



FILE COPY

Wichita-Sedgwick County Metropolitan Area Planning Department

September 12, 2012

My D. Tran and Hanh Thi Nguyen
129 N. Poplar
Wichita, KS 67214-4524

Chris Sampson
Sampson Construction Co.
551 N. St. Paul
Wichita, KS 67205

RE: CON2012-00037 - City Conditional Use request for an Accessory Apartment on property zoned TF-3 Two-family Residential ("TF-3") located at 129 North Poplar Avenue

Dear Ladies and Gentlemen:

At its regular meeting on August 16, 2012, the Metropolitan Area Planning Commission considered the above-captioned request. The action of the MAPC was to APPROVE the request subject to the conditions stated in the enclosed resolution.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Dale Miller'.

Dale Miller
Current Plans Manager

Copies to: WCC I, Lavonta Williams, Mail Stop 1-13
J. R. Cox, OCI, Mail Stop 1-72
Rick Stubbs, OCI, Mail Stop 1-72
Julianne Kallman, Mail Stop 1-71
Jeff Van Zant, Law, Mail Stop 1-131
City Hall • 10th Floor • 455 North Main • Wichita, Kansas 67202-1688

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CONDITIONAL USE RESOLUTION NO. CON2012-37

WHEREAS, My D. Tran and Hanh Thi Nguyen (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 an “accessory apartment” on approximately 7,698.58 square feet zoned TF-3 Two-family Residential (“TF-3”), described as:

That part of Lot 20 beginning 65 feet west of the southeast corner northwesterly to a point on the north line 35 feet east of the northwest corner, thence west 35 feet to the northwest corner south to the southwest corner east 65 feet to the beginning and Lots 22-24, Poplar St. Oliver’s Subdivision, Block 5, Chautauqua Addition (129 North Poplar), generally located north of East Douglas Avenue and west of 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 August 16, 2012, 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 allow an “accessory apartment” on property zoned TF-3 Two-family Residential (“TF-3”), described as:

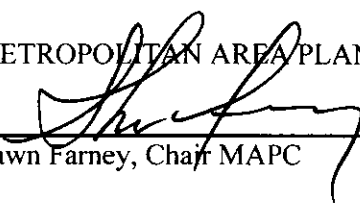
That part of Lot 20 beginning 65 feet west of the southeast corner northwesterly to a point on the north line 35 feet east of the northwest corner, thence west 35 feet to the northwest corner south to the southwest corner east 65 feet to the beginning and Lots 22-24, Poplar St. Oliver’s Subdivision, Block 5, Chautauqua Addition (129 North Poplar), generally located north of East Douglas Avenue and west of Poplar.

Approved subject to the following conditions:

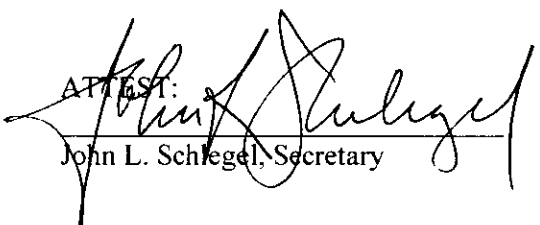
1. The Conditional Use permits one single-family accessory apartment on that part of Lot 20 beginning 65 feet west of the southeast corner northwesterly to a point on the north line 35 feet east of the northwest corner, thence west 35 feet to the northwest corner south to the southwest corner east 65 feet to the beginning and Lots 22-24, Poplar St. Oliver’s Subdivision, Block 5, Chautauqua Addition (129 North Poplar). The site shall be developed and maintained in general conformance with the approved site plan, and in conformance with all applicable regulations, including but not limited to: local zoning, including Article III, Section III-D.6 .a.(1)-(4); building, fire and utility regulations or codes. The revised site plan shall include a description of the materials to be used on the exterior façade of the accessory apartment.
2. A revised site plan shall be submitted prior to final approval of the resolution authorizing the accessory apartment that depicts the perimeter of the subject site, dimensions, existing structures, parking and driveway areas, utility easements, street names, north arrow, etc.
3. 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 VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

Adopted this 6 day of September 2012.

