

CONDITIONAL USE RESOLUTION NO. CON2008-00001

WHEREAS, Judith Ward (owner); 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 property zoned TF-3 Two-family Residential ("TF-3") described as:

Lots 70 and 72, Dixon's Addition, Wichita, Sedgwick County, Kansas. Generally located north and east of the intersection of S. Estelle and E. Gilbert (640 S. Estelle)

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 March 13, 2008, 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 to allow an accessory apartment on property zoned TF-3 Two-family Residential ("TF-3") described as:

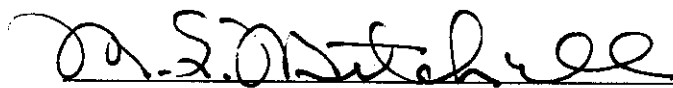
Lots 70 and 72, Dixon's Addition, Wichita, Sedgwick County, Kansas. Generally located north and east of the intersection of S. Estelle and E. Gilbert (640 S. Estelle)

Approved subject to the following conditions:

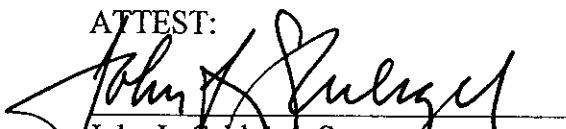
- (1) A maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling;
- (2) The appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood;
- (3) The accessory apartment shall remain accessory to and under 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.

Adopted this 13th Day of March 2008.

METROPOLITAN AREA PLANNING COMMISSION


M.S. Mitchell, Chair MAPC

ATTEST:


John L. Schlegel, Secretary

STAFF REPORT

DAB I, March 3, 2008
MAPC, March 13, 2008

CASE NUMBER: CON2008-00001

APPLICANT/OWNER: Judith Ward (Owner), Josh Roy (Applicant),
Judy Beals (Agent)

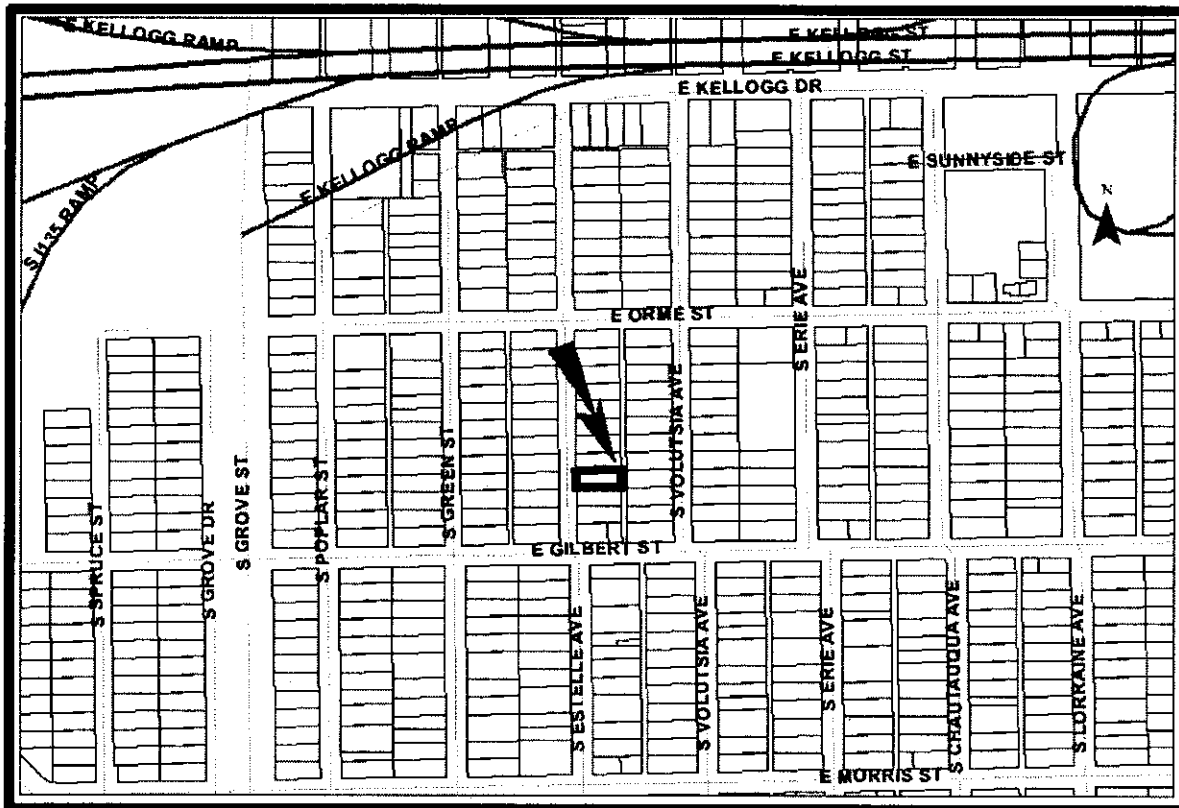
REQUEST: Conditional Use for an accessory apartment

