



Wichita-Sedgwick County Metropolitan Area Planning Department

June 14, 2019

Darin and Sonya Dalton
8616 East 63rd Street South
Derby, KS 67037

RE: CON2019-00013 - County request to approve a Conditional Use Permit to permit an Accessory Apartment on Property Zoned RR Rural Residential located North of East 63rd Street South and East of Rock Road (8616 East 63rd Street South).

Dear Applicants:

At its regular meeting on May 23, 2019, the Wichita - Sedgwick County Metropolitan Area Planning Commission considered the above captioned request. The action of the MAPC was to APPROVE the request as recommended by staff. There were no protests, so the MAPC decision was final. The approved Resolution is attached.

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

Sincerely,

David L. Yearout, AICP
Principal Planner

Copies to: BoCC #5 James Howell
Justin Waggoner
MABCD - Kelly Dixon

CONDITIONAL USE RESOLUTION NO. CON2019-00013

WHEREAS, Darin and Sonya Dalton, (Owners), pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requests a Conditional Use for Accessory Apartment on property zoned RR, Rural Residential District, at 8616 East 63rd Street South, and legally described as:

The East ½ of the East ½ of the Southeast ¼ of the Southwest ¼ of Section 29, Township 28 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas.

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 23, 2019, 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 property zoned RR, Rural Residential District, at 8616 East 63rd Street South, and legally described as:

The East ½ of the East ½ of the Southeast ¼ of the Southwest ¼ of Section 29, Township 28 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas.

Subject to the following conditions:

1. The accessory apartment shall be completed and maintained in compliance with the provisions applicable to accessory apartments in the Unified Zoning Code, as found in Article III, Section III-D(6)(a), which states as follows:
 - a. **Accessory Apartments.** Accessory Apartments shall be subject to the following standards.
 - (1) **Number of units.** A maximum of one Accessory Apartment may be allowed on the same Lot as a Single-Family Dwelling Unit and may be within the Main Building, within an accessory Building or constructed as an accessory Building.
 - (2) **Appearance.** The appearance of an Accessory Apartment shall be compatible with the main Dwelling Unit and with the character of the neighborhood.
 - (3) **Ownership.** The Accessory Apartment shall remain accessory to and under the same ownership as the principal Single-Family Dwelling Unit, and the ownership shall not be divided or sold as a condominium.
 - (4) **Utility Service.** The water and sewer service provided to the Accessory Structure shall not be provided as separate service from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services.

2. All permits and approvals shall be obtained, with copies placed on file with the Metropolitan Area Building and Codes Department.
3. If the Zoning Administrator finds there is a violation of any provision or condition of the Conditional Use, or any other provision of the Unified Zoning Code (UZC), the Zoning Administrator shall enforce all remedies of Section VIII of the UZC, and with the concurrence of the Planning Director, declare the Conditional Use null and void.

Adopted this 23rd Day of MAY, 2019

METROPOLITAN AREA PLANNING COMMISSION


Cindy Miles, Chair MAPC

ATTEST:


Dale Miller, Secretary

STAFF REPORT
MAPC: May 23, 2019
Derby: May 16, 2019

CASE NUMBER: CON2019-00013

APPLICANT/OWNER: Darin and Sonya Dalton (Owner/Applicant)

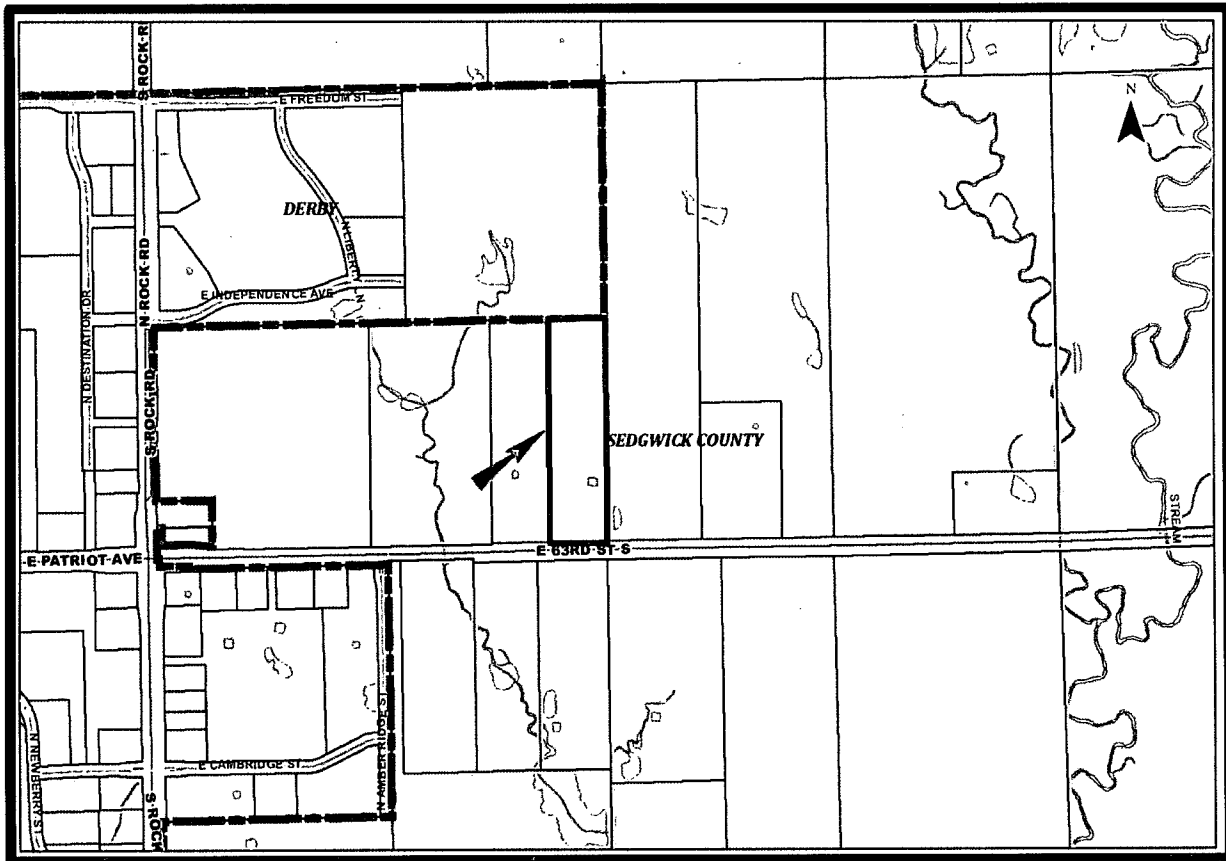
REQUEST: Conditional Use to permit an Accessory Apartment