METROPOLITAN AREA PLANNING COMMISSION


Shawn Farney, Chair MAPC

ATTEST:


John L. Schlegel, Secretary



STAFF REPORT
DAB 18-6-12
MAPC 8-16-12

AGENDA ITEM NO. **10**

CASE NUMBER: CON2012-00037

APPLICANT/AGENT: My D. Tran and Hanh Thi Nguyen (owner, co-applicant), Derrik Tran (co-applicant) / Chris Sampson, Sampson Construction (agent)

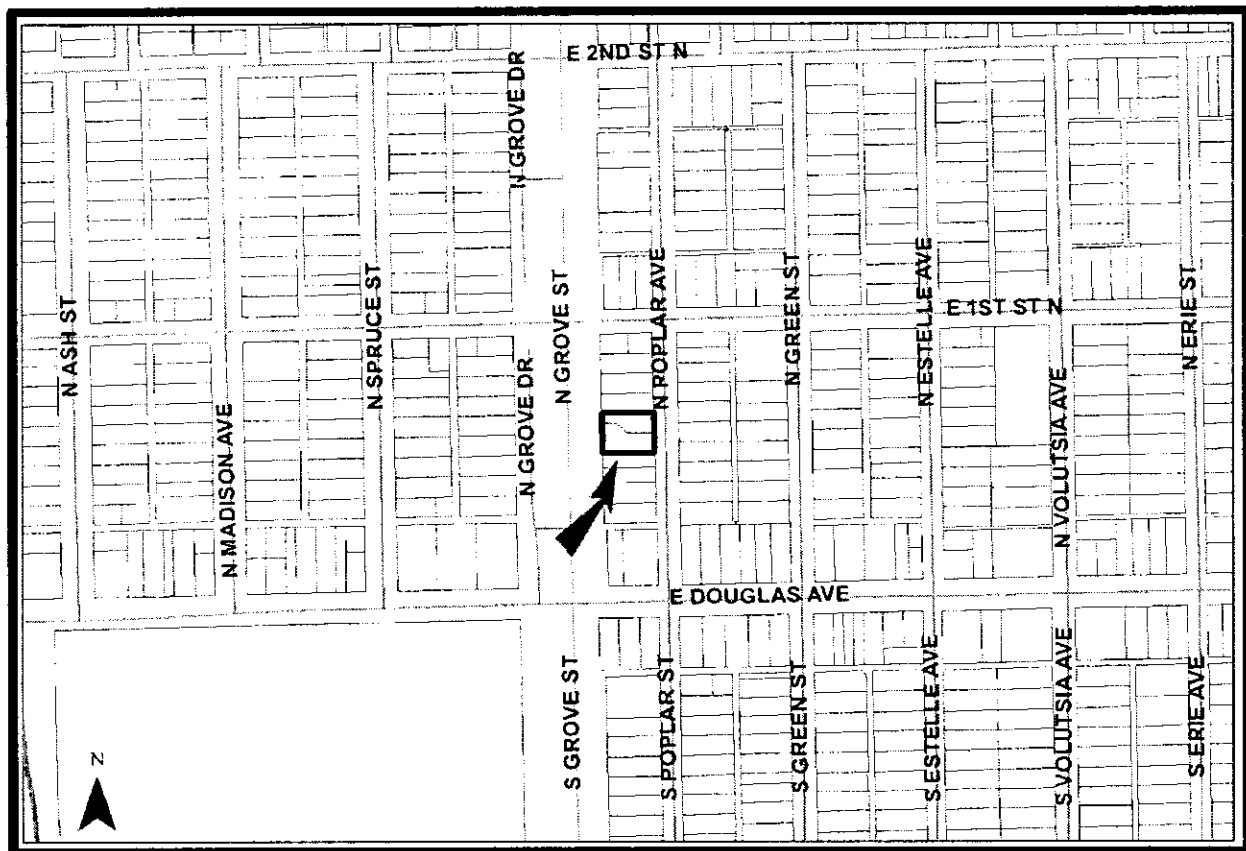
REQUEST: Conditional Use for an Accessory Apartment

