CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

June 23, 2014

Michael Tracy
1706 Tiara Pines Drive
Derby, KS, 67037

REF: CON2014-00018 - County request for a Conditional Use to permit a temporary accessory apartment (for medical reasons) on SF-20 Single-family Residential zoned property generally located two blocks west of Broadway Avenue, midway between 79th and 87th Streets South, on the northwest corner of Nicole and Katherine Streets.

Dear Applicant

At its regular meeting on **June 19, 2014**, the Wichita - Sedgwick County Metropolitan Area Planning Commission (MAPC) considered the above captioned request. The action of the MAPC was to recommend APPROVAL subject to the following conditions:

(1) The temporary accessory apartment (a single-wide manufactured home located on Lot 1, Block F, Cain Orchard 2nd Addition) shall remain accessory to and under the same ownership as the principal single-family residence (located on Lot 17, Kirby Addition) and the ownership shall not be divided or sold as a condominium. Provided a covenant, with original signatures, binding and tying Lot 1, Block F, Cain Orchard 2nd Addition and Lot 17, Kirby Addition until they are replatted as one lot or the temporary accessory apartment is removed. This must be provided to Panning for recording with the Sedgwick County Register of Deeds.

(2) The temporary accessory apartment shall remain on the site (Lot 1, Block F, Cain Orchard 2nd Addition) as a temporary accessory dwelling for the applicant's brother (Charles Tracy) as long as Mr. Tracy resides on the site (Lot 1, Block F, Cain Orchard 2nd Addition). The applicant shall report to the Metropolitan Area Building and Construction Department (MABCD) on a yearly basis, every January, the status of the occupancy of this temporary single-wide manufactured home. The temporary single-wide manufactured home shall be removed from the property within 90 days after any change in the circumstances used as a basis for the Conditional Use.



Google earth

feet 200
meters 60

CON2014-18

have the MABCD review the status of the existing sewer septic system (located on Lot 17, Kirby Addition) prior to the hook up of the proposed temporary accessory apartment (located on Lot 1, Block F, Cain Orchard 2nd Addition).

(4) 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 placing of the temporary accessory apartment within the FEMA Flood Zone.

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

(6) If the temporary accessory apartment is not in place within six (6) months of 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.

Property owners may file written protest petitions on zoning/Conditional Use related items heard by the MAPC. In order to be considered a "valid" petition, the signatures must reflect the correct and entire ownership of the property, the property must be at least partially within 1,000 feet of the property for which the application was filed, and must be submitted to the County Clerk within 14 days of the conclusion of the MAPC hearing, by **July 3, 2014, at 5 PM.** Such petitions may cause the application to be disapproved, if the land area encompassed by the protesting owners exceeds 20% of the land area within 1,000 feet of the perimeter of the application area, unless the County Commission overrides such a protest and approves the application by a vote of 4 of its members. If there are no protests to the Conditional Use the recommendation by the MAPC is final. If there are protests this case will be scheduled for final action by the County Commission at their **July 23, 2014, meeting as a non-consent item.**

This letter is also to inform you that because you have chosen to abide by the conditions approved by the Haysville Planning Commission, you will not have to reappear before the Haysville Planning Commission for reconsideration of CON2014-00018.

This is a reminder that the zoning notification signs should now be removed from the property. If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

Bill Longnecker
Senior Planner - Current Plans Division

BL/mc

Cc: Haysville City Hall, c/o Zach McHatton, 200 W. Grand, PO Box 404, Haysville, KS, 67060
Tim Norton, BoCC #2, County Mail Stop Room 320
Bob Parnacott, County Law, County Mail Stop, Room 359
Jim Weber, County Public Works, 1144 S Seneca, Wichita KS 67213
MABCD, c/o Kelly Dixon, 1144 S Seneca, Wichita, KS, 67213

CONDITIONAL USE RESOLUTION NO. CON2014-00018

WHEREAS, the Michael Tracy Revocable Living Trust, c/o Michael Tracy (owner); 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 a "Temporary Accessory Apartment" specifically for medical reasons on an approximately 1.54-acre property zoned SF-20 Single-Family Residential ("SF-20"), described as:

Lot 1 EXCEPT beginning 210 feet West of the Northeast corner; thence Southwest 49.10 feet to the West line; thence Northerly 33.26 feet to the Northwest corner; thence East to the beginning, Block F, Cain Orchard 2nd Addition* & Lot 17, Kirby Addition, Sedgwick County, Kansas; generally located two blocks west of Broadway Avenue, midway between 79th and 87th Streets South, on the northwest corner of Nicole and Katherine Streets.