CURRENT ZONING: RR Rural Residential (RR)

SITE SIZE: 10 acres

LOCATION: Generally on the north side of East 63rd Street South and ¼ mile east of Rock Road (8616 East 63rd Street South)

PROPOSED USE: Accessory Apartment



BACKGROUND: The applicant is requesting a Conditional Use to allow the installation of an accessory apartment to be located within a 40-feet by 80-feet accessory building on the site. The unplatted property is zoned RR Rural Residential and is approximately 10 acres in size. It is currently developed with a single-family home. The subject site is located one-quarter mile east of Rock Road on the north side of East 63rd Street South (8616 East 63rd Street South.) The Sedgwick County site is located within the Urban Area of Influence of the City of Derby, which will review this case on May 16, 2019.

The Wichita-Sedgwick County Unified Zoning Code (“UZC”) defines an “accessory apartment” (Art. II.Sec. II-B.1.b) as a dwelling unit that may be wholly within, or may be detached from a principal single-family dwelling unit. Accessory apartments are also subject to supplementary use regulation Art. III.Sec.III-D.6.a which states:

- 1. A maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling unit that may be within the main building, within an accessory building or constructed as an accessory apartment;
- 2. The appearance of an accessory apartment shall be compatible with the main dwelling unit 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 unit, and the ownership shall not be divided or sold as a condominium and
- 4. The water and sewer service provided to the accessory apartment shall not be provided as separate service from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services.

The surrounding properties to the north, east, west and south are zoned RR. The uses include single-family residences and unimproved large lots.

The applicant submitted the attached site plan showing the location of the existing residence, proposed structure with the 40-feet by 80-feet accessory (shop) building which will house the accessory apartment. There is also a narrative regarding the request submitted by the applicant and also attached.

CASE HISTORY: The subject property is unplatted. According to the information from the Sedgwick County Appraiser’s Office, the existing single-family residence was built in 1973. There are no other zoning actions shown applicable to this property.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Agricultural
SOUTH:	RR	Single-family residence
WEST:	RR	Single-family residence
EAST:	RR	Single-family residence

PUBLIC SERVICES: East 63rd Street South is a four-lane, paved, section-line road that has been improved with curb and gutters and some storm sewer improvement in the area. This level of improvement to East 63rd Street South extends to Greenwich Road to the east. The subject property is served by a lagoon and on-site water well. All other utilities are available to the property.

CONFORMANCE TO PLANS/POLICIES: The *2035 Community Investments Plan* Wichita Future Growth Concept map indicates the application area is located in the Small City Urban Growth Area for the City of Derby. The Derby Future Land Use Plan Map shows the subject property as future mixed-use residential use.

Based upon the information available at the time the staff report, staff recommends the request be **APPROVED**, subject to the following conditions:

1. The accessory apartment shall be completed and maintained in compliance with the provisions applicable to accessory apartments in the Unified Zoning Code, as found in Article III, Section III-D(6)(a), which states as follows:
 - a. **Accessory Apartments.** Accessory Apartments shall be subject to the following standards.
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 - (4) **Utility Service.** The water and sewer service provided to the Accessory Structure shall not be provided as separate service from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services.
2. All permits and approvals shall be obtained, with copies placed on file with the Metropolitan Area Building and Codes Department.
3. If the Zoning Administrator finds there is a violation of any provision or condition of the Conditional Use, or any other provision of the Unified Zoning Code (UZC), the Zoning Administrator shall enforce all remedies of Section VIII of the UZC, and with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding properties to the north, east, west and south are zoned RR. The uses include single-family residences and unimproved large lots.
2. The suitability of the subject property for the uses to which it has been restricted: The property is already being used as permitted for its Rural Residential classification. This activity will simply add an amenity to the property for the use and enjoyment of the owners.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The requested authorization to permit the accessory apartment should have no impact on nearby properties, which are also on large lots with very low density.
4. Length of time the property has been vacant as currently zoned: The property has been used residentially for years. The addition of the Conditional Use Permit for the addition of the accessory apartment to the new accessory building, will have no harm to the subject property.
5. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: There are no impacts evident under either situation. The requested use is reasonable and will enhance value of the land.
6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The *2035 Community Investments Plan* Wichita Future Growth Concept map indicates the application area is located in the Small City Urban Growth Area for the City of Derby. The Derby Future Land Use Plan Map shows the subject property as future mixed-use residential use.
7. Impact of the proposed development on community facilities: The proposed use will have no detrimental impact on community facilities.

Staff Report Attachments:

Site Plan and Supporting Documentation from Applicant

Untitled Map

Write a description for your map.

Legend



SITE PLAN

5/23/19

MARC

APPROVED

Google Earth

© 2018 Google

90 ft

