conditional Use for an Accessory Apartment on approximately 5 acres zoned SF-20 Single-Family Residential ("SF-5"), described as:

Beginning 1324.34 feet South and 550 feet East of the NW corner of the NW/4, thence east 550 feet, South 380 feet, Southwesterly on a curve 46.9 feet, West 510 feet, North 40.07 feet to beginning, in Section 9, Township 28 S, Range 2 East of the 6th P.M., Sedgwick County, Kansas; generally located south of 31st Street South on the north side of East Raini Road, east of South Webb Road (9820 East Raini Road.)

WHEREAS, proper notice as required by the Unified Zoning Code and by the policy of the Metropolitan Area Planning Commission (hereinafter referred to as MAPC) has been given; and

WHEREAS, the MAPC did, at the meeting of April 20, 2017, consider said application; and

WHEREAS, the MAPC has authority to permit a Conditional Use, subject to any special conditions deemed appropriate in order to assure full compliance with the criteria of the Unified Zoning Code.

NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Area Planning Commission that this application be approved to allow a Conditional Use for an Accessory Apartment on approximately 5 acres zoned SF-5 Single-Family Residential ("SF-5"), described as:

Beginning 1324.34 feet South and 550 feet East of the NW corner of the NW/4, thence east 550 feet, South 380 feet, Southwesterly on a curve 46.9 feet, West 510 feet, North 40.07 feet to beginning, in Section 9, Township 28 S, Range 2 East of the 6th P.M., Sedgwick County, Kansas; generally located south of 31st Street South on the north side of East Raini Road, east of South Webb Road (9820 East Raini Road.)

Approved subject to the following conditions:

(1) The accessory apartment shall remain accessory to and under the same ownership as the principal single-family residence (located at 9820 E. Raini Road) and the ownership shall not be divided or sold as a condominium. The appearance of the accessory structure shall be compatible with the main dwelling.

(2) The water provided to the accessory apartment shall not be provided as separate services from the main dwelling. Sewer will be provided by the on-site lagoon. The applicant shall have the MABCD review the status of the existing lagoon system. Electric, gas, telephone and cable television utility service may be provided as separate utility services.

(3) The applicant shall obtain all applicable permits including, but not limited to: building, health and zoning. This will include turning in plans for review and approval by the MABCD for the construction of the accessory apartment.

(4) Development and maintenance of the site shall be in conformance with the approved site plan.

(5) If the accessory apartment is not in place within 12 months after final approval, or if the Zoning Administrator

finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

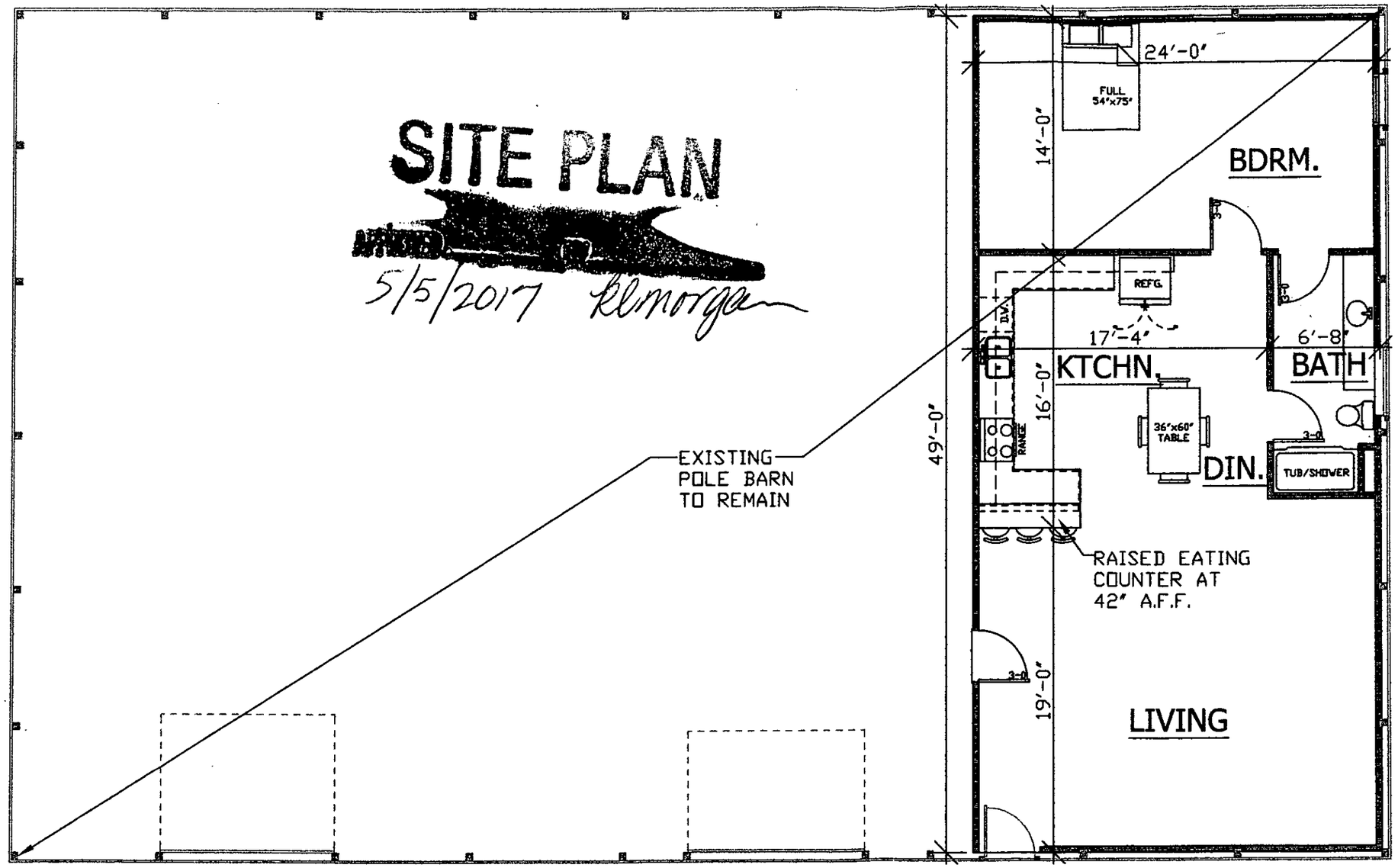
Adopted this 20 day of April 2017.

METROPOLITAN AREA PLANNING COMMISSION

David W. Foster, Chairman MAPC

ATTEST:

Dale Miller, Secretary



MAIN LEVEL FLOOR PLAN

1/8" = 1'-0"

