



FILE COPY

Wichita-Sedgwick County Metropolitan Area Planning Department

May 10, 2006

Jason Algya
Annmarie Algya
419 S. Crestway
Wichita, KS 67218

RE: CON2006-15 – Conditional Use for an accessory apartment on property zoned “SF-5” Single-family Residential. Generally located north of Kellogg Street, west of Oliver and southwest of the Lewis and Crestway Streets intersection. (District II)

Dear Ladies and Gentlemen:

At its regular meeting on **May 4, 2006**, the Metropolitan Area Planning Commission considered the above-captioned request. The action of the MAPC was to APPROVE the request subject to the following conditions:

1. The accessory apartment shall be subject to all requirements of Section III-D.6.a. 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. The applicant shall also provide a revised site plan within 60 days of approval of the Conditional Use, which will confirm the location of any utility easements and provide more dimension control, showing the location of the detached garage/accessory apartment in reference to all property lines setbacks and its proximity to the primary residence. The site plan will also show on site parking for the accessory apartment.
4. Within 60 days of approval of the Conditional Use, the applicant shall submit for approval by the Planning Director an elevation drawing that provides for a facade that incorporates features from the primary structure.
4. Construction of improvements shall be completed within one year of approval of the Conditional Use.

City Hall • 10th Floor • 455 North Main • Wichita, Kansas 67202-1688

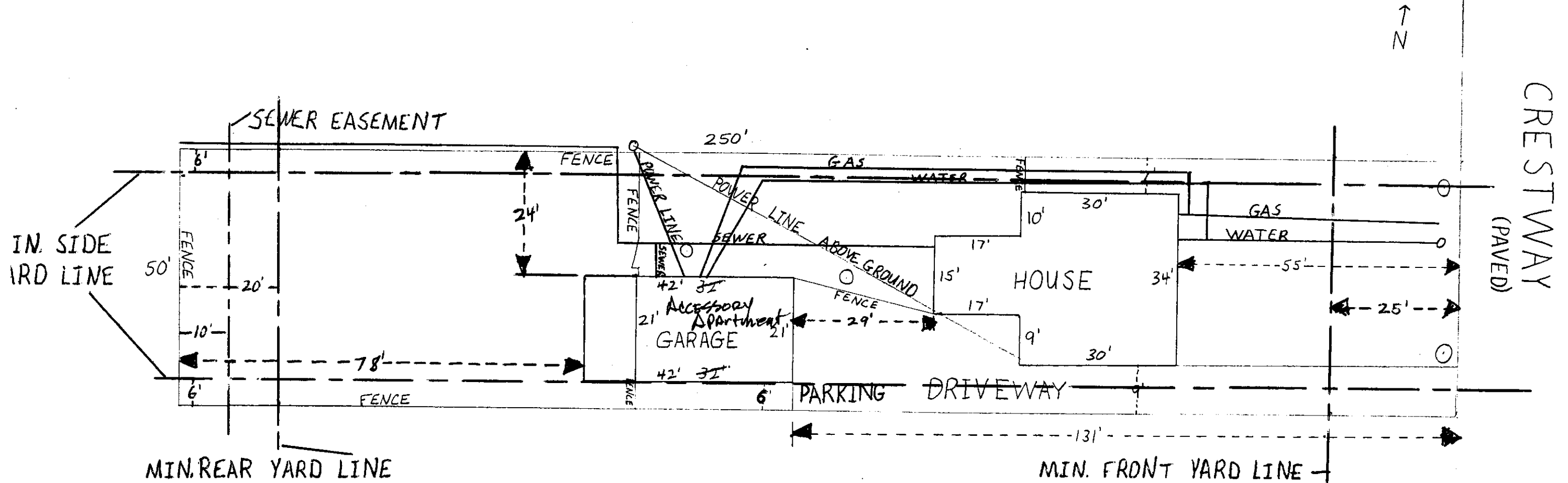
T 316.268.4421 **F** 316.268.4390

www.wichita.gov

$$1'' = 20'$$

LEGAL: LOTS 35-36 BLOCK 8 MERRIMAN PARK PLACE
419 S Crestway

PLANNED



SITE PLAN

APPROVED 06-08-06 BY Bill Longnecker

CON2006-15 SITE PLAN ACCESSORY APARTMENT
(2ND story Above proposed garage)

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 the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

Property owners may also 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 200 feet of the property for which the application was filed, and must be submitted to the City Clerk within 14 days of the conclusion of the MAPC hearing. 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 200 feet of the perimeter of the application area, unless the Council overrides such a protest and approves the application by a vote of 6 of its members.

If there are no valid appeals or protest petitions filed opposing this action by **May 18, 2006, by 5:00 p.m.**, the action of the MAPC will be considered final. If appeals or protest petitions are filed, you will be advised of the date your application will be forwarded to the Governing Body for review and final action.