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 June 19, 2014, 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 a "Temporary Accessory Apartment" specifically for medical reasons on an approximately 1.54-acre property zoned SF-20 Single-Family Residential ("SF-20"), described as:

Lot 1 EXCEPT beginning 210 feet West of the Northeast corner; thence Southwest 49.10 feet to the West line; thence Northerly 33.26 feet to the Northwest corner; thence East to the beginning, Block F, Cain Orchard 2nd Addition* & Lot 17, Kirby Addition, Sedgwick County, Kansas; generally located two blocks west of Broadway Avenue, midway between 79th and 87th Streets South, on the northwest corner of Nicole and Katherine Streets.

Approved subject to the following conditions:

(1) The temporary accessory apartment is a single-wide manufactured home located on the above described portion of Lot 1, Block F, Cain Orchard 2nd Addition*. It shall remain accessory to and under the same ownership as the principal single-family residence located on Lot 17, Kirby Addition and the ownership shall not be divided or sold as a condominium.

(2) Provided a covenant, with original signatures, binding and tying the above described portion of Lot 1, Block F, Cain Orchard 2nd Addition* and Lot 17, Kirby Addition until they are replatted as one lot or the temporary accessory apartment is removed. This must be provided to Panning for recording with the Sedgwick County Register of Deeds.

(3) The temporary accessory apartment shall remain on the above described portion Lot 1, Block F, Cain Orchard 2nd Addition* (site) as a temporary accessory dwelling for the applicant's brother (Charles Tracy) as long as the uncle resides on the site. The applicant shall report to the Metropolitan Area Building and Construction Department (MABCD) on a yearly basis, every January, the status of the occupancy of this temporary accessory apartment. The temporary accessory apartment shall be removed from the site within 90 days after any change in the circumstances used as a basis for the

Conditional Use.

(4) The water and sewer service provided to the temporary accessory apartment shall not be provided as separate services from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services. The applicant shall have the MABCD review the status of the existing sewer septic system (located on Lot 17, Kirby Addition) prior to the hook up of the proposed temporary accessory apartment (located on the above described portion of Lot 1, Block F, Cain Orchard 2nd Addition*).

(5) The owner 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 placing of the temporary accessory apartment within the FEMA Flood Zone.

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

(7) If the temporary accessory apartment is not in place within six (6) months of 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 19th day of June 2014.

METROPOLITAN AREA PLANNING COMMISSION

Don Klausmeyer

Don Klausmeyer, Chair MAPC

ATTEST:

John L. Schlegel, Secretary

AGENDA ITEM NO. 4

WICHITA–SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

STAFF REPORT

MAPC June 5, 2014
Haysville May 22, 2014

CASE NUMBER: CON2014-00018

APPLICANT/OWNER: Michael Tracy (applicant/owner)

