



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

July 28, 2015

Albert and Shannon Austin  
5600 S. 116th St. East  
Derby, KS, 67037

**REFERENCE: CON2015-00022** – County Condition Use for an accessory apartment on RR Rural Residential zoned property located east of Greenwich Road, at the southeast corner of 55<sup>th</sup> Street South and 116<sup>th</sup> Street East (5600 E. 116th St.)

Dear Applicant:

At its regular meeting on July 23, 2015, the Wichita - Sedgwick County Metropolitan Area Planning Commission (MAPC) considered the above captioned request. The action of the MAPC was to APPROVE the request, subject to the following conditions:

1. The Conditional Use permits one single-family accessory apartment on the site. The site shall be developed and maintained in general conformance with the approved site plan and in conformance with all applicable regulations, including but not limited to building, fire, environmental, and utility regulations or codes.
2. The applicant shall conform to Art. III.Sec.III-D.6.a.1-4, with the exception that: (a) the exterior appearance of the detached metal building will remain as it is a result of the conversion of 1,040-square feet of the 2,660-square foot detached metal accessory building into an accessory apartment, with exception of additional windows and doors, and; (b) if the proposed accessory apartment's water is supplied by RWD #3, a separate meter may be provided for the proposed accessory apartment.
3. A covenant will be filed with the Register of Deeds stating that the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium.
4. The accessory apartment will be completed within one year of approval by the applicable governing body or it will declared null and void.
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.

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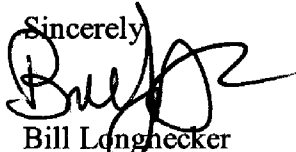
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Property owners may file written protest petitions on zoning related items heard by the MAPC. In order to be considered a “valid” petition, the signatures must reflect the correct and entire ownership of the property, the property must be at least 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 August 6, 2015, 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 Board of County Commissioners overrides such a protest and approves the application by a vote of four (4) of its members.

If there are no protest to the request the recommendation of the MAPC is final. On July 22, 2015, the Derby Planning Commission approved the request with the conditions that were approved by the MAPC, which eliminates conflict in the recommendation. If appeals or protest petitions are filed against the request, your application will be forwarded to the Wednesday, August 19, 2015, Board of County Commissioner meeting as a non-consent item for final action. This meetings will be at 9 AM, the Sedgwick County Court House, 3<sup>rd</sup> Floor, 525 N. Main Street.

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

BL: mc

Copies to: Southwestern Remodeling, 134 N. Elizabeth, Wichita, KS, 67203

James Howell, BoCC #5, County Mail Stop Rm 320

Robert Parnacott, County Law, County Mail Stop Rm 359

Derby City Hall, c/o Cody Bird, 611 Mulberry, Derby KS 67037

MABCD, Kelly Dixon, 1144 S Seneca, Wichita KS 67213

County Public Works, c/o Jim Weber, 1144 S Seneca, Wichita KS 67213



AGENDA ITEM NO. 7

**STAFF REPORT**  
MAPC July 23, 2015  
Derby Planning Commission July 16, 2015

**CASE NUMBER:** CON2015-00022

**APPLICANT/AGENT:** Albert and Shannon Austin (applicants/owners) Southwestern Remodeling (agent)

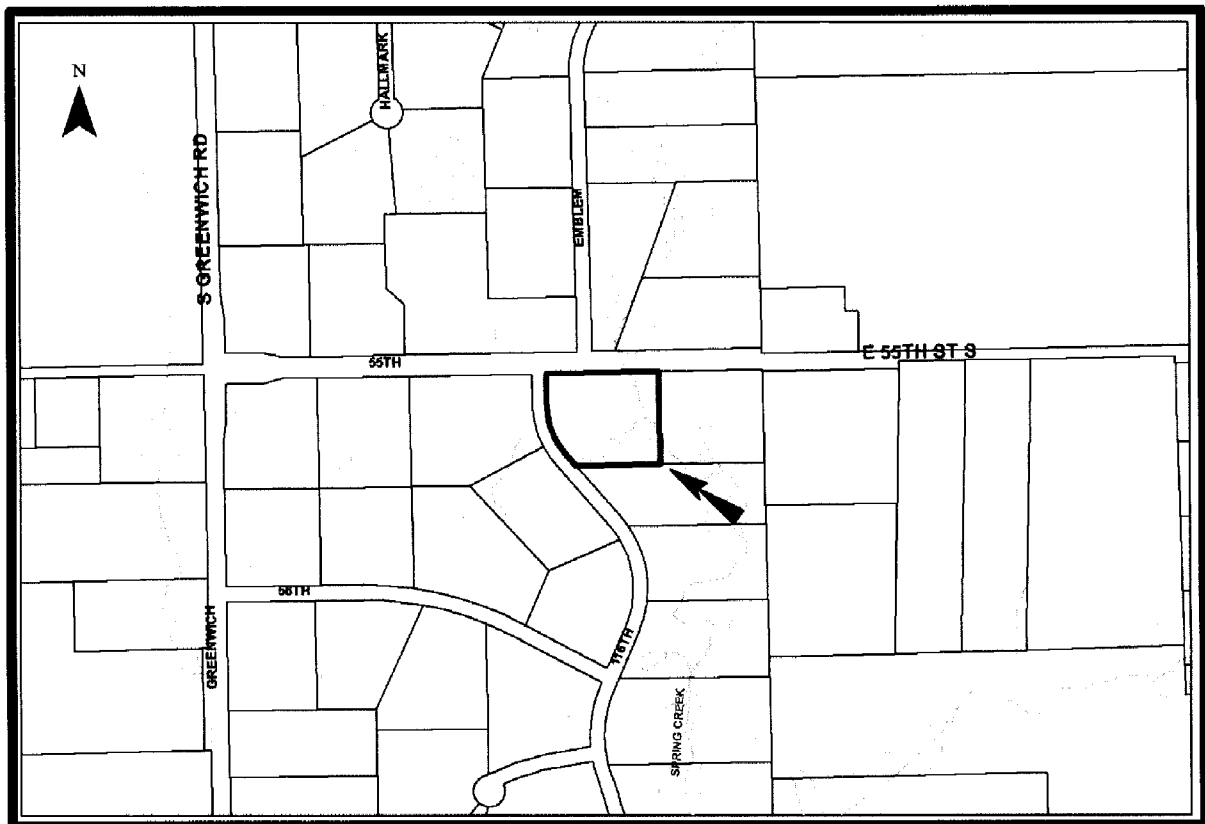
**REQUEST:** Conditional Use for an Accessory Apartment