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

Sincerely,

Bill Longnecker,
Senior Planner
Current Plans Division

WL/rms

Cc: Susan Schlapp, WCC II, Mail Stop 1-13

CONDITIONAL USE RESOLUTION NO. CON2006-00015

WHEREAS, Jason S. Algya (Owner/Applicant); pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), request a Conditional Use to allow an “accessory apartment” on approximately 0.25-acres acres zoned “SF-5” Single-family Residential described as:

Lots 35 & 36, Block 8, Merriman Park Place, an addition to Wichita, Sedgwick County, Kansas.
Generally located north of Kellogg Street, west of Oliver Avenue, and southwest of the Lewis Street-Crestway Street intersection (419 S. Crestway Street).

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 May 4, 2006, 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 an “accessory apartment” on approximately 0.25-acres zoned “SF-5” Single-family Residential described as:

Lots 35 & 36, Block 8, Merriman Park Place, an addition to Wichita, Sedgwick County, Kansas.
Generally located north of Kellogg Street, west of Oliver Avenue, and southwest of the Lewis Street-Crestway Street intersection (419 S. Crestway Street).

APPROVED, subject to the following conditions:

1. The accessory apartment shall be subject to all requirements of Section III-D.6.a. 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. The applicant shall also provide a revised site plan within 60 days of approval of the Conditional Use, which will confirm the location of any utility easements and provide more dimension control, showing the location of the detached garage/accessory apartment in reference to all property lines setbacks and its proximity to the primary residence. The site plan will also show on site parking for the accessory apartment.
4. Within 60 days of approval of the Conditional Use, the applicant shall submit for approval by the Planning Director an elevation drawing that provides for a facade that incorporates features from the primary structure.
5. Construction of improvements shall be completed within one year of approval of the Conditional

Use.

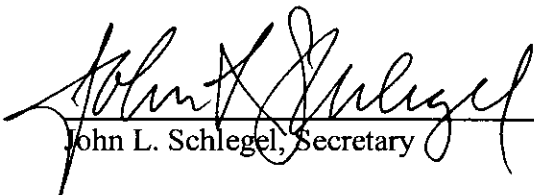
6. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

Adopted this 4th DAY, of MAY 2006. 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


Harold Warner, Jr., Chair MAPC

ATTEST:


John L. Schlegel, Secretary

STAFF REPORT

DAB II, May 1, 2006

MAPC, May 4, 2006

FILE COPY

CASE NUMBER: CON2006-00015

APPLICANT/OWNER: Jason Algya (Owners/Applicants)

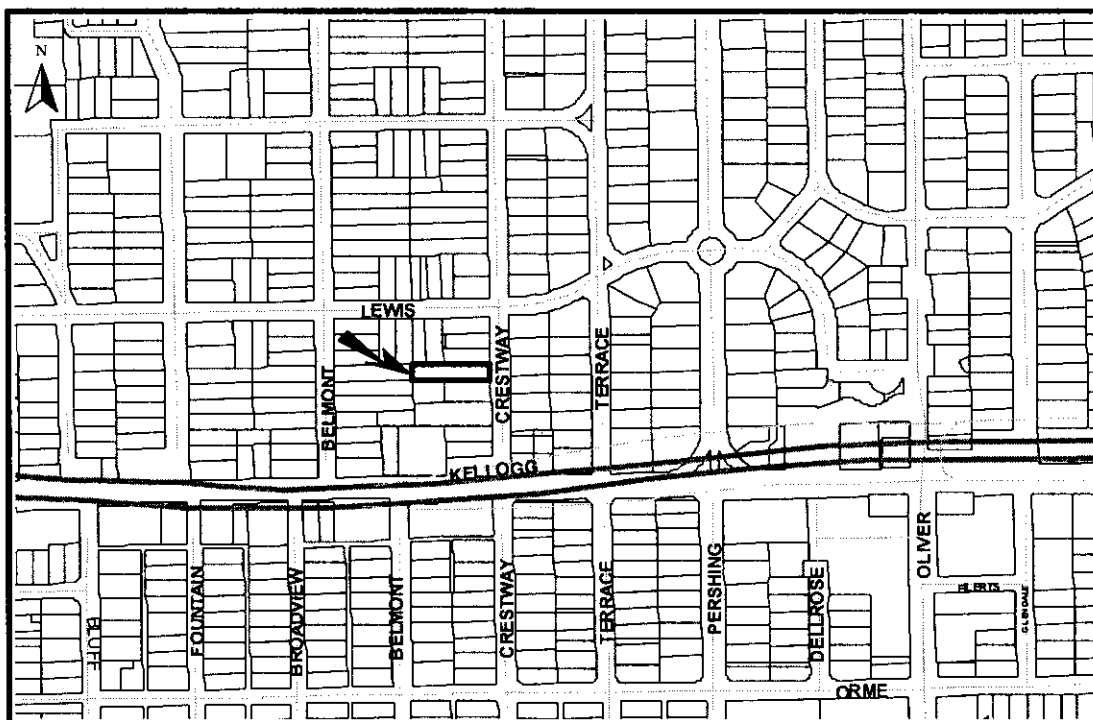
REQUEST: Conditional Use for an accessory apartment