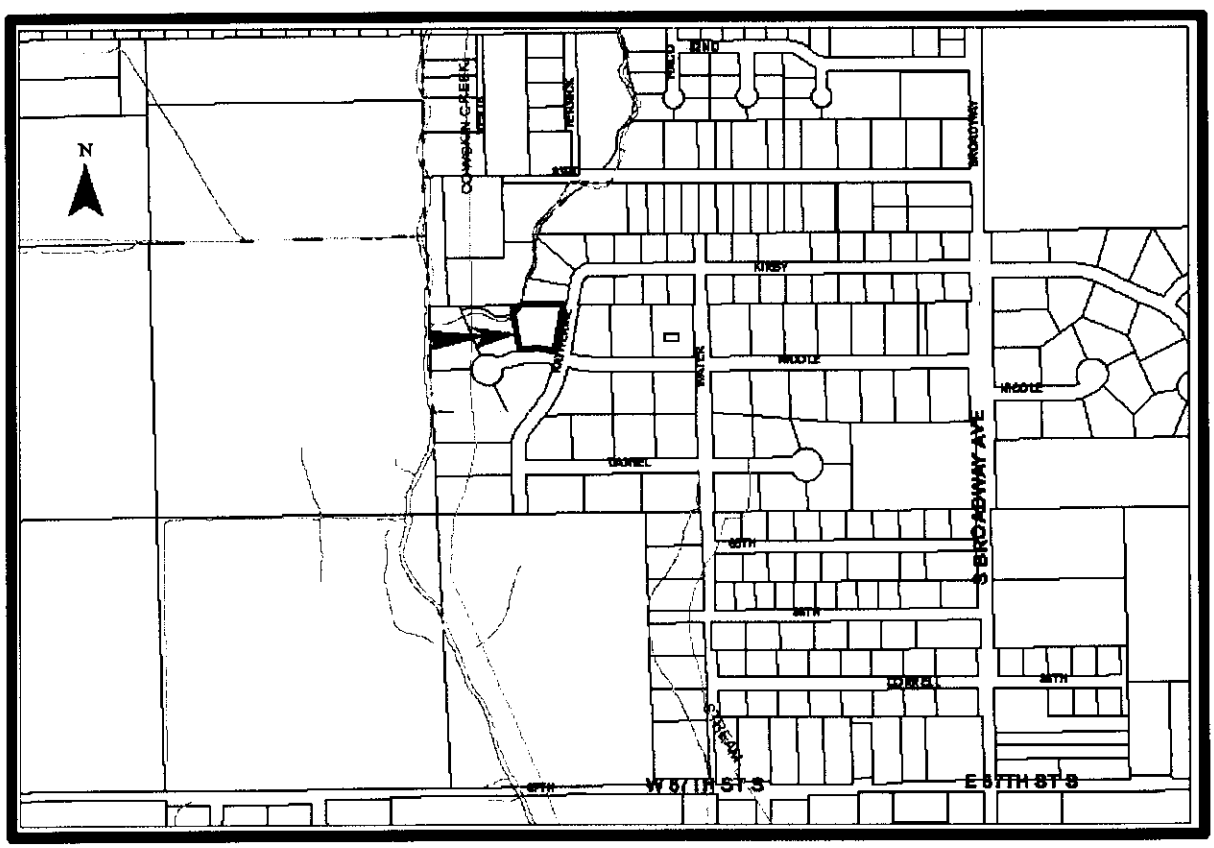
REQUEST: Conditional Use request for a temporary manufactured home/accessory apartment

CURRENT ZONING: SF-20 Single-Family Residential

SITE SIZE: Approximately 1.53-acres

LOCATION: Generally located two blocks west of Broadway Avenue, midway between 79th and 87th Streets South, on the northwest corner of Nicole and Katherine Streets (BoCC #2)

PROPOSED USE: Temporary accessory apartment for elderly family member with medical needs



BACKGROUND: The applicant is requesting a Conditional Use for a temporary manufactured home/accessory apartment (temporary accessory apartment), specifically a single-wide manufactured home, to assist with the care of elderly family members with medical needs. The applicant has provided an attached letter from a physician testifying to the medical needs of the applicant's brother who will be occupying the temporary accessory apartment; Exhibit A. The applicant has also provided an attached statement giving his reason for requesting the temporary accessory apartment in regards to the health of the brother ('disabled family member') and his mother; Exhibit B. The platted 1.53-acre SF-20 Single-Family Residential (SF-20) zoned subject site is located south of 83rd Street South, two blocks west of Broadway Avenue, on the northwest corner of Nicole and Katherine Streets. The Sedgwick County site is located within Haysville's Zoning Area of Influence.

Per the Unified Zoning Code (UZC, Sec.III-D.6.l.(3)), the placement of an accessory manufactured home on a residentially zoned lot located within the unincorporated portion of Sedgwick County may be permitted on a temporary basis, as a Conditional Use in accordance with the UZC, Sec.V-D (required review procedures for a Conditional Use), subject to the following conditions and requirements.

(a) The location of the manufactured home shall conform to all Setback requirements of the zoning district in which located.

(b) The lot area for the manufactured home need not comply with the area requirements of the zoning district, provided that the unit is connected to a public water supply and a municipal-type sewer system. If the property is not served by a public water supply and municipal type sewer system, the minimum lot area shall be determined by the County Health Department.

(c) The unit shall comply with all of the standards of the UZC, Secs.III-D.6.l(1) and III-D.6.l(2); manufactured homes in the County, Standards and Exceptions.

(d) The applicant shall show due cause that hardship exists and that the hardship cannot reasonably be alleviated without the granting of the Conditional Use.

(e) The Planning Commission shall determine a reasonable time limit for each individual case. The manufactured home shall be removed from the property within 90 days after any change in the circumstances used as a basis for the Conditional Use.

The applicant owns the subject site as well as the abutting north property; Lot 1, Block F, Cain Orchard 2nd Addition and Lot 17, Kirby Addition. The applicant's mother lives on the abutting north property. In 2013 a garage was built on the subject site. Common ownership of the above abutting lots allowed the construction of the garage on the subject site as an accessory structure to the single-family residence located on the abutting north property. The common ownership allows the consideration of the Conditional Use request. The applicant's site plan is an aerial with the footprint of a 'single wide' manufactured home of undetermined size.

