

## CONDITIONAL USE RESOLUTION NO. CON2003-00040

**WHEREAS**, James Osterlung (Owner/Applicants) 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 permit a Bed and Breakfast Inn on 0.30 acres zoned "B" Multi-family Residential described as:

The North 22 feet of Lot 152, all of Lots 154 and 156, and the South 3/4ths of Lot 158, on Market Street, in Hyde & Ferrell's Addition to the City of Wichita, Kansas, Sedgwick County, Kansas. Generally located 3<sup>rd</sup> house northeast of the 9<sup>th</sup> Street North and Market Street intersection. (1018 N. Market)

**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 November 6, 2003, 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 a Conditional Use for a Bed and Breakfast Inn on 0.30 acres zoned "B" Multi-family Residential described as:

The North 22 feet of Lot 152, all of Lots 154 and 156, and the South 3/4ths of Lot 158, on Market Street, in Hyde & Ferrell's Addition to the City of Wichita, Kansas, Sedgwick County, Kansas. Generally located 3<sup>rd</sup> house northeast of the 9<sup>th</sup> Street North and Market Street intersection. (1018 N. Market)

subject to the following conditions:

1. The site shall be developed and operated in general conformance with the MAPD approved site plan and landscape plan. The current landscaping will remain in place and identified on the landscape plan. Any proposed improvements to the landscaping will be shown on the landscape plan and approved by the Planning Director.
2. There shall be three (3) rooms designated for the bed and breakfast business and there will be a maximum of six (6) transient guests at any one time. These rooms will be shown on a floor plan that will be approved by the OCI, as a condition to obtain the required change of occupancy necessary for a Bed & Breakfast in a single-family residential structure.

3. No freestanding signs. A sign identifying the establishment will be mounted on the wall of the house, no more than 9-square feet and using indirect lighting. No neon, flashing or moving lighting. Location of the sign and the materials for the sign will be shown on the site plan and be approved by the MAPD.
4. Four parking spaces will be provided on the site as indicated on the approved site plan. One space for the owner of the property and 3 spaces for the guests. The parking area will remain paved, marked and will not block the sidewalk.
5. The existing 6-foot wooden fence in the back yard shall remain and be maintained or replaced with comparable and approved solid screening, per the UZC.
6. The applicant shall obtain all inspections, permits and license from the City, prior to operating the Bed & Breakfast.
7. The owner or the manager of the Bed & Breakfast will reside in the primary structure.
8. Identify existing lighting on the site. The Planning Director must approve any additional proposed lighting.
9. 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 VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

Adopted this 6th DAY of NOVEMBER, 2003. 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