Herzberg Residence

DRAWN

02.24.2017	HOUSE NO. 1704

SHEET TITLE

MAIN LEVEL FLOOR PLAN

PRINTS ISSUED

03.01.2017	PRELIM. FLOOR PLAN

SHEET NUMBER

A1

AGENDA ITEM NO. 6

WICHITA–SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

STAFF REPORT
MAPC April 20, 2017

CASE NUMBER: CON2017-00011

APPLICANT/OWNER: Tom and Tina Herzberg, owners

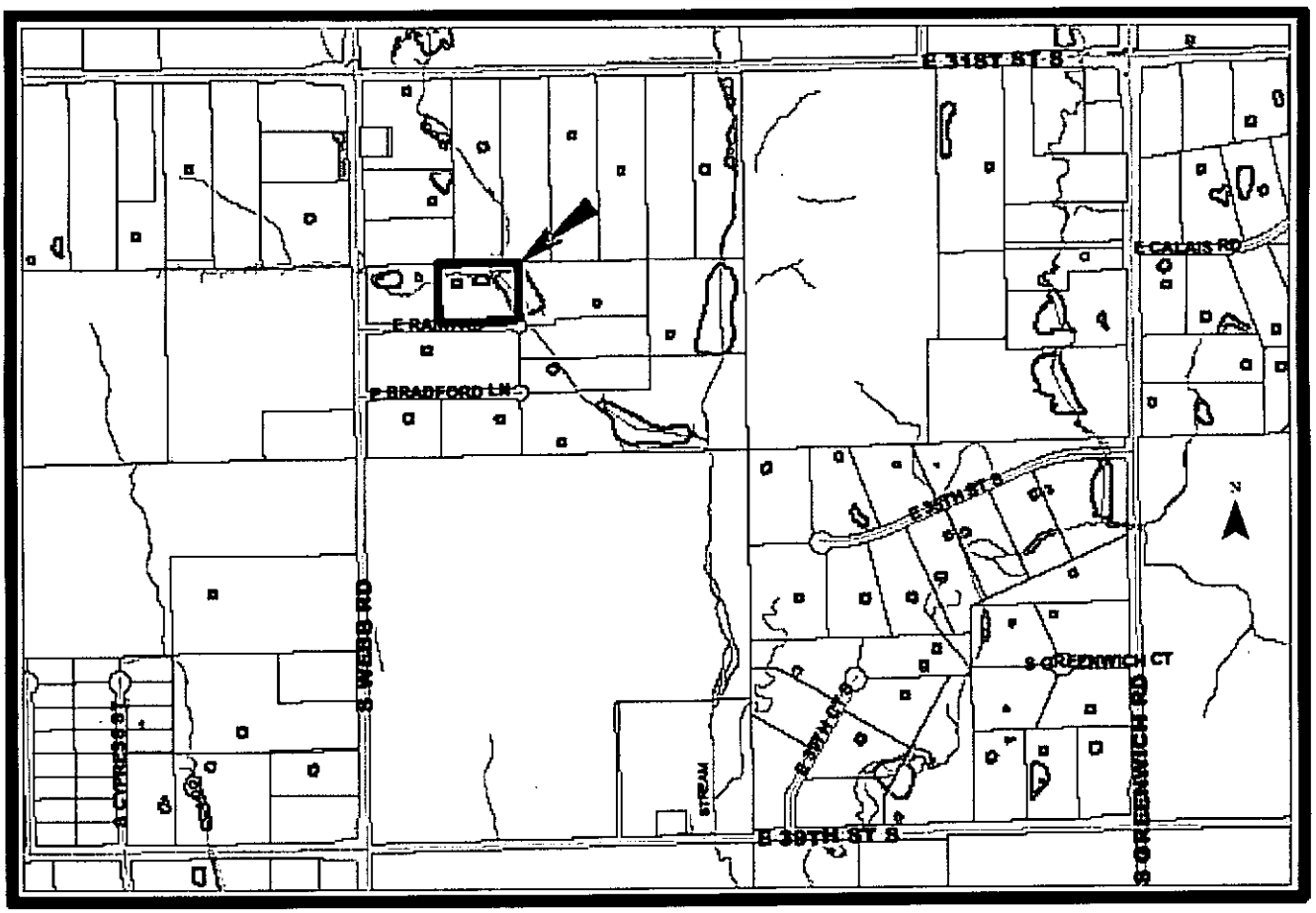
REQUEST: Conditional Use request for an accessory apartment

CURRENT ZONING: SF-20 Single-Family Residential

SITE SIZE: Approximately 5 acres

LOCATION: Generally located one-third mile south of East 31st Street South on the east side of South Webb Road on the North Side of East Raini Road

PROPOSED USE: Accessory Apartment



BACKGROUND: The applicant is requesting a Conditional Use for a 24-feet by 49-feet accessory apartment to be located within an existing 49-feet by 80-feet accessory building on the site.

The unplatted property is zoned SF-20 Single-Family Residential and is approximately 5 acres. It is currently developed with a single-family home and accessory building. The site is serviced by a lagoon. The subject site is located one-third mile south of East 31st Street South on the east side of South Webb Road on the North Side of East Raini Road. The Sedgwick County site is not located within any Urban Area of Influence.

