

164-07

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RESOLUTION NO. 164-07

A RESOLUTION CHANGING THE ZONING CLASSIFICATION FOR 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-C AS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, DECEMBER 12, 1984 AND 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-C of the Wichita Sedgwick County Unified Zoning Code, the zoning classification or district of the lands legally described hereby are changed as follows:

**Case No. ZON2007-00022**

Zone change request from "RR" Rural Residential to "MF-18" Multi-family Residential with Protective Overlay #189 on property described as:

Part of the West Half of the Southwest Quarter of Section 33, Township 28 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as follows: Commencing at the Southwest Corner of said Southwest Quarter; Thence North 90 degrees East, along the South line of said Southwest Quarter, 922.10 feet to a point of beginning; Thence North 00 degrees East, 40 feet; Thence North 03 degrees 36 minutes 07 seconds West, 99.72 feet; Thence North 04 degrees 50 minutes 12 seconds East,; thence 166.76'; thence N 16 degrees, 20 minutes, 45 seconds West; thence 288.82'; thence North 32 degrees, 51 minutes, 36 seconds West; thence 56.47 feet; Thence North 45 degrees 17 minutes 12 seconds West, 177.13 feet; Thence North 30 degrees 12 minutes 50 seconds West, 321.35 feet; Thence North 90 degrees East, 806.40 feet to the East line of the West Half of said Southwest Quarter; Thence South 00 degrees 38 minutes 20 seconds West, along the East line of said West Half of said Southwest Quarter, 1032.65 feet to the Southeast Corner of said West Half of said Southwest Quarter; Thence South 90 degrees West, along the South line of said Southwest Quarter, 403.17 feet to the point beginning. Generally located at the northwest corner of 99th Street East and 71st Street South (7114 S 99th Street East).

SUBJECT TO PROTECTIVE OVERLAY #189 RESTRICTIONS:

1. The Protective Overlay shall prohibit additional dwelling units, beyond the existing primary house and three apartments within the converted barn, until the property is annexed by a municipality and platted, and municipal utilities are present.

**SECTION II.** That upon the taking effect of this Resolution, the notation of such zone change shall be entered in the official zoning atlas on file in the Office of the County Zoning

Administrator and in the Office 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:

GWEN WELSHIMER	<u>aye</u>
TIM R. NORTON	<u>aye</u>
THOMAS G. WINTERS	<u>aye</u>
KELLY PARKS	<u>aye</u>
DAVID M. UNRUH	<u>aye</u>

DATED this 11<sup>th</sup> day of July, 2007.

BOARD OF COUNTY COMMISSIONERS  
OF SEDGWICK COUNTY, KANSAS

David M. Unruh  
David M. Unruh, CHAIRMAN  
First District

ATTEST:

Don Brace  
DON BRACE, County Clerk



APPROVED AS TO FORM:

Robert W. Parnacott  
ROBERT W. PARNACOTT,  
Assistant County Counselor

# AGENDA ITEM REQUEST

**Proposed Agenda Item:** ZON2007-00022 – Sedgwick County zone change from “RR” Rural Residential to “MF-18” Multi-family Residential. Generally located at the northwest corner of 99th Street East and 71st Street South (7114 S 99th Street East). (District V)

