CONDITIONAL USE RESOLUTION NO. CON2003-00021

WHEREAS, Fred L. Cloud and Gayle A. Cloud (owner); 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 5.05 acres zoned "SF-20" Single-Family Residential described as:

> Commencing at the Northwest corner of the Southwest Quarter of Section 17, Township 28 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, thence South 89 degrees 56'20" East along the North line of said Quarter Section, a distance of 1540 feet to the point of beginning; thence continuing along said North line of said Quarter Section, a distance of 330 feet; thence South 0 degrees 0'0" West a distance of 663.76 feet; thence North 89 degrees 51'00" West a distance of 330 feet; thence North 0 degrees 00'00" East a distance of 663.24 feet to the point of beginning. Generally located on the north side of 44th Street South approximately 1/4 mile east of Rock 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 July 10, 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 5.05 acres zoned "SF-20" Single-Family Residential described as:

> Commencing at the Northwest corner of the Southwest Quarter of Section 17, Township 28 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, thence South 89 degrees 56'20" East along the North line of said Quarter Section, a distance of 1540 feet to the point of beginning; thence continuing along said North line of said Quarter Section, a distance of 330 feet; thence South 0 degrees 0'0" West a distance of 663.76 feet; thence North 89 degrees 51'00" West a distance of 330 feet; thence North 0 degrees 00'00" East a distance of 663.24 feet to the point of beginning. Generally located on the north side of 44th Street South approximately 1/4 mile east of Rock Road.

subject to the following conditions:

1. The accessory apartment shall be subject to all requirements of Section III-D.6.a (attached) 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 by the appropriate governing body.

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 Article VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

Adopted this 10th DAY of JULY, 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

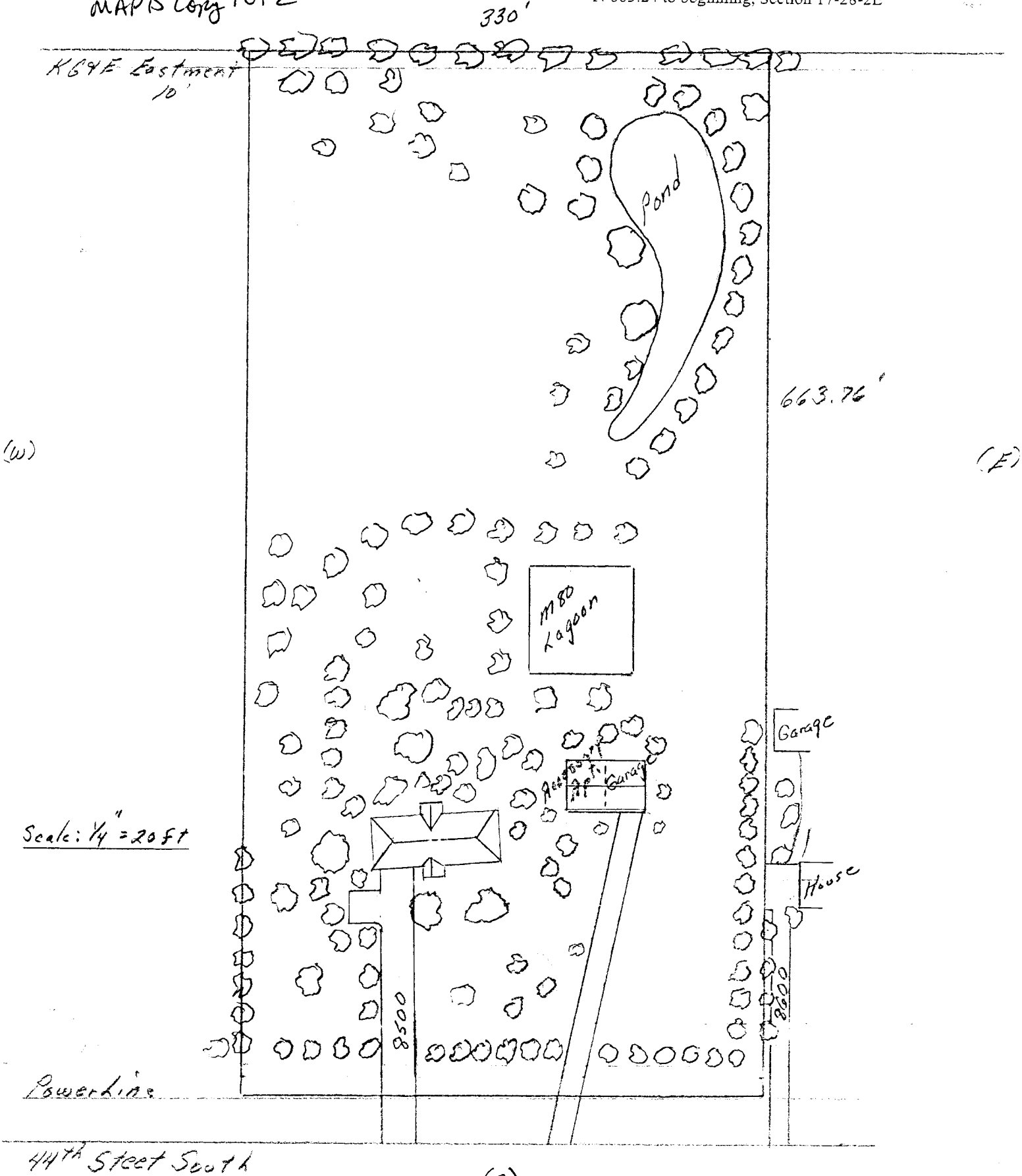
CON2003-21

SITE PLAN

APPROVED 07/24/03 BY DS

MAPD Copy 1 of 2

Conditional Use for Accessory Apartment
Owner: Fred L. and Gayle A. Cloud
Address: 8500 E 44th St. South, Derby, KS 67037
Legal Description: Beg. 1540' E of the NW corner of thence SW/4; thence E 330'; thence S 663.76'; thence W 330'; thence N 663.24 to beginning, Section 17-28-2E