  
\_\_\_\_\_  
Ronald L. Marnell, Chair MAPC

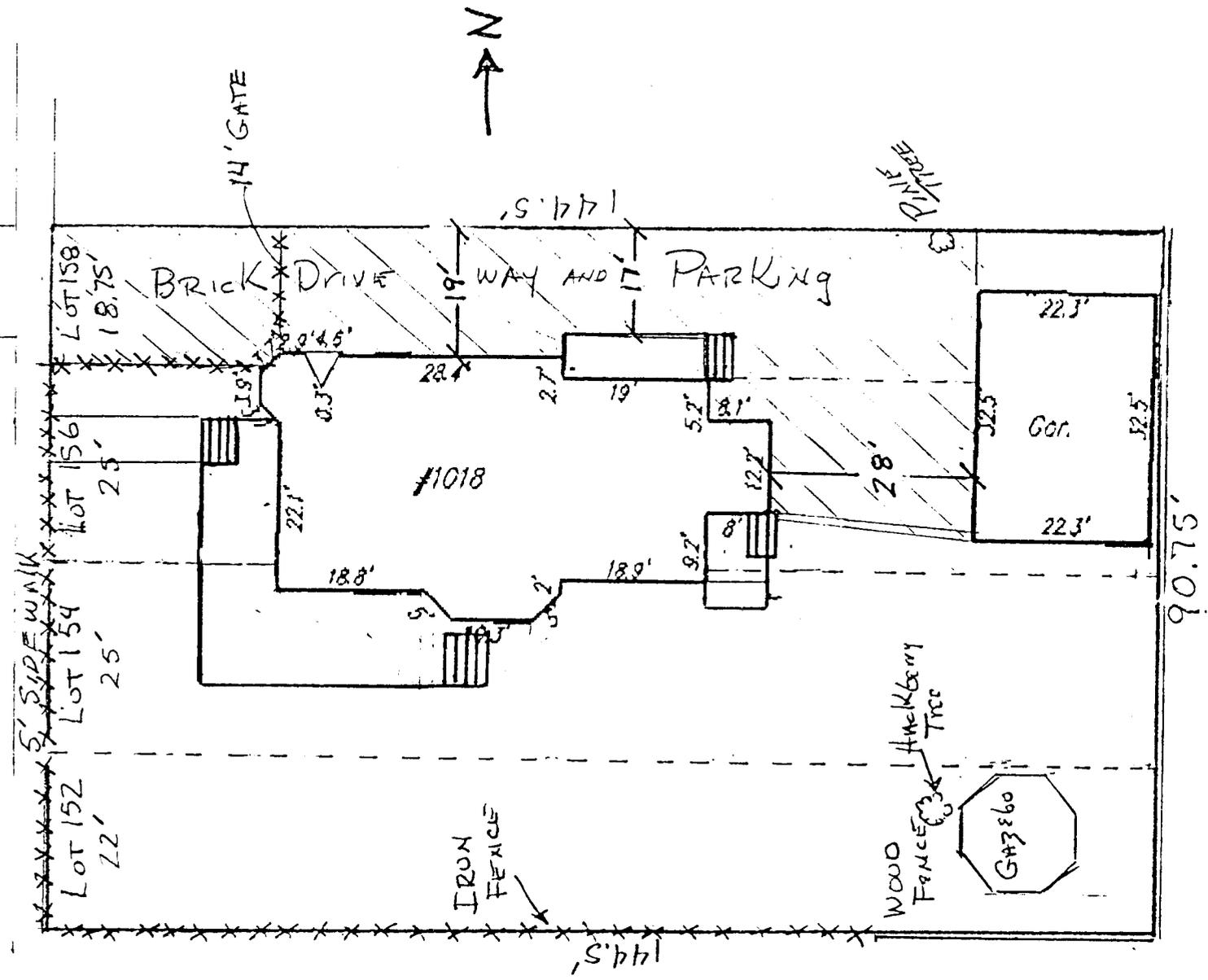
ATTEST:

  
\_\_\_\_\_  
John L. Schlegel, Secretary

COI

N. MARKET ST

CONO3-40



CONDITIONAL USE FOR 3 BED ROOM BED & BREAKFAST  
 PREPARED BY JAMES H. OSTERLUND  
 SCALE 1" = 20'

# SITE PLAN

APPROVED BY Blaine Myer 01-07-2003

LEGAL DESCRIPTION: APPROVED BY \_\_\_\_\_  
 NORTH 22' of Lot 152, ALL of Lots 154 AND 156,  
 AND South 3/4ths of Lot 158, ON MARKET STREET,  
 IN HYDE AND FERRELL'S ADDITION TO THE  
 CITY OF WICHITA, KANSAS, SEBICWICK COUNTY, KANSAS