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

SITE SIZE: 7,698.58 square feet (129 North Popular)

LOCATION: West side of North Popular Avenue (one block east of North Grove Street), 360 feet north of East Douglas Avenue

PROPOSED USE: Accessory Apartment



BACKGROUND: The applicant is seeking Conditional Use approval for an “accessory apartment” on property zoned TF-3 Two-family Residential (“TF-3”) located 360 feet north of East Douglas Avenue, on the east side of North Popular Street. The applicant owns two platted parcels, one containing 7,698.58 square feet and addressed as 129 North Popular, and one containing 5,247.36 square feet, addressed as 135 North Popular. Each parcel has a single-family residence, reported to have been built in 1920 and 1925, respectively. The single-family residence located at 129 North Popular is a wood-sided bungalow. 129 North Popular also has an approximate 1,050 square-foot accessory structure at the rear of the 130-foot deep parcel. The applicant proposes to raze the accessory structure located at 129 North Popular, and replace it with a 46-foot by 28-foot (1,288 square feet) accessory apartment.

Properties located north of the application area are zoned TF-3 and are developed with single-family residences. Land to the east is also zoned TF-3, and is developed with single-family residences. There are some properties located further to the southeast, fronting East Douglas Avenue, that are zoned LC Limited Commercial (“LC”) and developed with government offices. Properties located south of the site are also zoned TF-3 and LC, and are developed with single-family residences and general office buildings. To the west of the subject site is 220 feet of street right-of-way that includes an alley, Grove Street and Grove Drive. West of the Grove Drive are lots that are zoned B Multi-family Residential (“B”).

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 (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 UZC defines a duplex as the use of a lot for two principal dwelling units within a single building. If the applicant were to attach the proposed second dwelling unit to the existing single-family structure, a Conditional Use application for an accessory apartment would not be required.

The TF-3 zoning district property development standards call for a minimum rear setback of 20 feet for principal structures; however, accessory use rear building setback (Sec. III-D.7.e(1)) shall be at least ten feet from the centerline of any platted or dedicated alley, and if no alley exists, then five feet from the rear lot line. Accessory structures may not utilize more than one-half of any required rear yard. In this circumstance there is an alley located immediately west of the subject site.

Accessory structure interior side yard setbacks are the same as that required for the principal use, which is six feet except that one required side yard for a single-family dwelling unit or duplex may be reduced to as little as zero feet if setback lines are established that ensure a minimum of twelve feet between structures on contiguous lots; however, accessory structures are not required to set back more than three feet from an interior side lot line when all parts of the accessory structure are located more than one-half the depth of the lot behind the front property line. In this instance the proposed accessory apartment is located in the rear half of the property. No accessory structure may be located on any platted or recorded easement, or over any known utility.

The property is located within the “environs” of the Stopher Apartments, 2505 East Douglas, that are designated as a State and National Historic Landmark. The State of Kansas Environs statute requires review of projects located within 500 feet of a state or nationally designated landmark. The applicant will need to contact the City of Wichita’s Preservation Planner to obtain the “environs” review.

CASE HISTORY: The date of construction for the house located on the subject tract is reported as 1920. Most all of the houses in the larger neighborhood were also built in the early 1920s. At that time the City of Wichita zoning code did not have a single-family residential zoning district. The most restrictive zoning district at that time was the A Residential district that permitted both single-family and two-family residences by right. The Oliver’s Subdivision of Block 5 Chautauqua Addition was recorded in 1886.