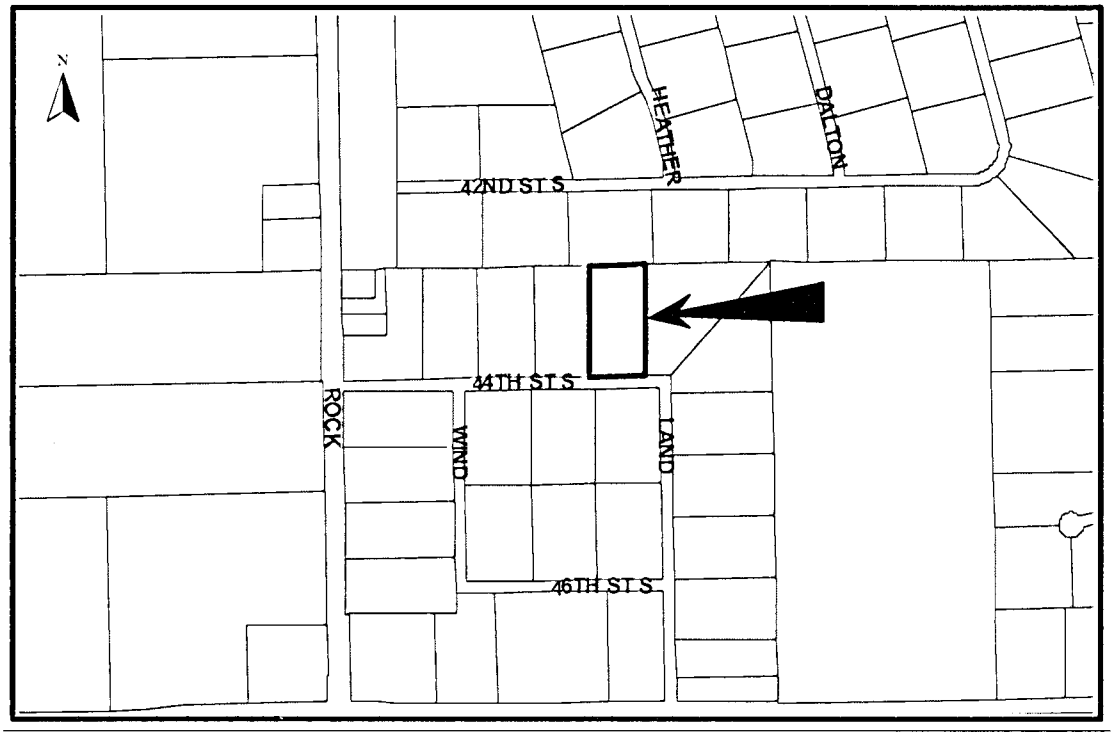
WICHITA–SEDGWICK COUNTY
W-SC
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 6

STAFF REPORT

MAPC July 10, 2003

CASE NUMBER:	CON2003-00021
APPLICANT/OWNER:	Fred L. Cloud and Gayle A. Cloud (owner)
REQUEST:	Conditional Use for accessory apartment
CURRENT ZONING:	"SF-20" Single-Family Residential
SITE SIZE:	5.05 acres
LOCATION:	On the north side of 44th Street South approximately ¼ mile east of Rock Road
PROPOSED USE:	Accessory apartment



BACKGROUND: The applicant, Fred L. and Gayle A. Cloud is requesting a Conditional Use to allow an accessory apartment on 5.05 acres of unplatted property zoned "SF-20" Single-Family Residential. The applicant proposes to convert the western side of an existing garage into an accessory apartment. They have stated they wish to have Mrs. Cloud's elderly parents to live nearby in order to provide them assistance in daily living.

The existing home and garage are set back over 100 feet from 44th Street South, and a double row of evergreens are planted along the front property line. The garage is approximately 75 feet west of the adjoining property line, and a row of evergreens are planted along east property line as far north as the garage. The remaining five acres consists of a pond on the northeast corner, some other outbuildings along the west side of the lot. The sewage lagoon is located near the center of the lot.

The surrounding property is developed with single-family homes on 5+ acre tracts zoned "SF-20".

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-20" zoning district. As per the Unified Zoning Code, the "Conditional Use" requirements for accessory apartments stipulate the following:

(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 request meets these requirements.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-20"	Single-family residences
SOUTH:	"SF-20"' "RR"	Single-family residences

EAST:	"SF-20"	Single-family residences
WEST:	"SF-20"	Single-family residences

PUBLIC SERVICES: Access to this site is off of 44th Street South, an unimproved residential street with 70 feet of right-of-way. The site is connected to the rural water district and has a private sewage lagoon for sewage disposal.

CONFORMANCE TO PLANS/POLICIES: The 2001 Sedgwick County Development Guide Land Use Guide of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* designates this area as "rural".

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 (attached) 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 by the appropriate governing body.

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 Article VII hereof, 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 surrounding zoning is "SF-20" Single-family, on large suburban tracts five acres or more in size. Many of the homes have extensive evergreen screening between lots or along the street. Even with the addition of an accessory apartment within an existing

garage, the character of the use of this tract will be similar to those of the surrounding properties.

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-20" provided the applicant and the site meet the specified criteria. The applicant and the site appear to meet these 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 effect should be minimized by the large size of the lot. 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-20". This application appears to comply 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.