CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

December 11, 2008

James Gehrer
PO Box 113
Andover, KS 67002

RE: **CON2008-00046** - City Conditional Use for an accessory apartment in TF-3 Two-family Residential zoning, generally located west of Poplar and south of English (213 S Poplar).

Dear Ladies and Gentlemen:

At its regular meeting on **October 23, 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 in the attached resolution.

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

Sincerely,

Jess McNeely, AICP
Senior Planner
Current Plans Division

JMC:mc
Enclosure

Copies to: College Hill, Celia Gorlich, 402 S. Crestway St., Wichita, KS 67208
East Front, Tom Fox, 250 S. Erie St., Wichita, KS 67211
New Salem, Sharri Burke, 144 N. Madison St., Wichita, KS 67214
Sunnyside, Shannon Palmer, 807 S Chautauqua, Wichita, KS 67211
Uptown, Leslie Harvey, 146 N Poplar, Wichita, KS 67214
WCC I, Lavonta Williams, Mail Stop 1-13
N.A. I, Lashonda Porter, Mail Stop #1-135
Julianne Kallman, Engineering, Mail Stop 1-71
Mike Gable, OCI

CONDITIONAL USE RESOLUTION NO. CON2008-46

WHEREAS, James Gehrer (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 for an Accessory Apartment on 0.15 acres zoned TF-3 Two-family Residential described as:

Lots 9 and 11, on Poplar Street, Buckner's Subdivision of Block No. 3 in Richland Addition to the City of Wichita, Sedgwick County, Kansas. Generally located west of Poplar and south of English (213 S Poplar).

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 October 23, 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 for a Conditional Use for an Accessory Apartment on 0.15 acres zoned TF-3 Two-family Residential:

Lots 9 and 11, on Poplar Street, Buckner's Subdivision of Block No. 3 in Richland Addition to the City of Wichita, Sedgwick County, Kansas. Generally located west of Poplar and south of English (213 S Poplar).

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.

Adopted this 23rd DAY of October, 2008. 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,

WICHITA–SEDGWICK COUNTY
W-SC
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 7

STAFF REPORT

MAPC, October 23, 2008

CASE NUMBER: CON2008-46

APPLICANT/OWNER: James Gehrer (Owner)

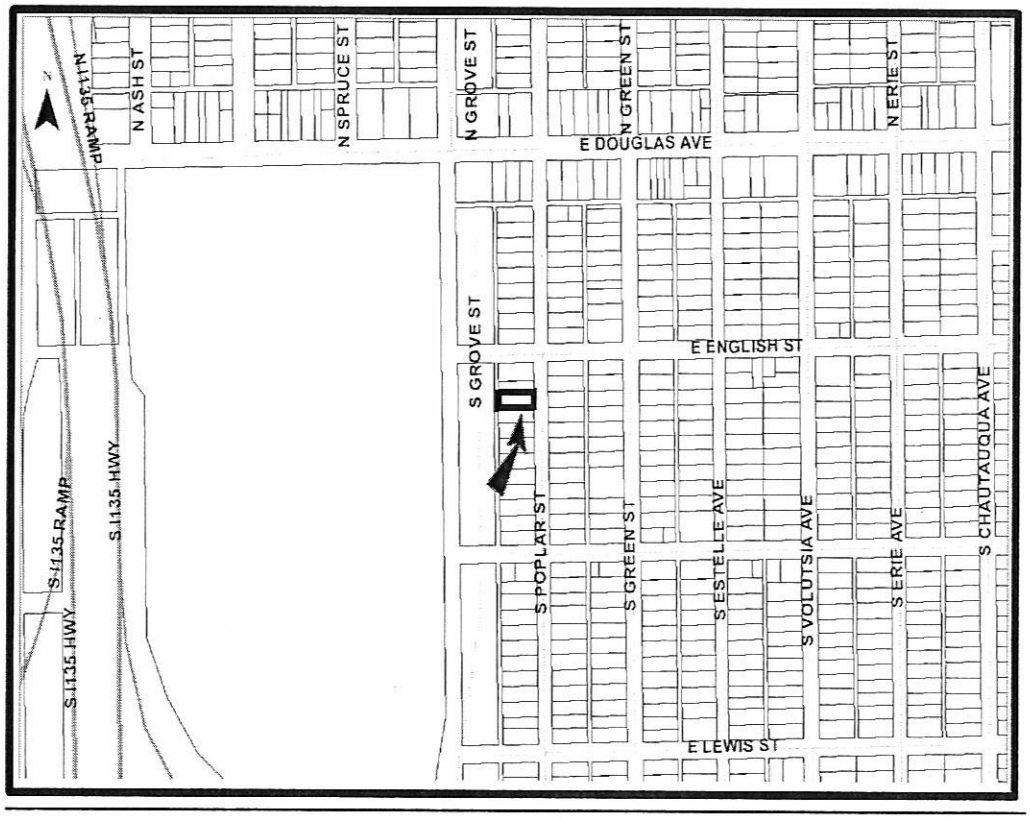
REQUEST: Conditional Use for an accessory apartment

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

SITE SIZE: 0.15 acres

LOCATION: Generally located west of Poplar and south of English (213 S Poplar)

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 ("TF-3"), located west of Poplar and south of English (213 S Poplar). The application area was developed with a fourplex and an existing non-conforming accessory apartment. The applicant purchased the property in this configuration and attempted to register the property as legal-nonconforming; however, he was unable to demonstrate that the site had ever existed in this configuration legally under the zoning code. The applicant has now agreed to convert the primary structure to a duplex, and he requests a Conditional Use for the existing accessory apartment. The site has access and gravel parking from both Poplar and the rear alley. The primary structure and accessory apartment have painted horizontal siding exteriors.

