



**Wichita-Sedgwick County Metropolitan Area Planning Department**

April 25, 2012

Connie Brauer  
36706 W. 39<sup>th</sup> Street South  
Cheney, KS 67025

**RE:CON2012-08** - County Conditional Use request for an accessory apartment on property zoned RR Rural Residential; generally located west of South 359<sup>th</sup> Street West, on the north side of West 39<sup>th</sup> Street South (36706 West 39<sup>th</sup> Street South).

Dear Applicants:

At its regular meeting on **April 5, 2012**, 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 conditions on the attached resolution.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Jess McNeely'.

Jess McNeely, AICP  
Senior Planner  
Current Plans Division

JM:mc  
Attachment

Copies to: BCOC 3, Karl Peterjohn, Mail Stop County, Room 320  
Bob Parnacott, County Attorney, Mail Stop County Room 359  
Cheney City Hall, 100 W 1<sup>st</sup> Box 1, Cheney, KS 67025  
Kelly Dixon, County Code Enforcement, 1144 S Seneca, Wichita, KS, 67213  
Jim Weber County Public Works, 1144 S Seneca, Wichita, KS, 67213

CONDITIONAL USE RESOLUTION NO. CON2012-08

**WHEREAS**, Connie Brauer (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 an Accessory Apartment on approximately 9.84 acres zoned RR Rural Residential ("RR"), described as:

The S 675 FT W 675 FT SE1/4 EXC RD ON SSEC 9-28-4W, Sedgwick County, Kansas; generally located west of South 359<sup>th</sup> Street West, on the north side of West 39<sup>th</sup> Street South (36706 West 39<sup>th</sup> Street South).

**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 5, 2012, 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 9.84 acres zoned RR Rural Residential ("RR"), described as:

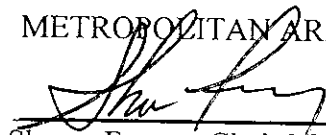
The S 675 FT W 675 FT SE1/4 EXC RD ON SSEC 9-28-4W, Sedgwick County, Kansas; generally located west of South 359<sup>th</sup> Street West, on the north side of West 39<sup>th</sup> Street South (36706 West 39<sup>th</sup> Street South).

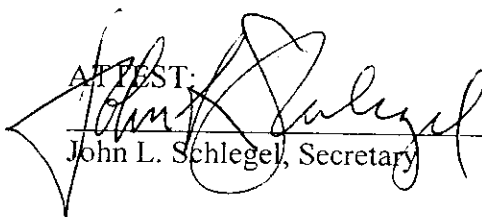
Approved subject to the following conditions:

1. The accessory apartment shall be subject to all requirements of Art III, Sec III-D.6.a of the Unified Zoning Code (UZC) for accessory apartments.
2. The accessory apartment shall be complete within one year of Conditional Use approval, unless such time is extended by the MAPC.
3. The site will be developed as shown on an approved site plan, obtaining and conforming to all applicable permits, including but not limited to building, health, and zoning, including connection to water and sewer.
4. 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 5<sup>th</sup> day of April 2012.

METROPOLITAN AREA PLANNING COMMISSION

  
Shawn Farney, Chair MAPC

ATTEST:  
  
John L. Schlegel, Secretary

## STAFF REPORT

MAPC April 5, 2012

Cheney Planning Commission March 19, 2012

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CASE NUMBER: CON2012-00008

APPLICANT/AGENT: Connie Brauer (owner)

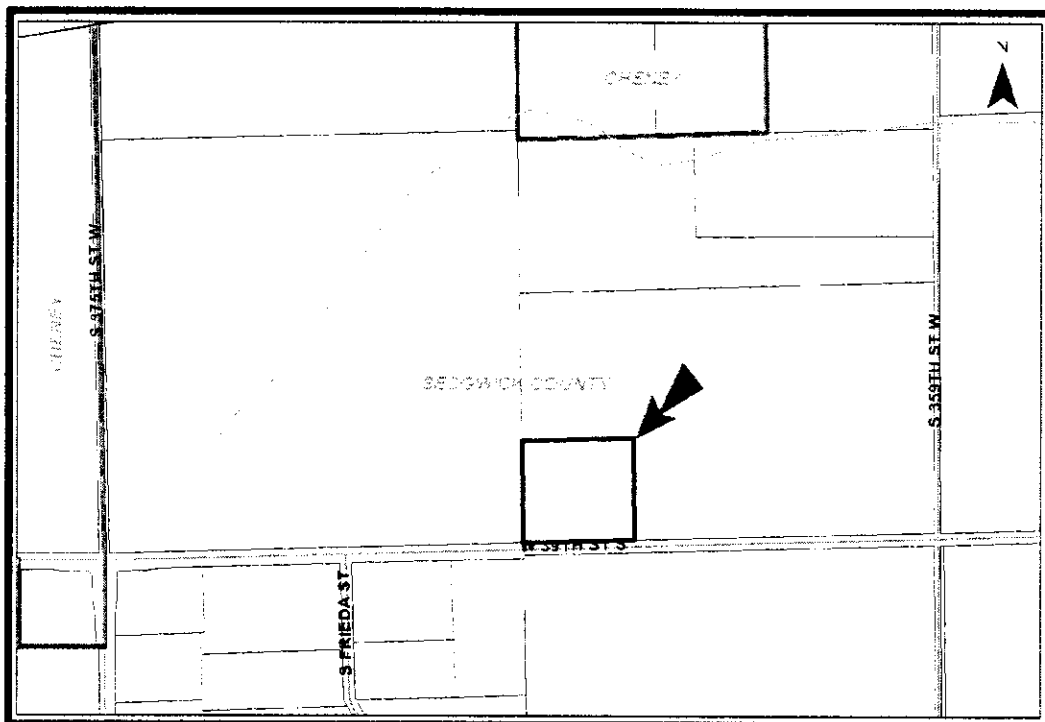
REQUEST: Conditional Use for an Accessory Apartment