**CURRENT ZONING:** RR Rural Residential

**SITE SIZE:** 5.14-acres

**LOCATION:** East of Greenwich Road, on the southeast corner of 55<sup>th</sup> Street South and 116<sup>th</sup> Street East

**PROPOSED USE:** Accessory Apartment for elderly parent



**BACKGROUND:** The applicants are requesting a Conditional Use for an “accessory apartment” on the 5.14-acre, unplatted RR Rural Residential zoned subject site located on the southeast corner of 55<sup>th</sup> Street South and 116<sup>th</sup> Street East. The Wichita-Sedgwick County Unified Zoning Code (UZC) defines an accessory apartment (Art.II., Sec.II-B.1.b) as: a dwelling unit that may be wholly within, or may be detached from a principal single-family dwelling unit.

The applicant’s site plan and a review of the site by staff reveals a one-story, brick and lap siding single-family residence (3,985 square-foot, built 1996) with an attached brick and lap siding garage, a detached brick and lap siding garage, a detached metal accessory building and a tennis court. Approximately 1,090-square feet of the 2,660-square foot detached metal accessory building is proposed to be converted into an accessory apartment. The site plan also shows a sewage lagoon, a pond and two existing drives, one to the primary residence off of 116<sup>th</sup> Street East and the other to the accessory apartment off of 55<sup>th</sup> Street South.

Accessory apartments are also subject to supplementary use regulation Art. III.Sec.III-D.6.a:

- (1) A maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling unit that may be within the main building, within an accessory building or constructed as an accessory apartment. *The applicant proposes to convert approximately 1,040-square feet of the 2,660-square foot detached metal accessory building into an accessory apartment.*
- (2) The appearance of an accessory apartment shall be compatible with the main dwelling unit and with the character of the neighborhood. *The interior conversion of a portion of the detached metal building into an accessory apartment will not alter the exterior appearance (with the exception additional windows and a doors being installed) of the detached metal building. The proposed conversion will not change the character of the subject site, nor will it alter the existing character of the area.*
- (3) The accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium. *A covenant will be filed with the Register of Deeds stating that the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium.*
- (4) The water and sewer service provided to the accessory apartment shall not be provided as separate service from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services. *An existing sewage lagoon will serve both the principle residence as well as the proposed accessory apartment. Water will be provided by a well.*

The site and the surrounding area is zoned RR and developed as large tract single-family residences (most built in the 1990s) served by sewage lagoons and farmland. Most of the large tract single-family residences are located between the subject site, west (and beyond) to Greenwich Road. Greenwich Road is a north-south County Highway that is paved its entire length from Sumner County to Harvey County. Spring Creek runs north to south through the area and separates the subject site from its east neighbor.

**CASE HISTORY:** The RR zoning was applied to the property when the County adopted countywide zoning in 1985.

**ADJACENT ZONING AND LAND USE:**

|        |    |                                                |
|--------|----|------------------------------------------------|
| NORTH: | RR | Farmland, large tract single-family residences |
| SOUTH: | RR | Large tract single-family residences           |
| EAST:  | RR | Farmland, large tract single-family residences |
| WEST:  | RR | Large tract single-family residences           |

**PUBLIC SERVICES:** The property utilizes a lagoon and on-site water well. 116<sup>th</sup> Street East is a sand and gravel residential road with 70 feet of full right-of-way. 55<sup>th</sup> Street South a sand and gravel section line road with 100 feet of full right-of-way.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide Map” categorizes this site as a “rural area.” Rural areas are located outside of the urban growth areas and permits uses that are no more offensive than those agricultural uses commonly found in Sedgwick County. The RR zoning district is appropriate for the rural category. A Conditional Use is required for consideration and action on an accessory apartment in the RR zoning district.