CURRENT ZONING: "TF-3" Two-family Residential

SITE SIZE: 0.15 acres

LOCATION: Generally located north and east of the intersection of S.
Estelle and E. Gilbert (640 S. Estelle)

PROPOSED USE: Accessory apartment (existing)



BACKGROUND: The applicant requests a Conditional Use to allow an accessory apartment on a 0.15-acre platted lot zoned "TF-3" Two-family Residential, located north and east of the intersection of S. Estelle and E. Gilbert (640 S. Estelle). The application area is developed with a two-family residence (duplex) and an existing non-conforming accessory apartment. The applicant proposes to continue using the existing accessory apartment as a rental property. The accessory apartment has been used as such since at least 1995 and at this time there are no plans of any remodeling.

The character of the surrounding area is residential. All properties surrounding the site are zoned TF-3 and are developed with a mixture of single-family residences and duplexes. The applicant submitted the attached site plan illustrating the location of the accessory apartment behind the primary dwelling.

An accessory apartment is defined as a dwelling unit that may be wholly within or detached from a principal 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 TF-3 zoning district. Section III-D.6.a of the Unified Zoning Code (UZY) 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.

CASE HISTORY: The property was platted as Lots 70 and 72, within the Dixon's Addition recorded on February 19, 1918.

ADJACENT ZONING AND LAND USE:

NORTH:	"TF-3" Two-family Residential	Duplex
SOUTH:	"TF-3" Two-family Residential	Single-family residences
EAST:	"TF-3" Two-family Residential	Single-family residences
WEST:	"TF-3" Two-family Residential	Single-family residences

PUBLIC SERVICES: The subject property has access to S. Estelle, a paved residential street with a 50-foot right-of-way. The subject property is connected to public water and sewer. No additional impacts on public services are anticipated.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan designates this area as appropriate for "Urban Residential" development. The Urban Residential category includes all housing types found in the municipality. The policies of the Unified Zoning Code (UZY) 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 to adopted policies.

RECOMMENDATION: The application area is zoned TF-3, as is the surrounding residential neighborhood. The supplementary conditions of the UZC, along with building code requirements should ensure that the proposed accessory apartment is compatible with the surrounding residential neighborhood. 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.
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 the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