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, duplexes and triplexes.

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 (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.

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	Single-family, triplex
SOUTH:	TF-3	Duplex, single-family
EAST:	TF-3	Single-family residences
WEST:	TF-3	Alley, Grove Street, high school

PUBLIC SERVICES: The subject property has access to S Poplar, a paved residential street with a 50-foot right-of-way, and an unpaved rear alley. The subject property has all other municipal services.

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 (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.

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.

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:

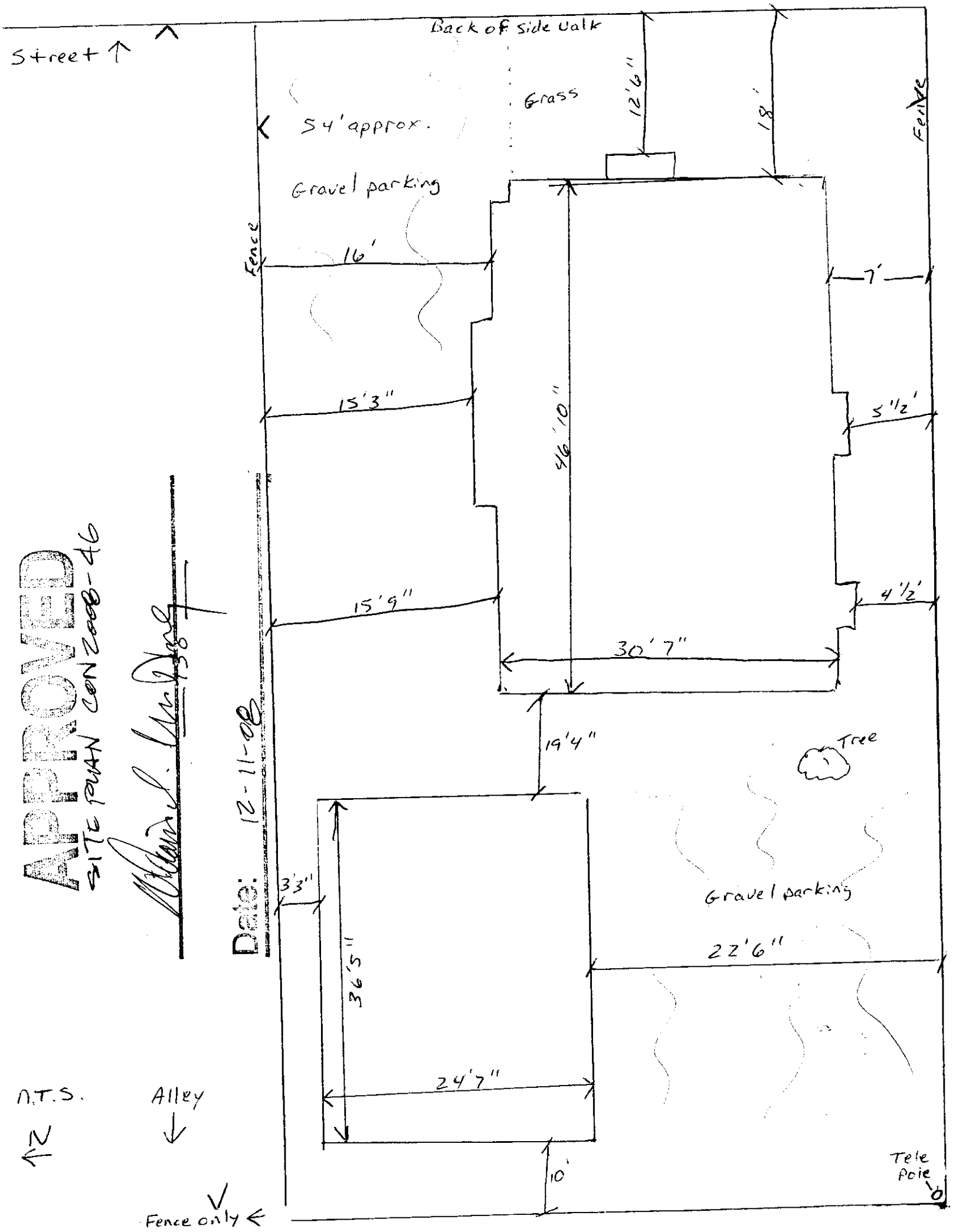
1. The zoning, uses and character of the neighborhood: The character of the surrounding area is residential. All properties surrounding the site are zoned TF-3 and are developed with a mixture of single-family residences, duplexes and triplexes.

2. The suitability of the subject property for the uses to which it has been restricted: The site could be used for a duplex residence only, which would require conversion of the accessory building into a non-residential structure.

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 access and parking should 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.

5. Impact of the proposed development on community facilities: This request should have no impact on community facilities.


Street
Back of side walk
Grass
54' approx.
Gravel parking
12'6"
18'
Fence
Fence
16'
7'
15'3"
46'10"
5 1/2'
15'9"
4 1/2'
30'7"
19'4"
Tree
3'3"
36'5"
Gravel parking
22'6"
24'7"
10'
Tele Pole
N.T.S.
Alley
N
Fence only
APPROVED
SITE PLAN CONFIG-46
Date: 12-11-08