The County subject site is located in an SF-20 zoned single-family residential neighborhood with lots ranging from -/+ a half-acre to an acre and a half. It is not unusual to see small stables with horses in the neighborhood. The immediate single-family residential neighborhood is developed with a mix of predominately residential designed manufactured homes and stick frame houses (built late 1940s-1960s). All the abutting and closest adjacent properties are developed with residential designed manufactured homes. RR Rural Residential zoned agricultural lands are located approximately 390 feet west and 2,000 feet east (across Broadway Avenue) of the subject site.

CASE HISTORY: The subject site, developed with a garage, is Lot 1, Block F, Cain Orchard 2nd Addition. The Cain Orchard 2nd Addition was recorded with the Sedgwick County Register of Deeds March 8, 1982. The abutting north property, developed with a residential designed manufactured home, is Lot 17, Kirby Addition. The Kirby Addition was recorded with the Sedgwick County Register of Deeds July 21, 1955.

This case was considered at the May 22, 2014, Haysville Planning Commission meeting and was approved with six conditions. There were no protests at the Haysville Planning Commission meeting.

ADJACENT ZONING AND LAND USE:

NORTH: SF-20	Single-family residences
SOUTH: SF-20	Single-family residences
WEST: SF-20	Single-family residences
EAST: SF-20	Single-family residences

PUBLIC SERVICES: Nicole and Katherine Streets are dirt and gravel residential streets. The nearest access to a paved road is Broadway Avenue, located approximately 1,920 feet east of the subject site. Broadway Avenue is a two-lane arterial at this location. The single-family residence located on the abutting north property is served by a lagoon for sewage and a well for water; it is outside of all Rural Water Districts. All other utilities are available.

CONFORMANCE TO PLANS/POLICIES: The "2030 Land Use Guide of the Comprehensive Plan" (Plan) identifies the SF-20 zoned site as being in the Haysville (Small City) 2030 Urban Growth Area. The Small City Urban Growth Area indicates the reasonable direction of the small cities' growth. The site's SF-20 zoning is a reflection of much of the existing single-family residential development that was in place prior to the 1984 establishment of County wide zoning. The SF-20 zoning district allows single-family residential use. A Conditional Use application/request is required for consideration of a temporary accessory apartment in the SF-20 zoning district. A Conditional Use for a temporary accessory apartment in the SF-20 zoning district has supplemental conditions that are required.

The August 2012, "Haysville Comprehensive Plan's Land Use Plan Map" shows the site as "Residential." There is no specific language defining Residential in the Haysville Comprehensive Plan, although there is a page identifying suburban development in Haysville's Planning Area. Suburban development is referenced as platted lots or tracts ranging in size from one (1) to 20-acres and notes their potential impact on future urban growth patterns and the possibility of removing prime agricultural land. The proposed temporary accessory apartment would not seem to be in conflict with the Haysville's Residential category. The site and the area around it are located within a FEMA Flood Zone.

The site is located within the Haysville's Zoning Area of Influence and as such the Haysville Planning Commission will consider CON2014-00018 at prior to the June 5, 2014 MAPC meeting; UZC,Sec.V-B.4.d. If the Haysville Planning Commission recommends denial before the June 5, 2014, MAPC meeting and the MAPC recommends approval, CON2014-00018 will proceed to the Sedgwick County Board of County Commissioners (BoCC/Governing Body) for final action; UZC, Sec.V-D.6. It takes a unanimous vote of all of the BoCC members to overturn the small city's recommendation of denial; UZC, Sec.V-D.9. If the Haysville Planning Commission recommends approval and the MAPC recommends denial of the request, the applicant may appeal the MAPC's denial to the BoCC. A two-thirds majority of the BoCC is required to overturn the MAPC's recommendation.

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

(1) The temporary accessory apartment (a single-wide manufactured home located on Lot 1, Block F, Cain Orchard 2nd Addition) shall remain accessory to and under the same ownership as the principal single-family residence (located on Lot 17, Kirby Addition) and the ownership shall not be divided or sold as a condominium. Provided a covenant, with original signatures, binding and tying Lot 1, Block F, Cain Orchard 2nd Addition and Lot 17, Kirby Addition until they are replatted as one lot or the temporary accessory apartment is removed. This must be provided to Panning for recording with the Sedgwick County Register of Deeds.