**STAFF REPORT**  
MAPC- November 6, 2003  
DAB VI – November 3, 2003

**CASE NUMBER:** CON-2003-00040

**APPLICANT/OWNER:** James Osterlung

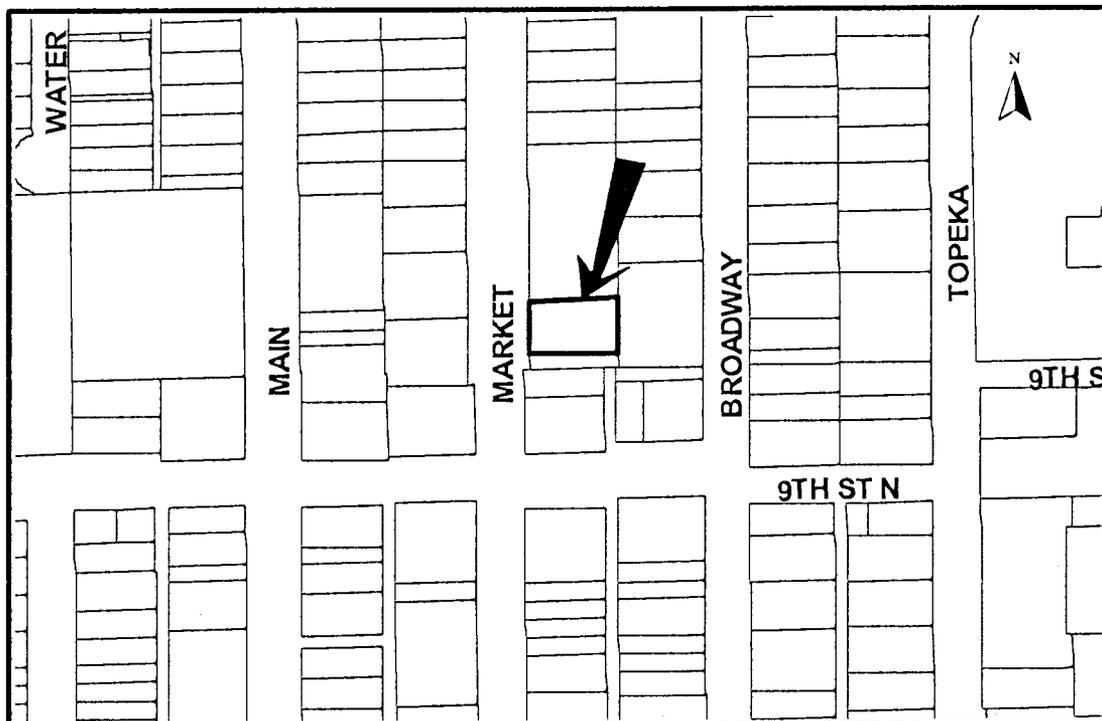
**REQUEST:** Conditional Use to Permit a Bed & Breakfast Inn

**CURRENT ZONING:** "B" Multi-Family Residential

**SITE SIZE:** 0.30 acres

**LOCATION:** 3<sup>rd</sup> house northeast of the 9<sup>th</sup> Street North & Market Street intersection, 1018 North Market

**PROPOSED USES:** Bed & Breakfast in owner's residence



**BACKGROUND:** The applicant is requesting a Conditional Use to permit a Bed and Breakfast to be located in a "B" Multi-family residential zoning district. The application area is the north 22-feet of Lot 152, all of Lots 154 & 156, and the south  $\frac{3}{4}$  of Lot 158, Hyde & Ferrell's Addition, 1018 North Market. The site is currently developed as a 3-story single-family residence. According to the Unified Zoning Code (UZC), a Bed and Breakfast is an owner-occupied or manager-occupied residential structure that provides rooms for temporary lodging or lodging and meals for not more than 15 transient guests on a paying basis. A transient guest is a person who occupies a room for a period of less than one week at a time.

Most of the surrounding properties to the north, south and west are zoned "B". The exception is a property on the northwest corner of 9<sup>th</sup> Street North and Market, which is zoned "GO" General Office. The structure on this exception was originally residential, but is now an office. It is also a Regional Historical Site; the Amidon House. The rest of the development of the properties in the area zoned "B" are a mix of single-family residential, four-family residential, single-family turned into multifamily and an apartment complex abutting the subject site's north side. The properties east of the site, have frontage on Broadway, are zoned "LC" Limited Commercial and developed an office, a restaurant and fast food; Pizza Hut, Subway and Burger King.

The subject site is located in the Historic Midtown Neighborhood (HMN), which contains the City's four residential historic districts. The HMN housing represents three periods of architecture and construction in the City's history: the boom period of the 1880's; the Craftsman and Prairie periods through the 1920's; and the post 1940's Minimal Traditional period of construction. The examples of Queen Anne, Gothic, Folk Victorian, Craftsman Bungalow, Tudor Revival, Neoclassical Revival, Colonial Revival and various types of multi-family housing in the HMN is unique in that it virtually spans the founding of Wichita to its post WWII era. There are eighteen homes designated as being historic homes and buildings in the HMN, three of them within two blocks of the site, with the previously mentioned Amidon House on the same block as the subject site. The 3-story house on the subject site is an example of the Queen Anne type, estimated to have been built in 1889.

The many large homes in the immediate area around the subject site are still used mainly as single-family residential, with some of them having been converted into apartments. Both of these uses are permitted by right in the "B" zoning district. There are two closest Bed & Breakfast to the site, are in the Historic Midtown Neighborhood, approximately  $\frac{1}{2}$  mile away. One of B&Bs is located on the southeast corner of 11<sup>th</sup> Street and Topeka Street (approved 08-25-1992) zoned is "GO". The other B&B is zoned "B", is located at 1208 North Emporia and was approved by the MAPC 08-08-2002. One of the conditions of this B&B was it being effective for only a 2-year period, with extension beyond this time to be applied for by the owner/applicant. If renewal is not applied for the Conditional Use of the B&B would

end at the end of the 2-year period. This condition was the result of the Historic Midtown Steering Committee's concern about the density of bed and breakfasts in the neighborhood, the existence of zoning issues in the area, and the need to fulfill the planning process set out for the development of the Historic Midtown Neighborhood.

