CONDITIO' L USE RESOLUTION NO. CON2C 3-00027

WHEREAS, Laurence W. and Patricia A. Kemp (Owner/Applicants); pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), request a Conditional Use for accessory apartment on 1.3 acres zoned "SF-5" Single-Family Residential described as:

> Lot 1, Block A, Levitt's Addition to Wichita, Sedgwick County, Kansas. Generally located at the northeast corner of 9th Street North and Battin.

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 August 21, 2003, 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 permit a Conditional Use for accessory apartment on 1.3 acres zoned "SF-5" Single-Family Residential described as:

> Lot 1, Block A, Levitt's Addition to Wichita, Sedgwick County, Kansas. Generally located at the northeast corner of 9th Street North and Battin.

subject to the following conditions:

1. The accessory apartment shall be subject to all requirements of Section III-D.6.a. of the Unified Zoning Code.

2. The applicant shall obtain all applicable permits, including but not limited to: building, health, and zoning.

3. The site shall be developed in general conformance with the approved site plan.

4. Construction of improvements shall be completed within one year of approval.

5. 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 the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

Adopted this 21st DAY of AUGUST, 2003. This resolution shall become effective on the fifteenth day after the date last noted above unless the matter is forwarded to the Governing Body for final action under the provisions of Section V-D.6. When any one or more of the exceptions listed in Section V-D.6 exist, this resolution with its conditions of approval shall be considered a recommendation of the MAPC to the Governing Body which shall then have final authority to approve, approve with conditions or modifications, or deny the Conditional Use application.