The Wichita-Sedgwick County Unified Zoning Code ("UZC") defines an "accessory apartment" (Art. II.Sec. II-B.1.b) as a dwelling unit that may be wholly within, or may be detached from a principal single-family dwelling unit. Accessory apartments are also subject to supplementary use regulation Art. III.Sec.III-D.6.a (1) a maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling unit that may be within the main building, within an accessory building or constructed as an accessory apartment; (2) the appearance of an accessory apartment shall be compatible with the main dwelling unit and with the character of the neighborhood; (3) the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium and (4) the water and sewer service provided to the accessory apartment shall not be provided as separate service from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services.

The surrounding properties to the north, east, west and south are zoned SF-20. The uses include single-family residences and a church. The church and the buildings to the west are constructed of vertical rib metal wall panels and metal roofs. The existing accessory building is of same material.

The applicant submitted the attached site plan showing the location of the existing residence, accessory structure and the lagoon. An attached floor plan identifies the location of the new 24-feet by 49-feet accessory apartment within the accessory structure.

CASE HISTORY: The subject property is unplatted. The accessory structure had a final inspection on November 29, 2016 and the permit was closed.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-20	Single-family residences
SOUTH:	SF-20	Church
WEST:	SF-20	Single-family residence on 4.5 acres
EAST:	SF-20	Single family residences on 10-acre lots.

PUBLIC SERVICES: Webb Road is a two-lane paved arterial street with no shoulders and bar ditches on both sides of the pavement. The subject site has access to South Webb Road from Raini Road, a 30-foot wide gravel road. The property is served by lagoon and water is provided by Sedgwick County Rural Water District #3.

CONFORMANCE TO PLANS/POLICIES: The "2035 Community Investments Plan" (Plan) identifies the subject site as being in the Wichita Urban Growth Area. This category identifies Wichita's urban fringe areas that have the potential to be developed by the year 2035, based upon Wichita population growth projections and current market trends. Determination of growth direction and amount is based upon municipal political considerations, anticipated municipal population growth, efficient patterns of municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**, with the following conditions:

(1) The accessory apartment shall remain accessory to and under the same ownership as the principal single-family residence (located at 9820 E. Raini Road) and the ownership shall not be divided or sold as a condominium. The appearance of the accessory structure shall be compatible with the main dwelling.

(2) The water provided to the accessory apartment shall not be provided as separate services from the main dwelling. Sewer will be provided by the on-site lagoon. The applicant shall have the MABCD review the status of the existing lagoon system. Electric, gas, telephone and cable television utility service may be provided as separate utility services.

(3) The applicant shall obtain all applicable permits including, but not limited to: building, health and zoning. This will include turning in plans for review and approval by the MABCD for the construction of the accessory apartment.

(4) Development and maintenance of the site shall be in conformance with the approved site plan.

(5) If the accessory apartment is not in place within 12 months after final approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

(1) **The zoning, uses and character of the neighborhood**: The County subject site is located in an SF-20 zoned area with lots ranging from four acres to 10 acres. Development in the area consists of large lot single-family residential, agricultural land and a church.

(2) **The suitability of the subject property for the uses to which it has been restricted**: The subject site is currently zoned SF-20 which permits the existing single-family residence. The property will continue to be used for one single-family residence; the depth of the property easily accommodates an accessory apartment and the additional required parking space.

(3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Approval of the request should not detrimentally impact nearby properties. The conditions of approval should minimize any anticipated detrimental impacts.

(4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The "2035 Community Investments Plan" (Plan) identifies the subject site as being in the Wichita Urban Growth Area. This category identifies Wichita's urban fringe areas that have the potential to be developed by the year 2035, based upon Wichita population growth projections and current market trends. Determination of growth direction and amount is based upon municipal political considerations, anticipated municipal population growth, efficient patterns of municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors. A Conditional Use application/request is required for consideration of an accessory apartment in the SF-20 zoning district.

(5) **Impact of the proposed development on community facilities**: Community facilities are the public streets in the neighborhood, police and fire services, none of which will be noticeably impacted by another residence being built on the site. There is no public water or sewer service available to the neighborhood.