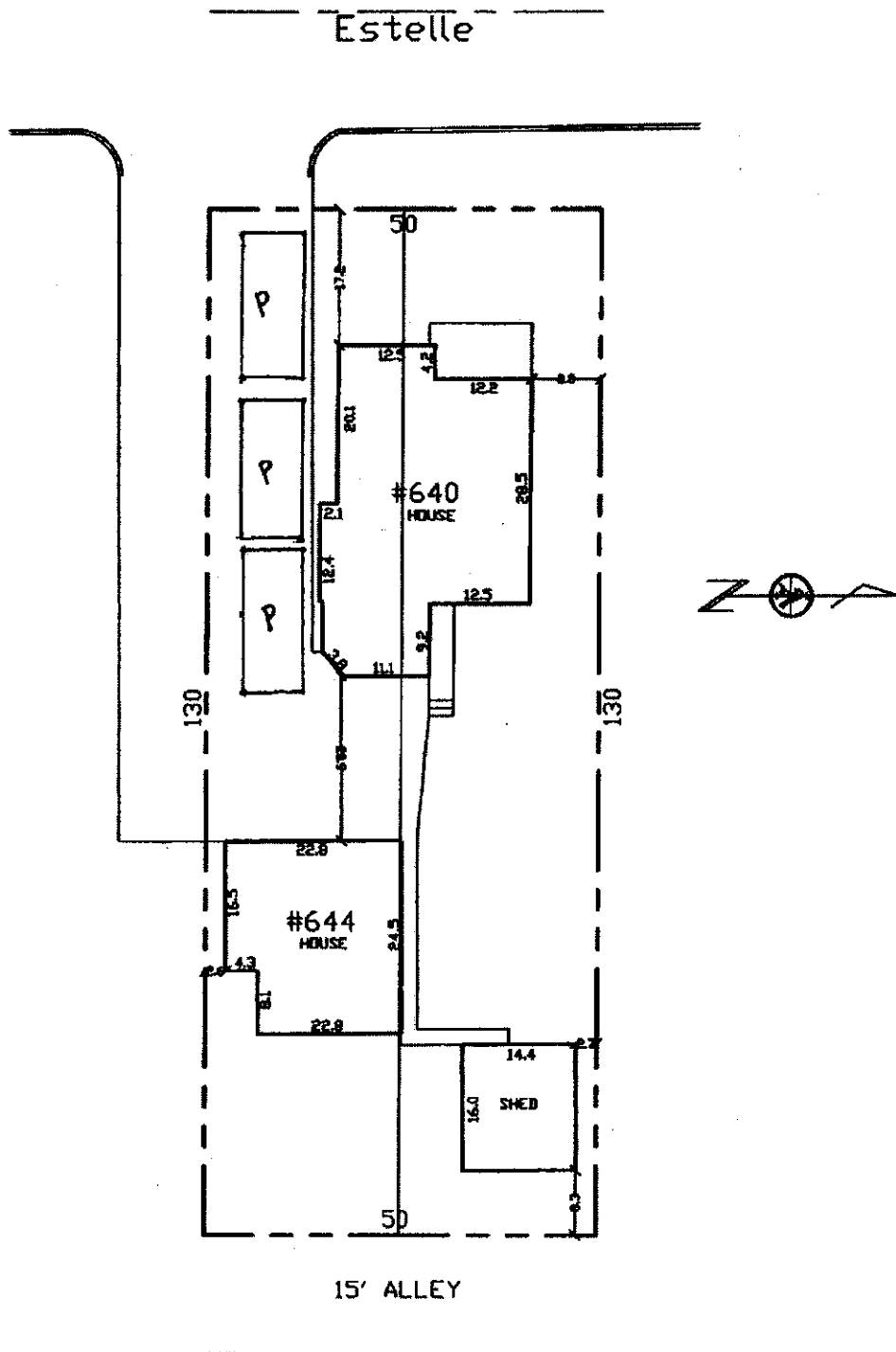
The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is residential. All properties surrounding the site are zoned TF-3 and are developed with a mixture of single-family residences and duplexes. The applicant submitted the attached site plan illustrating the location of the accessory apartment behind the primary dwelling.
2. The suitability of the subject property for the uses to which it has been restricted: The site could continue to be used for a duplex residence. Accessory apartments are allowed as a "Conditional Use" in TF-3 provided the applicant and the site meet the specified criteria. The applicant and the site meet the criteria so long as the accessory apartment remains in its current condition 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: The accessory apartment has existed for some time, so there is no physical change within the neighborhood. The existing driveway will provide adequate off street parking for the primary duplex dwelling and the accessory apartment.

4. Conformance of the requested change to adopted or recognized Plans/Policies: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan designates this area as appropriate for "Urban Residential" development. The Urban Residential category includes all housing types found in the municipality. The policies of the Unified Zoning Code (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 hook-up. As recommended for approval, the subject property conforms to adopted policies.
5. Impact of the proposed development on community facilities: The request should have a minimal impact on community facilities.

SITE PLAN

Lots 70 & 72, Estelle Ave, Dixon's Add. to Wichita, KS.



Vol. #32711
Page 2 of 2



Wichita-Sedgwick County Metropolitan Area Planning Department

April 1, 2008

Judith C. Ward
PO Box 9334
Wichita, KS 67277

Josh Roy
1635 N Waterfront Pkwy, #150
Wichita KS 67206

RE: CON2008-01 – City Conditional Use request for an accessory apartment, generally located north and east of the intersection of South Estelle and East Gilbert (640 S. Estelle).

Dear Ladies and Gentlemen:

At its regular meeting on March 13, 2008, 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 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

Cc: Judy Beals, 640 S. Estelle, Wichita, KS 67211
Julianne Kallman, Engineering, Mail Stop #1-71