METROPOLITAN AREA PLANNING COMMISSION

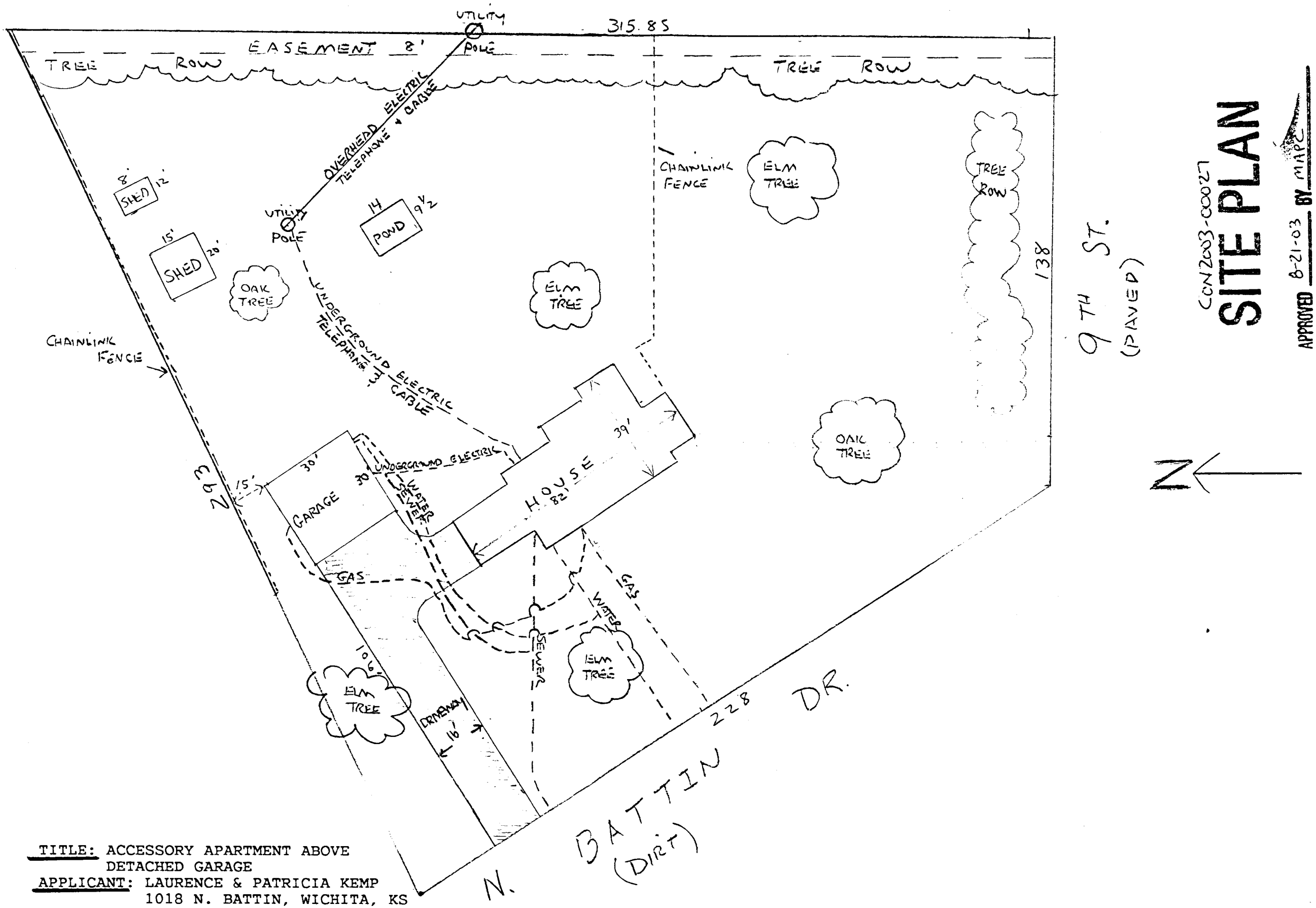
Bernard A. Hentzen

Bernard A. Hentzen, Chair MAPC

ATTEST:

John L. Schlegel

John L. Schlegel, Secretary



CON2003-00027
SITE PLAN
APPROVED 8-21-03 BY MAPC

TITLE: ACCESSORY APARTMENT ABOVE DETACHED GARAGE
APPLICANT: LAURENCE & PATRICIA KEMP
1018 N. BATTIN, WICHITA, KS
DRAWING PREPARED BY: APPLICANT
SCALE: 1"=30'
LEGAL DESCRIPTION: LOT 1 BLOCK A
LEVITT'S ADDITION

WICHITA–SEDGWICK COUNTY
W-SC
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 8

STAFF REPORT

MAPC August 21, 2003

CASE NUMBER: CON2003-00027

APPLICANT/OWNER: Laurence W. & Patricia A. Kemp (Owners/Applicants)

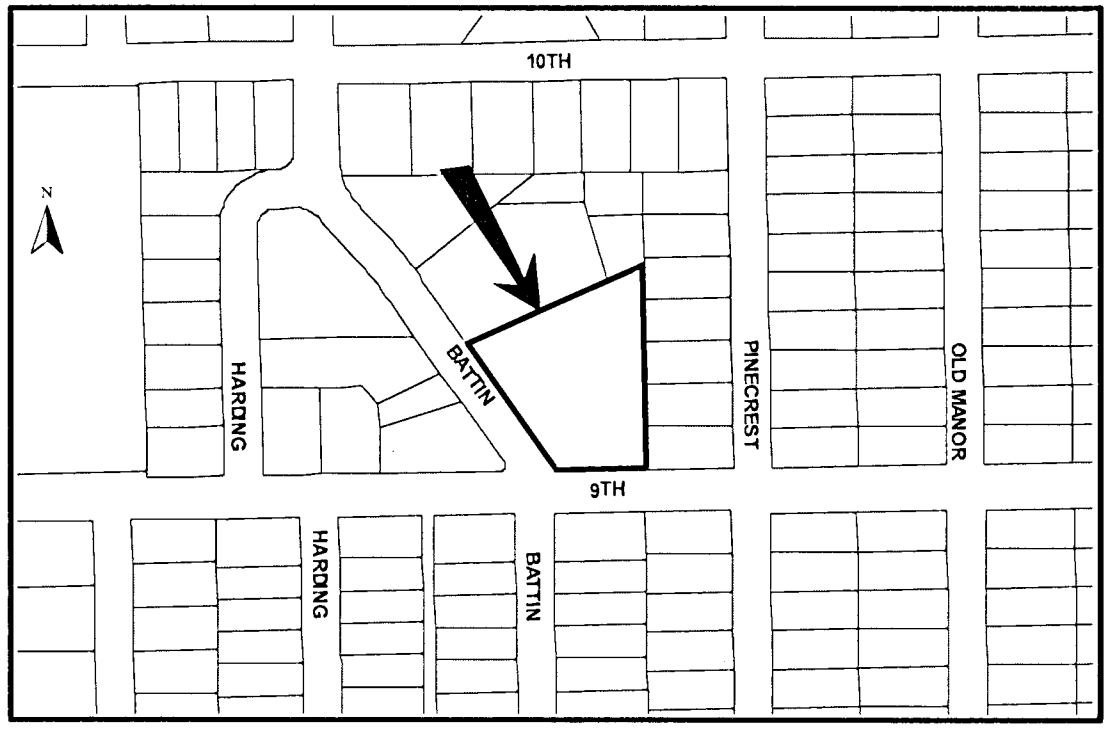
REQUEST: Conditional Use for an accessory apartment