The applicant has submitted a site plan. The site plan shows the footprint of the house, the brick drive and onsite parking area, wrought iron and wooden fencing, a gazebo, a garage and some landscaping. The applicant proposes to use 3 bedrooms for the B&B, provide a continental breakfast and to continue to live in the house. Onsite parking would provide one parking space for the owner and three marked spaces for the guests using the three bedrooms.

**CASE HISTORY:** Platted as part of Hyde & Ferrell's Addition, recorded November 23, 1882.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"B" Multi-family Residential	Single family, apartment
EAST:	"LC" Limited Commercial	Fast foods, office, restaurant
SOUTH:	"B" Multi-family Residential	Single family
WEST:	"B" Multi-family Residential "GO" General Office	Single family, 4-family residential apartment, office

**PUBLIC SERVICES:** Market Street is a one-way street going north. 9<sup>th</sup> Street North is a residential street. There are no traffic counts for this location. Water and sewer are available.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this property as "medium-density residential." Typical uses are duplexes and townhouses. A Midtown Neighborhood Plan (MNP) has been prepared by

the Midtown Historic Neighborhood Plan Steering Committee and the MAPD for consideration for adoption by the WCC in 2004. The MNP identifies the subject site and the immediate area as being used as single-family residential and multi-family. The MNP proposes rezoning to better reflect established neighborhood uses to maintain the character of the neighborhood. The MNP also proposes the City establish locational guidelines for appropriate sites for Bed & Breakfasts. The Unified Zoning Code (UZO) permits a bed and breakfast with a Conditional Use in all residential zoning districts, with the exception of "MH" manufactured housing zoning.

**RECOMMENDATION:** Based on the information available prior to the public hearing, the MAPD staff recommends the application be APPROVED, subject to the following conditions:

1. The site shall be developed and operated in general conformance with the MAPD approved site plan and landscape plan. The current landscaping will remain in place and identified on the landscape plan. Any proposed improvements to the landscaping will be shown on the landscape plan and approved by the Planning Director.
2. There shall be three (3) rooms designated for the bed and breakfast business and there will be a maximum of six (6) transient guests at any one time. These rooms will be shown on a floor plan that will be approved by the OCI, as a condition to obtain the required change of occupancy necessary for a Bed & Breakfast in a single-family residential structure.
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9. 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 VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area contains houses and apartments built anywhere from the late 1880s to 1980. The houses built around the turn of the last century are typically large single-family structures and are still primarily used as single-family residences, although there has been conversion of some of the structures to apartments. The apartment complex and the four-plexus in the area were built in the 1960s and the 1980s. The zoning in the immediate area is predominately "B" multi-family. There is one property zoned "GO" in the immediate area, the Amidon House, a Regional Historical Site, which is being used as an office.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "B" multi-family. The site is could be developed at that density. The intent of the proposed Historic Midtown Neighborhood is to preserve 'contributing elements' in the area. The structure on this site is a 'contributing element' and its "B" zoning is not suitable for the site
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The Conditional Use permit for a Bed and Breakfast on the site will encourage the preservation of the current structure with a minimal amount of change in its current use, unlike the potential change allowed by the site's current "B" zoning. The detrimental affect of the Conditional Use on the nearby properties will be minimal as opposed to the possible detrimental affects of developing the property as apartments, which is allowed by right in "B" zoning.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Comprehensive Plan identifies this property as "medium density residential." Part of the current research and work being done in the Midtown Historic Neighborhood Plan is addressing the disparity between the Comprehensive Plan's identification of this site as "medium density residential", the area currently being almost entirely zoned "B" and the preservation of the historic single-family structures. The Conditional Use for a Bed & Breakfast would encourage preservation of the current structure, with the possibility income generated by the business being invested in the maintenance of the structure. The Conditional Use for a Bed & Breakfast would be being less disruptive to the area than a multi-family use. The location of this Conditional Use in reference to the 2 closest existing B&Bs to the east is a little less than ½ mile, which would seem to be sufficient site spacing.
5. Impact of the proposed development on community facilities: Minimal, with consideration that all parking would be on site and the parking area is already improved with an approved all weather surface. City utilities would remain as they are.