CURRENT ZONING: RR Rural Residential (“RR”)

SITE SIZE: 9.84 acres

LOCATION: West of South 359<sup>th</sup> Street West, on the north side of West 39<sup>th</sup> Street South (36706 West 39<sup>th</sup> Street South)

PROPOSED USE: Accessory apartment (second dwelling unit on unplatted tract)



**BACKGROUND:** The applicant requests a Conditional Use to allow an “accessory apartment” on unplatted property located west of South 359<sup>th</sup> Street West, on the north side of West 39<sup>th</sup> Street South (36706 West 39<sup>th</sup> Street South). The applicant proposes to finish a building on the site, creating a second dwelling unit. The 9.84-acre site is zoned RR Rural Residential (“RR”) and is located within the City of Cheney zoning area of influence. The subject site is one quarter mile south and east of Cheney City limits.

The site plan submitted by the applicant shows the accessory apartment north of the primary dwelling on site, and north of most of the outbuildings on the site. Therefore, the accessory apartment will be partially screened from public view on 39<sup>th</sup> Street South by other buildings on the property. All property surrounding the subject site is zoned RR and is in agricultural use with some farmsteads. Seventeen tracts developed with single-family residences exist southwest of the site, across 39<sup>th</sup> Street South; each of these tracts is between five and ten acres in size.

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

**CASE HISTORY:** The property is in the rural area of the county and is currently unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH:	RR	Agriculture, farmsteads
SOUTH:	RR	Agriculture, farmsteads, large-lot single-family residences
EAST:	RR	Agriculture, farmsteads
WEST:	RR	Agriculture, farmsteads

**PUBLIC SERVICES:** The property has on-site water and sewer. The Zoning Code requires that accessory apartments connect to the same water and sewer at the primary residence. The applicant will be required to demonstrate to County Code Enforcement that water and sewer capacity is adequate on site to complete the permitting process. The site is located on a paved section-line road with an 80-foot right-of-way.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide, Map as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County*

*Comprehensive Plan* identifies this area as within the “Small City 2030 Urban Growth Area” for Cheney.

The policies of the UZC 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’s hook-up. An accessory apartment is typically viewed as a compatible use to a single-family residence, as long as there is enough land area and services can be provided for the additional dwelling unit. The proposed accessory apartment must be smaller than the primary residence. An accessory apartment must remain under single ownership and cannot be subdivided off of the subject site and sold off. The condition of the accessory apartment being on the same water and sewer assures that it will not be subdivided and sold off.

**RECOMMENDATION:** Based upon the 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 Art III, Sec III-D.6.a of the Unified Zoning Code (UZC) for accessory apartments.
2. The accessory apartment shall be complete within one year of Conditional Use approval, unless such time is extended by the MAPC.
3. The site will be developed as shown on an approved site plan, obtaining and conforming to all applicable permits, including but not limited to building, health, and zoning, including connection to water and sewer.
4. 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.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** All property surrounding the subject site is zoned RR and is in agricultural use with some farmsteads. Seventeen tracts developed with single-family residences exist southwest of the site, across 39<sup>th</sup> Street South; each of these tracts is between five and ten acres in size.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned RR, which accommodates agricultural uses, low-density single-family residential development and complementary land uses. The site is developed with a single-family residence and accessory buildings, and could continue to be used as currently restricted.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Provided that the proposed accessory apartment meets all applicable codes

and requirements, it should have no significant impact on the surrounding farmsteads, agricultural fields and nearby residences.

4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2030 Wichita Functional Land Use Guide, Map as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as within the “Small City 2030 Urban Growth Area” for Cheney.
5. **Impact of the proposed development on community facilities:** If developed in compliance with regulations and recommended conditions of approval, the accessory apartment should have no impact on community facilities.