(2) The temporary accessory apartment shall remain on the site (Lot 1, Block F, Cain Orchard 2nd Addition) as a temporary accessory dwelling for the (Charles Tracy) and/or the applicant's elderly mother as long as

the disabled uncle and/or the elderly mother resides in either the site (Lot 1, Block F, Cain Orchard 2nd Addition) and/or the abutting north property (Lot 17, Kirby Addition. The applicant shall report to the Metropolitan Area Building and Construction Department (MABCD) on a yearly basis, every January, the status of the occupancy of this temporary single-wide manufactured home. The temporary single-wide manufactured home shall be removed from the property within 90 days after any change in the circumstances used as a basis for the Conditional Use.

(3) The water and sewer service provided to the temporary accessory apartment shall not be provided as separate services from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services. The applicant shall have the MABCD review the status of the existing sewer septic system (located on Lot 17, Kirby Addition) prior to the hook up of the proposed temporary accessory apartment (located on Lot 1, Block F, Cain Orchard 2nd Addition).

(4) 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 placing of the temporary accessory apartment within the FEMA Flood Zone.

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

(6) If the temporary accessory apartment is not in place within six (6) months of 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 single-family residential neighborhood with lots ranging from -/+ a half-acre to an acre and a half. It is not unusual to see small stables with horses in the neighborhood. The immediate single-family residential neighborhood is developed with a mix of predominately residential designed manufactured homes and stick frame houses (built late 1940s-1960s). All the abutting and closest adjacent properties are developed with residential designed manufactured homes. RR Rural Residential zoned agricultural lands are located approximately 390 feet west and 2,000 feet east (across Broadway Avenue) of the subject site.

(2) **The suitability of the subject property for the uses to which it has been restricted**: The vacant subject site is currently zoned SF-20. The SF-20 zoning permits a single-family residence. The proposed temporary manufactured home/accessory apartment requires approval of a Conditional Use

(3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** This appears to be the first request for a temporary manufactured home/accessory apartment in this neighborhood. The proposed temporary manufactured home/accessory apartment is a single-wide manufactured home, of an undermined size. The proposed temporary manufactured home/accessory apartment will not be on the same lot as the principle residence, as required by the UZC; Lot 1, Block F, Cain Orchard 2nd Addition and Lot 17, Kirby Addition. However, County Law has opinioned that the applicant's ownership of both of the (abutting) lots, allows the consideration of the Conditional Use request. The UZC requires that water sewer for the proposed temporary manufactured home/accessory apartment on the same line as the principle residence, which makes it harder to sell the temporary manufactured home/accessory apartment as a separate unit. Staff's recommendation of the applicant providing a covenant, with original signatures, binding and tying Lot 1, Block F, Cain Orchard 2nd Addition and Lot 17, Kirby Addition until

they are replatted as one lot or the temporary manufactured home/accessory apartment is removed, further insures the that the two living units remain under one ownership.

(4) **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Denial of the request could impose a hardship on the owner of the properties in regards to helping provide medical care for elderly family members suffering from declining health.

(5) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The "2030 Land Use Guide of the Comprehensive Plan" (Plan) identifies the SF-20 zoned site as being in the Haysville (Small City) 2030 Urban Growth Area. The Small City Urban Growth Area indicates the reasonable direction of the small cities' growth. The site's SF-20 zoning is a reflection of much of the existing single-family residential development that was in place prior to the 1984 establishment of County wide zoning. The SF-20 zoning district allows single-family residential use. A Conditional Use application/request is required for consideration of a temporary accessory apartment in the SF-20 zoning district. A Conditional Use for a temporary accessory apartment in the SF-20 zoning district has supplemental conditions that are required.

The August 2012, "Haysville Comprehensive Plan's Land Use Plan Map" shows the site as "Residential." There is no specific language defining Residential in the Haysville Comprehensive Plan, although there is a page identifying suburban development in Haysville's Planning Area. Suburban development is referenced as platted lots or tracts ranging in size from one (1) to 20-acres and notes their potential impact on future urban growth patterns and the possibility of removing prime agricultural land. The proposed temporary accessory apartment would not seem to be in conflict with the Haysville's Residential category. The site and the area around it are located within a FEMA Flood Zone. This requires review and approval by the MABCD for the placing of the temporary accessory apartment within the FEMA Flood Zone

The site is located within the Haysville's Zoning Area of Influence and as such the Haysville Planning Commission di9d consider CON2014-00018 prior to the June 5, 2014 MAPC meeting; UZC,Sec.V-B.4.d

(6) **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.