CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

May 19, 2008

Perry Duncan
5901 South Webb Road
Derby, KS 67037

RE: CON2008-00010 – County Conditional Use request to permit an accessory apartment on property zoned "RR" Rural Residential, generally located approximately ½ mile south of the intersection of South Webb Road and East 55th Street South (5901 South Webb Road), Sedgwick County.

Dear Ladies and Gentlemen:

At its regular meeting on **May 14, 2008**, the Board of County Commissioners considered the above-captioned request. The action of the BoCC was to **APPROVE** the request subject to the conditions stated in the enclosed resolution.

If you have any questions concerning this case please contact our office at 268-4421.

Sincerely,

Derrick K. Slocum
Associate Planner
Current Plans Division

DKS:mc
Enclosure

Copies to: Jenelle and Kenneth Koftan, 5810 S. Webb, Derby, KS 67037
Bill Buchanan, County Manager, Mail Stop County Room #343
Gwen Welshimer, BOCC V, Mail Stop County Room #320
Bob Parnacott, County Law Dept., Mail Stop County Room 359
Glen Wiltse, County Code Enforcement, 1144 S. Seneca, Wichita, KS, 67213
Jim Weber, County Public Works, 1144 S. Seneca, Wichita, KS 67213

74-08

RESOLUTION NO 74-08

A RESOLUTION FOR A CONDITIONAL USE FOR AN ACCESSORY APARTMENT ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D AS ADOPTED BY RESOLUTION NO. 84-01, AS SUBSEQUENTLY AMENDED.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS

SECTION I. That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-D of the Wichita Sedgwick County Unified Zoning Code, a Conditional Use for an Accessory Apartment on 8-acres of property zoned RR Rural Residential ("RR") describe as:

Case No. CON 2008-00010

Beginning at the Southeast corner of the Northeast Quarter; thence West 523.95 feet; thence North 665.08 feet; thence East 523.95 feet; thence South 665.21 feet to beginning, Section 29, Township 28, Range 2 East of the 6th P.M., Sedgwick County, Kansas.

Generally located approximately ½ mile south of the intersection of South Webb Road and East 55th Street South.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. The accessory apartment shall only be used for immediate family members.

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

3. Development and maintenance of the site shall be in conformance with the approved site plan and Unified Zoning Code Standards.

4. If operations have not begun within one year of approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

SECTION II. That upon the taking effect of this Resolution, the notation of such Conditional Use shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director of the Wichita-Sedgwick County Metropolitan Area Planning Department.

SECTION III. That this Resolution shall take effect and be in force from and after its adoption by the Governing Body.

Commissioners present and voting were:

DAVID M. UNRUH	aye
TIM R. NORTON	absent
KELLY PARKS	aye
GWEN WELSHIMER	aye
THOMAS G. WINTERS	aye

DATED this 14th day of May, 2008

BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS

Thomas G. Winters, CHAIRMAN
Third District

ATTEST:

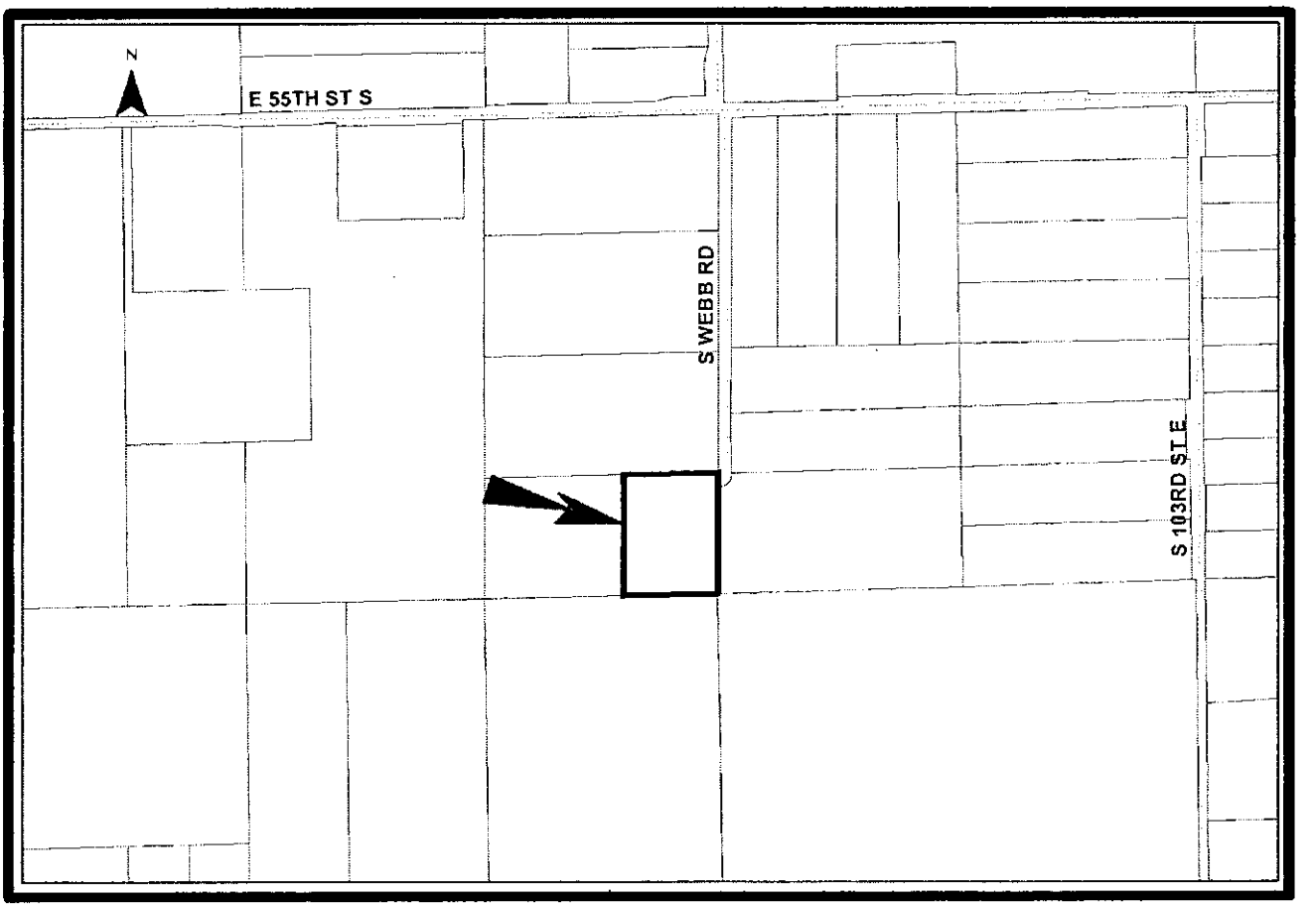
DON BRACE
County Clerk

APPROVED AS TO FORM ONLY:

ROBERT W. PARNACOTT
Assistant County Counselor

AGENDA ITEM REQUEST

Proposed Agenda Item:	CON2008-00010 Sedgwick County Conditional Use for an accessory apartment. Generally located approximately ½ mile south of the intersection of South Webb Road and East 55th Street South. (District 5)
Presented By:	John L. Schlegel, Planning Director JLS
Recommended Action:	Approve the Conditional Use, subject to the conditions recommended by the Metropolitan Area Planning Commission (MAPC), adopt the findings of the MAPC and authorize the Chairman to sign the prepared resolution.
Proposed Agenda Date:	May 14, 2008
Outside Attendees:	Perry Duncan (Applicant)
Multimedia Presentation:	Powerpoint
Donations:	Not applicable



Background: The applicant seeks a Conditional Use to permit an "accessory apartment" at 5901 South Webb Road, an unplatted lot containing 8 acres. The site is developed with a residence served by lagoon and both well and rural water. The applicant proposes to install an accessory apartment in a portion of a bigger building which will be detached from the principal structure, which will be tied into the same water and septic system as the primary structure. The accessory structure is to be located approximately 120 feet south and east of the principal structure, which is approximately 2,900 square feet in size, and complies with applicable setbacks. See the attached site plan for more details.

The application area is located southeast of the city, in the county, approximately four miles west of the Sedgwick County / Butler County line and less than a mile east of the Derby city limits. The site is surrounded by large lot residential/agricultural uses. All adjoining property is zoned "RR" Rural Residential.

Analysis: The Derby Planning Commission considered this request at their April 3, 2008 meeting. There were a couple individuals that spoke against the proposed accessory apartment at the Derby meeting. Their issues with the proposed accessory apartment included keeping the integrity of the rural residential area, the property becoming a rental property, increased traffic and not being able to control who moves in as renters. There were just two people who spoke in opposition to the request but they had petitions from other surrounding neighbors. A motion was made to approve the Conditional Use, which passed 9-1.

The MAPC considered the Conditional Use request at their April 10, 2008 meeting and recommended (10-2) approval with the conditions recommended by Staff and the additional condition that the accessory apartment shall not be rented out for profit and shall only be used for immediate family members. The MAPC's recommended conditions of approval are:

1. The accessory apartment shall only be used for immediate family members.

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

3. Development and maintenance of the site shall be in conformance with the approved site plan and Unified Zoning Code Standards.

4. If operations have not begun within one year of approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

The same people who spoke at the Derby Planning Commission spoke against the request at the MAPC meeting. The applicant spoke in favor of the accessory apartment during the MAPC meeting. During the subsequent two-week protest period following the MAPC meeting, Staff received protest within the 1,000-foot County protest area. These protests equal 49.1% of the total land area, which is more than the 20% requiring a ¾ majority vote by the Commission to override neighborhood protest.

neighborhood protest.

Alternatives:

1. Approve the Conditional Use, subject to the conditions recommended by the Metropolitan Area Planning Commission (MAPC), adopt the findings of the MAPC and authorize the Chairman to sign the prepared resolution (A three-fourths majority vote is required.)
2. Deny the application, by making alternative findings, and override the MAPC recommendation. (A two-thirds majority vote is required.)
3. Return the case to the MAPC for further consideration with a statement specifying the basis for the BoCC's failure to approve or deny the application. (Simple majority vote is required.)

Financial Considerations: None.

Policy Considerations: The MAPC recommendation for approval is based on the findings found in the MAPC minutes.

Legal Considerations:  ***Approved as to form and signed by County Counselor's Office***



5901 S WEBB RD

dgwick County, Kansas

It is understood that the Sedgwick County GIS Division of Information and Operations have no indication and reason to believe that there are inaccuracies in information incorporated in the base map.

The GIS personnel make no warranty or representation, either expressed or implied, with respect to the information or the data displayed.

Note: Public property represented on this map is not intended to be inclusive.