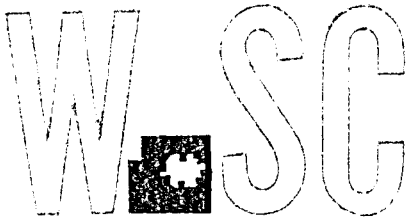


WICHITA — SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421
FAX (316) 268-4390

April 16, 1998

Scott & Renee Berggren
819 Dougherty
Wichita, KS 67212

RE: CU-471 - Conditional use to allow a four-plex on 0.15 acres zoned "TF-3" Two-Family Residential and generally located east of Estelle and south of Kellogg Drive. (532 S. Estelle).

Dear Mr. and Mrs. Berggren:

At its regular meeting on March 26, 1998, the Metropolitan Area Planning Commission considered the above-captioned request. The action of the MAPC was to DENY the request.

This action was not accompanied by valid appeals or protest petitions, therefore, the action of the Planning Commission is FINAL.

Sincerely,

Keith Gooch
Senior Planner

KG/le

cc: Kurt Schroeder, Office of Central Inspection
Randy Sparkman, Office of Central Inspection
Paul Hays, Office of Central Inspection
J.R. Cox, Office of Central Inspection



STAFF REPORT

CASE NUMBER: CU-471

APPLICANT/AGENT: Scott and Renee Berggren, 819 Dougherty, Wichita, 67212

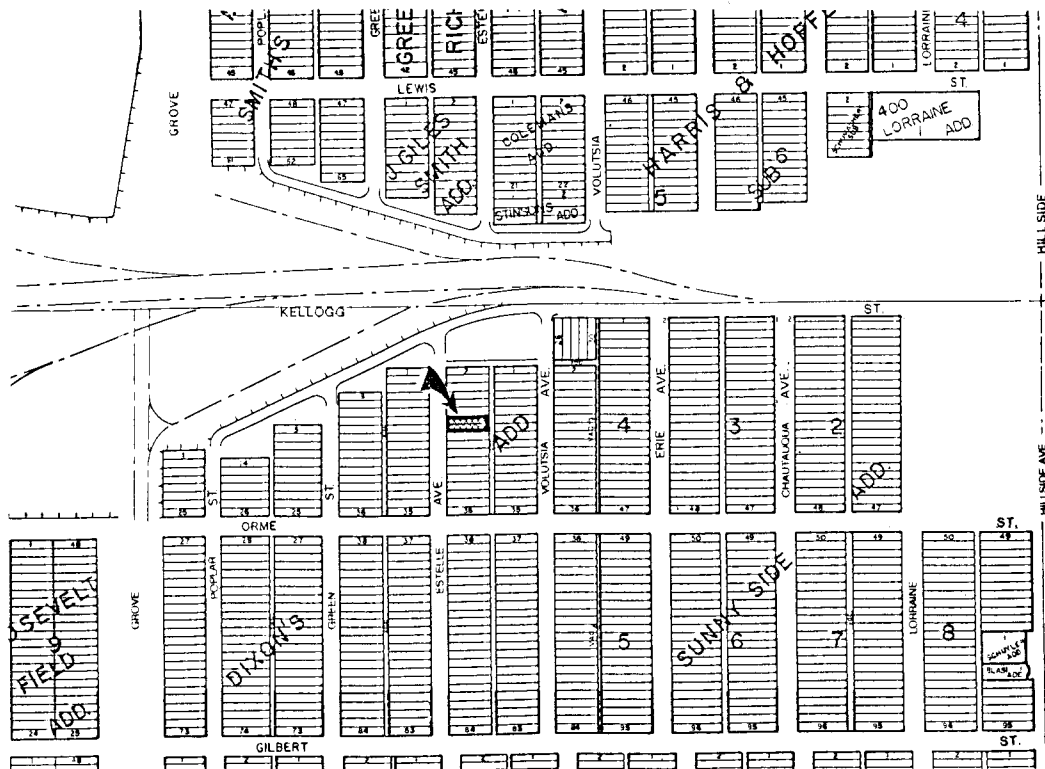
REQUEST: Conditional use to permit a four-plex on property zoned "TF-3", Two-Family Residential

CURRENT ZONING: "TF-3", Two-Family Residential

SITE SIZE: 0.15 acre

LOCATION: East of south Estelle and south of Kellogg Drive

PROPOSED USE: Four-Plex residential



BACKGROUND: Lots 14 and 16, Dixon's Addition, addressed as 532 South Estelle Avenue, are currently zoned "TF-3", Two-Family Residential. A home has been built on these lots. The home appears to have been originally built as a two-story, single-family residence on a lot containing 6,500 square feet. At some point in time, this house was converted to a four-plex residence. Staff has been unable to find any record of any actions to legally permit four units on this site, or any record that the zoning ever permitted this use. The Office of Central Inspection does not have any record of any building or trade permits having been issued for the conversion.

The applicants have recently decided to sell the home, and discovered the discrepancy between the use and the zoning when a survey was completed on the property. The applicants indicate that the home was a four-plex unit when they bought it. The Unified Zoning Code in 1996 established the possibility of approving triplex and fourplex buildings in the "TF-3" district, but only at the same density as duplexes: minimum 3,000 square feet per unit. Therefore, in an effort to make this use legal, the applicants will need to rezone this tract to MF-29, or else will need both a conditional use permit to allow a four-plex residence in the "TF-3" district and a variance from the Board of Zoning Appeals because of the undersized lot area. The applicant's have chosen the latter approach.