CURRENT ZONING: "SF-5" Single-family Residential

SITE SIZE: 0.25-acres

LOCATION: North of Kellogg Street, west of Oliver and southwest of the Lewis and Crestway Streets intersection

PROPOSED USE: Accessory apartment above a detached garage



BACKGROUND: The applicant is requesting a Conditional Use to allow an accessory apartment on the 0.25-acre platted subject site (Lots 35 & 36, Block B, Merriman Park Place Addition) zoned "SF-5" Single-family Residential and located at 419 South Crestway. The applicant proposes to use the second story of the proposed detached garage as an 882-sqaure foot accessory apartment. The applicant has stated that visiting parents and in-laws will use the apartment. The primary residence is a two-story, 2,250-sqaure foot structure, with primarily brick and some lap siding.

The character of the surrounding area (the College Hill Neighborhood Association) is mostly low to scattered moderate density residential. Surrounding properties around the subject site are zoned primarily "SF-5" with some "TF-3" Duplex Residential zoning mixed throughout the area. Most of the area is developed as single-family residences, with some duplexes scattered among the single-family residences.

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 is required to permit an accessory apartment in the "SF-5" zoning district. Section III-D.6.a. of the Unified Zoning Code (UZC) has the following requirements for an accessory apartment:

- (1) A maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling;
- (2) The appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood;
- (3) 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
- (4) Water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling.

The applicant submitted the attached site plan illustrating the approximate location of the detached garage with the proposed accessory apartment to be located on the second floor. The accessory apartment will be located behind the house and use the same driveway as the primary residence. The applicant has not submitted an elevation drawing that illustrates what the garage/accessory apartment will look like, but has told staff that it will have vinyl lap siding. The main dwelling is sided mostly with brick; therefore, in order to comply with Section III-D.6.a. (2) of the UZC, staff recommends that the accessory apartment have at least some brick siding such as a wainscot of brick. Otherwise, the MAPC will need to recommend that a waiver of the requirement be granted by the City Council. The applicant has also told staff that the accessory apartment will have one (1) window on its west side, two (2) windows on

its north side, two (2) windows on its east side and no windows on its south side. Per the UZC, Art.III, Sec.III-D, e, 6, an accessory structure that conforms to all the setback requirements for principal structures in the zoning district can be the maximum height allowed; the "SF-5" zoning district allows a maximum height of 35-feet and the proposed detached garage/accessory apartment, as shown on the site plan, appears to meet the setback standards. There are no platted utility easements in this subdivision (Merriman Park Place Addition, recorded May 16, 1912) and it is advised that the applicant confirms that no easements have been dedicated by separate instrument on the subject site and in particular along its south side, where the proposed detached garage/accessory apartment is to be located.

CASE HISTORY: The property is platted as Lots 35 & 36, Block B, Merriman Park Place Addition, which was recorded with the Register of Deeds May 16, 1912.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-5", "TF-3"	Single-family residences, duplexes
SOUTH:	"SF-5", "TF-3"	Single-family residences, duplexes
EAST:	"SF-5", "TF-3"	Single-family residences
WEST:	"SF-5", "TF-3"	Single-family residences, duplex

PUBLIC SERVICES: The subject property has access to Crestway Street, a paved residential street. The subject property is connected to public water and sewer. No impacts on public services are anticipated.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide of the Comprehensive Plan designates this area as appropriate "urban density residential" development. 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. As recommended for approval, the subject property conforms must conform to the adopted policies.

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. 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.

The applicant shall also provide a revised site plan within 60 days of approval of the Conditional Use, which will confirm the location of any utility easements and provide more dimension control, showing the location of the detached garage/accessory apartment in reference to all property lines setbacks and its proximity to the primary residence. The site plan will also show on site parking for the accessory apartment.

4. Within 60 days of approval of the Conditional Use, the applicant shall submit for approval by the Planning Director an elevation drawing that provides for a facade that incorporates features from the primary structure.
5. Construction of improvements shall be completed within one year of approval of the Conditional Use.
6. 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 the Unified Zoning Code, 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: Most of the properties surrounding the subject property are zoned "SF-5" Single-family residential with some "TF-3" Duplex zoned properties mixed throughout the area. Most of the area's properties are developed as single-family residences, with some duplexes mixed in the areas. The proposed accessory apartment is compatible with the zoning, uses, and character of the neighborhood.
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-5" zoning provided the applicant and the site meet the specified criteria. The applicant and the site meet the criteria so long as the accessory apartment is constructed so that it remains in character with the area/primary residence, is subordinate in size, remains under one ownership 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 affects on surrounding properties should be minimized by the conditions of the Conditional Use. The placement of the accessory apartment within the garage appears to meet the zoning setback requirements, but a revised site plan with more dimension control and confirming the location of any easements is required.

4. Conformance of the requested change to adopted or recognized Plans/Policies: The Unified Zoning Code makes specific provision for accessory apartments in "SF-5". This application as recommended for approval 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.