CURRENT ZONING: "SF-5" Single Family

SITE SIZE: 1.3 acres

LOCATION: Northeast corner of 9th Street North and Battin

PROPOSED USE: Accessory apartment above a detached garage



BACKGROUND: The applicant is requesting a Conditional Use to allow an accessory apartment on a 1.3 acre platted lot zoned "SF-5" Single Family and located at the northeast corner of 9th Street North and Battin. The applicant proposes to use the second story of a recently constructed detached garage as an accessory apartment.

An accessory apartment is defined as a dwelling unit that may be wholly within or detached from a principal single-family dwelling unit. A dwelling unit includes provisions for sleeping, cooking, eating and sanitation. A Conditional Use permit is required for an accessory apartment in the "SF-5" Single Family zoning district. Section III-D.6.a. of the Unified Zoning Code has the following requirements for an accessory apartment:

(a) a maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling;

(b) the appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood;

(c) the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling, including that it shall not be subdivided or sold as a condominium; and

(d) water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling.

The Conditional Use request meets these Unified Zoning Code requirements.

The applicant submitted the attached site plan illustrating the location of the detached garage with the proposed accessory apartment to be located on the second floor. The accessory apartment will be located behind the house will be screened from adjoining properties by existing mature trees.

The character of the surrounding area is residential. All properties surrounding the subject property are zoned "SF-5" Single Family or "TF-3" Two Family and are developed with single family residences. The properties along Battin, which is a one block long cul-de-sac north of 9th Street, are developed differently than the remainder of the surrounding properties in that they are larger lots, have larger houses, and are separated from the remainder of the neighborhood by a pond and mature trees. Given the size of the subject property and its separation and screening from the remainder of the neighborhood, the proposed accessory apartment is compatible with the zoning, uses, and character of the neighborhood.

CASE HISTORY: The property is platted as Lot 1, Block A, Levitt's Addition, which was recorded January 18, 1950.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-5"	Single-family residences
SOUTH:	"SF-5"	Single-family residences
EAST:	"SF-5"	Single-family residences
WEST:	"TF-3"	Single-family residences

PUBLIC SERVICES: Access to the subject property is from Battin, an unimproved residential street. The subject property is connected to public water and sewer.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide of the Comprehensive Plan designates this area as appropriate "low density residential" development. The policies of the Unified Zoning Code allow one accessory apartment to be associated with a principle dwelling as a "Conditional Use" if the proposed use is compatible with the principle dwelling, is in character with the surrounding residential development, is accessory to the main structure, remains in a single ownership, and obtains water and sewer service from the main dwelling hook-up.

RECOMMENDATION: Based upon information available prior to the public hearing, Staff recommends that the request be APPROVED, subject to the following conditions:

1. The accessory apartment shall be subject to all requirements of Section III-D.6.a. of the Unified Zoning Code.

2. The applicant shall obtain all applicable permits, including but not limited to: building, health, and zoning.

3. The site shall be developed in general conformance with the approved site plan.

4. Construction of improvements shall be completed within one year of approval.

5. 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 the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is residential. All properties surrounding the subject property are zoned "SF-5" Single Family or "TF-3" Two Family and are developed with single family residences. Given the size of the subject property and its separation and screening from the remainder of the neighborhood, the proposed use is compatible with the zoning, uses, and character of the neighborhood.

2. The suitability of the subject property for the uses to which it has been restricted: Accessory apartments are allowed as a "Conditional Use" in "SF-5" provided the applicant and the site meet the specified criteria. The applicant and the site meet the criteria so long as the accessory apartment remains subordinate in size and remains as a single hook-up for water and sewer services.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affects on surrounding properties should be minimized by the large size of the lot and the existing mature trees that screen the structure from adjacent properties. The placement of the accessory apartment within the garage generously meets zoning setback requirements.

4. Conformance of the requested change to adopted or recognized Plans/Policies: The Unified Zoning Code makes specific provision for accessory apartments in "SF-5". This application complies with all the provisions outlined in the UZC for accessory apartments.

5. Impact of the proposed development on community facilities: The request should have a minimal impact on community facilities.