**Presented by:** John L. Schlegel, Planning Director *JLS*

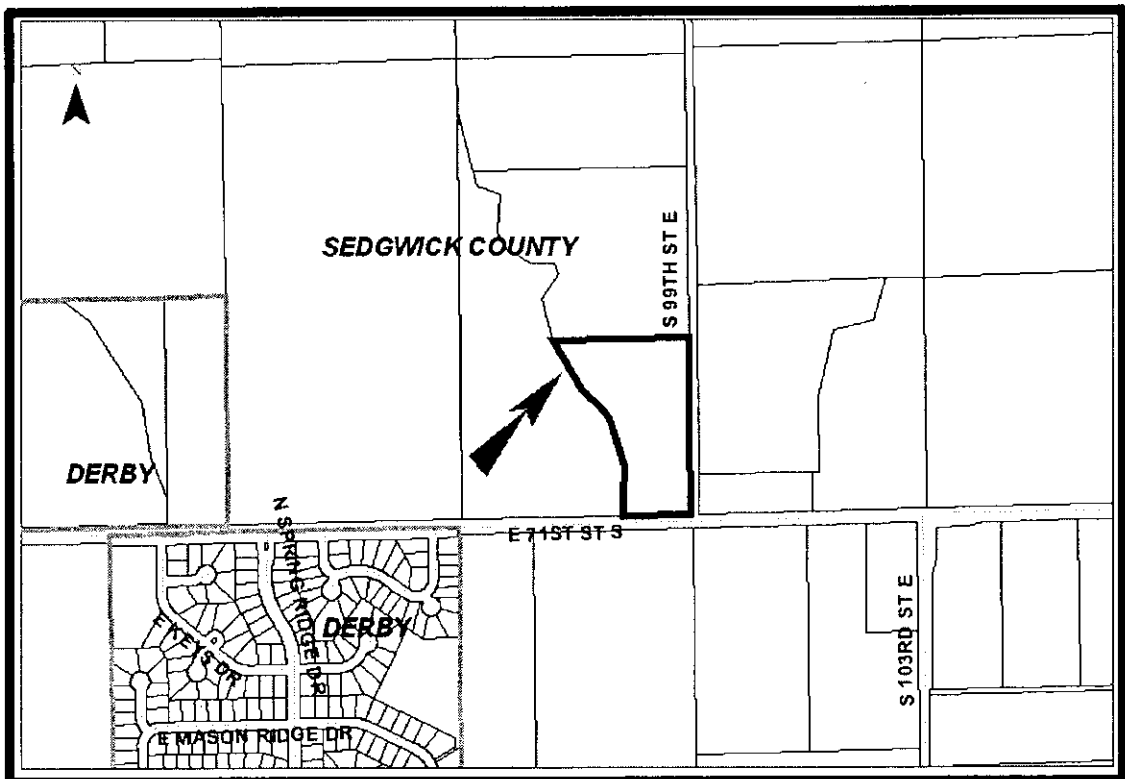
**Recommended Action:** Approve the zone change to MF-18 and Protective Overlay #189; adopt the findings of the Metropolitan Area Planning Commission; and authorize the Chairman to sign the resolution.

**Proposed Agenda Date:** July 11, 2007

**Outside Attendees:** Christel Selcer (Owner)  
Savoy Company PA c/o Mark Savoy (Agent)

**Multimedia Presentation:** PowerPoint

**Donations:** Not applicable



**Background:** The applicant seeks “MF-18” Multi-family Residential zoning on a 12.46-acre site located at the northwest corner of 99<sup>th</sup> Street East and 71<sup>st</sup> Street South. The MF-18 zoning district permits 18 dwelling units per acre. This “RR” zoned site is developed with a single-family residence and four other buildings. One of the buildings appears to be a barn and was converted into three additional apartment residences.

County Code Enforcement advised Planning staff that they have no record of building permits or inspections for the residential units in the barn. The “RR” district permits only one residence per zoning lot, with the ability to request a conditional use for one accessory apartment. The applicant has not demonstrated that the additional residences predate the 1985 adoption of countywide zoning, so the additional units are not a legal non-conforming use; this site does not appear on the list of non-conforming uses developed in 1985 when countywide zoning went into effect.

The unplatted site is located approximately 950 feet east of the Derby city limits and within the Derby Zoning Area of Influence. All surrounding properties are zoned RR Rural Residential and developed with farmstead and/or agricultural uses.

**Analysis:** The Derby Planning Commission heard this request on May 17, 2007. No members of the public spoke at the meeting regarding the request. The Derby Planning Commission followed the recommendation of MAPD staff and voted to deny the zone change request by a vote of 5-2; see the attached letter. Because the request is within Derby’s Zoning Area of Influence, the BOCC would need a unanimous vote to override the Derby Planning Commission’s denial.

The MAPC heard this request on June 7, 2007; no members of the public spoke regarding the request. The MAPC voted (8-3) to approve the request with the following Protective Overlay #189: *The Protective Overlay shall prohibit additional dwelling units, beyond the existing primary house and three apartments within the converted barn, until the property is annexed by a municipality and platted, and municipal utilities are present.* Two neighbors sent e-mails opposing the zone change request; see the attached messages. No formal protests were filed.

**Alternatives:**

1. Approve the zone change to MF-18 and Protective Overlay #189; adopt the findings of the Metropolitan Area Planning Commission; and authorize the Chairman to sign the resolution. Approval of the zone change requires a unanimous vote to override the Derby Planning Commission.
2. Return such recommendation to the MAPC with a statement specifying the basis for the BOCC’s failure to approve or disapprove (requires a simple majority vote).
3. Deny the zone change and override the MAPC recommendation with a 2/3 vote.

**Financial Considerations:**   *Approved by Division of Finance*

**Policy Considerations:** The MAPC recommendations are based upon the findings of fact stated in the MAPC minutes.

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