The site is located within the City of Derby’s Zoning Area of Influence. The planning commission (Derby Planning Commission) of a second or third class city shall have the authority to review and recommend to the Metropolitan Area Planning Commission (MAPC) approval, approval with conditions or modifications, or denial of applications to amend the Official Zoning Map if such application involves property within the subject city's area of influence. The recommendation must be transmitted to the MAPC on or before the scheduled date of the public hearing before the MAPC. The lack of a recommendation by the second or third class city's planning commission on or before the scheduled date of the hearing before the MAPC shall be construed as a recommendation for approval of the application or proposal; Art.VI, SecVI-D.2. The request will be considered by the Derby Planning Commission on July 16, 2015, a week before the July 23, 2015, MAPC meeting.

If a proposed Conditional Use involves property within the Zoning Area of Influence of a second or third class city in Sedgwick County, and if the planning commission of that city has recommended against the Conditional Use on or before the scheduled date of the hearing before the MAPC, approval of such Conditional Use by the Governing Body shall require a unanimous vote of all members; Art.V, SecV-D.9.

**RECOMMENDATION:** The surrounding area is developed as large tract single-family residences (most built in the 1990s) served by sewage lagoons and farmland. The application area has 5.14-acres which is more than enough room to accommodate the accessory apartment and the existing principal structure. Existing trees on the subject site and along Spring Creek, on the site’s east side, provides screening from neighboring properties. Based on information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The Conditional Use permits one single-family accessory apartment on the site. The site shall be developed and maintained in general conformance with the approved site plan and in conformance with all applicable regulations, including but not limited to building, fire, environmental, and utility regulations or codes.
2. The applicant shall conform to Art. III.Sec.III-D.6.a.1-4, with the exception that: (a) the exterior appearance of the detached metal building will remain as it is a result of the conversion of 1,040-square feet of the 2,660-square foot detached metal accessory building into an accessory apartment, with exception of additional windows and doors, and; (b) if the proposed accessory apartment’s water is supplied by RWD #3, a separate meter may be provided for the proposed accessory apartment.
3. A covenant will be filed with the Register of Deeds stating that the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium.
4. The accessory apartment will be completed within one year of approval by the applicable governing body or it will declared null and void.
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.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site and the surrounding area is zoned RR and developed as large tract single-family residences (most built in the 1990s) served by sewage lagoons and farmland. Most of the large tract single-family residences are located between the subject site, west (and beyond) to Greenwich Road.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned RR which permits primarily agricultural uses and large-tract/lot single-family residences. The property could continue to be used for one single-family residence; however, the size of the property easily accommodates an accessory apartment and the additional required parking space.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should not detrimentally impact nearby properties. The internal conversion of a portion of the detached metal accessory building into an accessory apartment will not change the appearance of the subject site (except for additional windows and doors), nor will it have a negative impact on the character of the neighborhood. The conditions of approval should minimize any anticipated detrimental impacts.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide Map" categorizes this site as a "rural area." Rural areas are located outside of the urban growth areas and permits uses that are no more offensive than those agricultural uses commonly found in Sedgwick County. The RR zoning district is appropriate for the rural category. A Conditional Use is required for consideration and action on an accessory apartment in the RR zoning district.

The site is located within the City of Derby's Zoning Area of Influence. The planning commission (Derby Planning Commission) of a second or third class city shall have the authority to review and recommend to the Metropolitan Area Planning Commission (MAPC) approval, approval with conditions or modifications, or denial of applications to amend the Official Zoning Map if such application involves property within the subject city's area of influence. The recommendation must be transmitted to the MAPC on or before the scheduled date of the public hearing before the MAPC. The lack of a recommendation by the second or third class city's planning commission on or before the scheduled date of the hearing before the MAPC shall be construed as a recommendation for approval of the application or proposal; Art.VI, Sec.VI-D.2. The request will be considered by the Derby Planning Commission on July 16, 2015, a week before the July 23, 2015, MAPC meeting.

5. Impact of the proposed development on community facilities: No significant impacts have been identified since the site will use on-site services and the addition of one home inside an existing structure will not generate enough traffic to impact the section line road.

REVISIONS

REMODELING OF RESIDENCE FOR:  
  
AUSTIN

134 N. ELIZABETH  
WICHITA, KS  
67203

PH 316.263.1239  
FX 316.263.6230

LICENSE # 752

DATE  
5-26-15

DRAWN BY  
MW

SHEET NO.  
S-1  
1 OF 3

CON 2015-22

AUSTIN SITE PLAN  
1" = 60'-0"

Since 1970  
**SOUTHWESTERN** REMODELING  
**263-1239** CONTRACTORS  
Wichita's Remodeler