Wichita's original zoning code did not contain a zoning district reserved exclusively for single-family residences, so many of the older residential areas have "two-family" zoning even though they were developed predominately with single-family homes. The house is located in an area zoned "TF-3" and developed completely with single-family homes, except for the applicant's property and one duplex across the street and just north of the application area. All of the homes in the area are a mix of two story and one-story units, and appear to have been constructed at the same time, probably between 1918-26.

In addition to the house, the applicant's site plan depicts a long paved drive that leads to a two car garage located at the rear of the lot. Estelle is a typical two-lane, paved residential street which allows parking on both sides of the street. Off-street parking requirements for multi-family uses are 1.25 spaces per efficiency and 1 bedroom unit, and 1.75 spaces per 2 bedroom or larger units. At a minimum, if none of the units have more than one bedroom, the applicant will need to provide three more parking spaces for a total of 5 parking spaces. If both requests are approved, the applicant indicates he can tear down the garage and provide five parking spaces in the rear. Based on the site plan dimensions, however, there is only room for four spaces. A fifth space could possibly be provided by paving a pad in the front yard off the driveway.

Code now calls for a 24 foot wide driveway; however the Traffic Engineer will accept an 18 foot drive, if the applicant can obtain a cross-lot access agreement from his neighbor. The agreement is necessary since the neighbor's drive is paved to the

common property line, and it is probable that once the applicant's drive is widened, residents of the four-plex will drive on the neighbor's driveway.

The landscape ordinance also requires a 15 foot wide buffer of one shade tree and five shrubs for each 50 feet of common property line between multi-family development and single-family and duplex zoning districts. The applicant's lot is 50 feet wide so he would need to provide one tree and five shrubs in that 15 foot buffer area. Without a waiver of this requirement, the 15 foot buffer impacts the applicant's ability to provide parking spaces in the rear.

CASE HISTORY: Dixon's Addition was platted in 1918.

ADJACENT ZONING AND LAND USE:

NORTH: "TF-3", Two-Family; Single-Family Residences, Duplex
SOUTH: "TF-3", Two-Family; Single-Family Residences
EAST: "TF-3", Two-Family; Single-Family Residences
WEST: "TF-3", Two-Family; Single-Family Residences

PUBLIC SERVICES: Public services are available to the site. Estelle is a residential street with 50 feet of right-of-way and 29 feet of paving. Parking is allowed on both sides of the street.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" depicts this site as being appropriate for low density residential uses. By definition, low density residential includes single-family detached homes, zero lot line units and cluster subdivisions. Four-plexes are considered to be multi-family development, but the zoning code permits them in "TF-3" zoning with a conditional use. One of the strategies listed in the residential goals (II.A.3, p. 92) is to "(c)onsider allowing 3-4 attached units in duplex zoning districts to encourage more flexible medium density development." Medium density is defined as 6-10 dwelling units per acre. The "area treatment classification" element of the plan depicts this site as a "conservation" area. Conservation areas are areas which are basically sound physically. Homeowners are providing a level of reinvestment to maintain market interest and positive neighborhood character. These areas should be protected by strict code enforcement, maintenance of community facilities and prevention of land use conflicts.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED. This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site and surrounding properties are zoned "TF-3", Two-Family. All surrounding properties are

developed with single-family residences except for one duplex. The proposed density and the extensive paving of this small lot to meet parking requirements is entirely out of character with surrounding uses.

2. The suitability of the subject property for the uses to which it has been restricted: The property could be used as a single-family home or a duplex as currently zoned, consistent with existing adjacent uses, zoning and the area treatment element of the comprehensive plan.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of this request would legally place a four-plex in a location surrounded overwhelmingly by single-family homes. The application area is located mid-block. If the home were located at the northern end of the block, next to Kellogg and Kellogg Drive, a higher density use might be appropriate. In its mid-block location, there are single-family properties surrounding the home. Conversely, since the unit has been used as an apparently illegal four-plex, neighbors probably have adjusted to any increased traffic and activity on this street generated by the use.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The "Wichita Land Use Guide" depicts this site as being appropriate for low density residential uses. By definition, low density residential uses include single-family detached homes, zero lot line units and cluster subdivisions. One of the strategies listed in the residential goals of the comprehensive plan is to "consider allowing 3-4 attached units in duplex zoning districts to encourage more flexible medium density development." Four units and associated parking on a 6500 square foot lot exceeds the definition of "medium density" in the Plan. The request also appears to be in conflict with the Area Treatment Classification of "conservation" area, in that approval could set a precedent for similar requests in the area and work against the "stabilization" goals for this type of area.
5. Impact of the proposed development on community facilities: None identified.

However if the Planning Commission feels the request should be approved, it should be subject to the following conditions:

- A. The applicant shall provide five off-street parking spaces per the code or obtain a variance by the Board of Zoning Appeals.
- B. The drive shall be widened and paved to 18 feet as required by the Traffic Engineer, and obtain a cross-lot circulation agreement from the neighbor to the

south.

- C. A revised site plan shall be submitted prior to the issuance of any occupancy permit, and development shall be in accordance with that plan.
- D. The use must be inspected and certified by the Office of Central Inspection to meet all applicable building code requirements.
- E. The Board of Zoning Appeals must approve a variance of the minimum lot size requirements, and parking requirements, if necessary
- F. Any violation of the conditions of approval shall render the conditional use permit null and void.