ADJACENT ZONING AND LAND USE:

NORTH: TF-3; single-family residences
SOUTH: TF-3 and LC; single-family residences
EAST: TF-3 and LC; single-family residences and government offices
WEST: Grove Street right-of-way and B

PUBLIC SERVICES: The property is serviced by all publicly supplied municipal services. Popular Street has sixty feet of right-of-way.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map depicts this site as appropriate for “urban residential.” The “urban residential” category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single-family detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The Conditional Use permits one single-family accessory apartment on that part of Lot 20 beginning 65 feet west of the southeast corner northwesterly to a point on the north line 35 feet east of the northwest corner, thence west 35 feet to the northwest corner south to the southwest corner east 65 feet to the beginning and Lots 22-24, Popular St. Oliver’s Subdivision, Block 5, Chautauqua Addition (129 North Popular). The site shall be developed and maintained in general conformance with the approved site plan, and in conformance with all applicable regulations, including but not limited to: local zoning, including Article III, Section III-D.6 .a.(1)-(4); building, fire and utility regulations or codes. The revised site plan shall include a description of the materials to be used on the exterior façade of the accessory apartment.
2. A revised site plan shall be submitted prior to final approval of the resolution authorizing the accessory apartment that depicts the perimeter of the subject site, dimensions, existing structures, parking and driveway areas, utility easements, street names, north arrow, etc.
3. 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 VII hereof, may, 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: Properties located north of the application area are zoned TF-3 and are developed with single-family residences. Land to the east is also zoned TF-3, and is developed with single-family residences. There are some properties located further to the southeast, fronting East Douglas Avenue, that are zoned LC Limited Commercial ("LC") and developed with government offices. Properties located south of the site are also zoned TF-3 and LC, and are developed with single-family residences and general office buildings. To the west of the subject site is 220 feet of street right-of-way that includes an alley, Grove Street and Grove Drive. West of the Grove Drive are lots that are zoned B Multi-family Residential ("B").
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned TF-3 which permits two dwelling units in one structure. Potentially, the applicant's objective of building a second structure on the property could be met as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should not detrimentally impact nearby properties. A second dwelling unit could be installed without Conditional Use approval but would require the dwelling unit to be attached to the existing single-family structure. The conditions of approval should minimize any anticipated detrimental impacts.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map depicts this site as appropriate for "urban residential." The "urban residential" category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single-family detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units.
5. Impact of the proposed development on community facilities: If this request is approved, the site is served by municipal services that are able to accommodate projected demand created by this request.

Rear Yard Setback
Is 10' From Centerline
Of Alley

N GROVE ST
15' ALLEY



Property Line

NOTE: Exact Location of Property
Corners and Structures Must Be
Determined Before Beginning
Construction

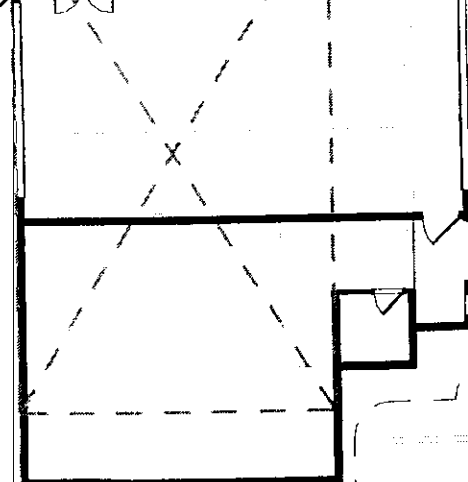
Existing Structure to
be Removed

35'

5'-6"

2'-6"

1/2"



NOTE: Exact Location of
Property Corners and
Structures Must Be Determined
Before Beginning Construction

Property Line

130'

135 N Poplar
Lots 18 & 20 Oliver's Subdivision
of Lots 1,2,7 & 8 in Block 5 of
Chautauqua Division to City of Wichita

Current Zoning: TF3 - 2 Family

Maintain 6' Off Structure On Adjacent Lot

CON 12-37
SITE PLAN

APPROVED

2-4-12 BY

BY

65'

Maintain 3' Off Structure On Same Lot

129 N Poplar
Lots 22 & 24 Oliver's Subdivision
of Lots 1,2,7 & 8 in Block 5 of
Chautauqua Division to City of Wichita

Current Zoning: TF3 - 2 Family

130'

50'

N POPLAR AVE

50'

LOCATION AND ZONING SETBACK PLAN

1/16" = 1'-0"