CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

October 28, 2013

Edward L. and Angela D. Schwartz
18302 W. 77th Street North
Colwich, KS 67030

Martha Worlien
18302 W. 77th Street North
Colwich, KS 67030

RE: **CON2013-00023** - County Conditional Use request to permit an accessory apartment on property zoned RR Rural Residential ("RR") generally located east of North 133rd Street West and north of West 77th Street North (18302 West 77th Street North).

Dear Ladies and Gentlemen:

At its regular meeting on October 24, 2013, 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 platting within one year and development of the site in conformance with the site plan.

1. The Conditional Use permits one single-family accessory apartment on the site. The site shall be developed and maintained in general conformance with the approved site plan, the approved elevation drawing, 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.
2. The applicant shall submit an elevation drawing to be approved by planning staff, demonstrating dimensions and exterior materials.
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.

Property owners may also file written protest petitions on zoning related items heard by the MAPC. In order to be considered a "valid" petition, the signatures must reflect the correct and entire ownership of the property, the property must be at least partially within 1,000 feet of the property for which the application was filed, and must be submitted to the County Clerk within 14 days of the conclusion of the MAPC hearing, by **November 7, 2013, at 5 p.m.** Such petitions may cause the application to be

disapproved, if the land area encompassed by the protesting owners exceeds 20% of the land area within 1,000 feet of the perimeter of the application area, unless the County Commission overrides such a protest and approves the application by a positive vote of 5 of its members.

If there are no valid appeals or protest petitions filed opposing this action by **November 7, 2013**, the action of the MAPC will be considered final. If appeals or protest petitions are filed, you will be advised of the date your application will be forwarded to the Governing Body for review and final action.

This is a reminder that the zoning notification signs should now be removed from the property. If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

Dale Miller
Current Plans Manager

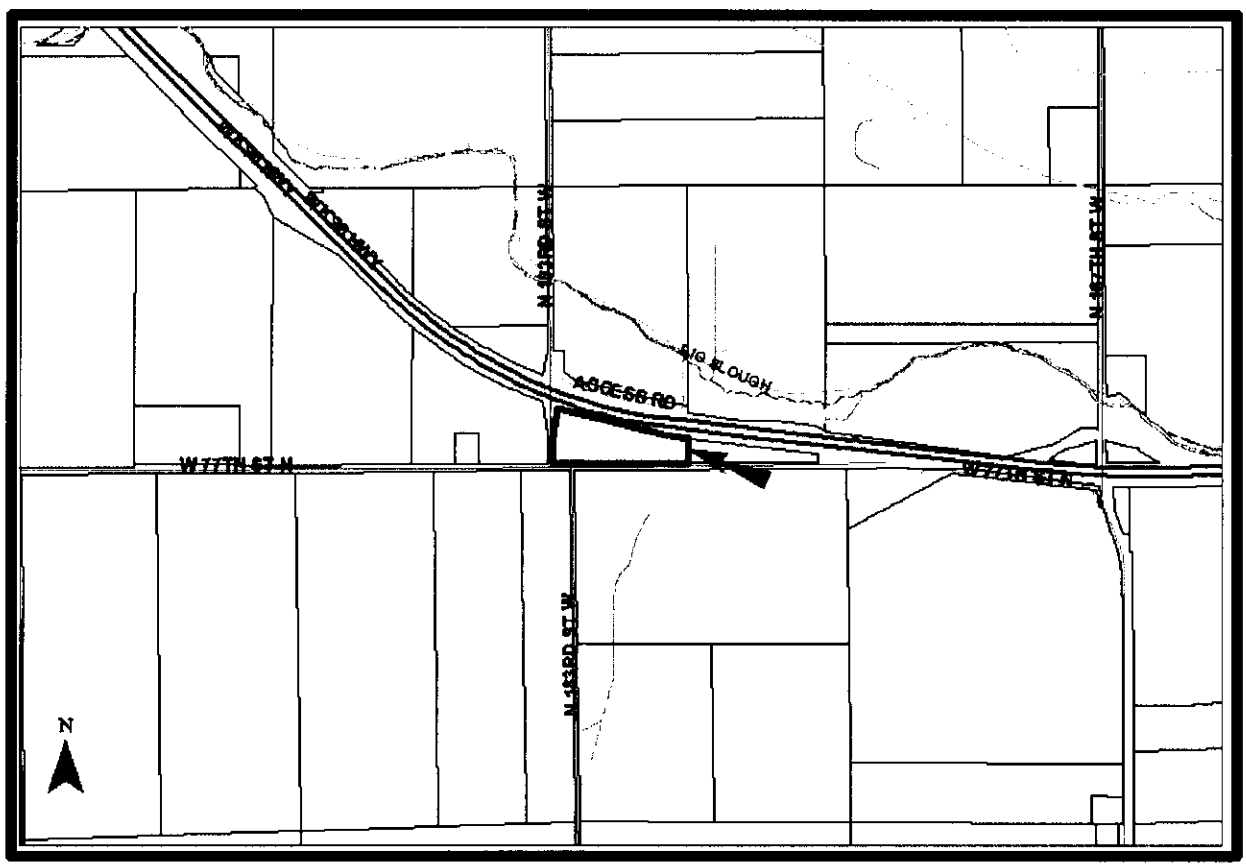
Copies to: BCOC 3, Karl Peterjohn, Mail Stop County, Room 320
Bob Parnacott, County Attorney, Mail Stop County Room 359
Kelly Dixon, County Code Enforcement, 1144 S Seneca, Wichita, KS 67213
Jim Weber County Public Works, 1144 S Seneca, Wichita, KS 67213

WICHITA–SEDGWICK COUNTY
WSC
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 5

STAFF REPORT
MAPC 10-24-2013

CASE NUMBER:	CON2013-00023
APPLICANT/AGENT:	Edward and Annie Schwartz (property owner and co-applicant) and Martha Worlein (co-applicant)
REQUEST:	Conditional Use to permit an Accessory Apartment
CURRENT ZONING:	RR Rural Residential (RR)
SITE SIZE:	11 acres
LOCATION:	East of North 133rd Street West and north of West 77th Street North (18302 West 77th Street North)
PROPOSED USE:	Accessory Apartment



BACKGROUND: The applicants are requesting approval of a "conditional use" to permit an "accessory apartment." The application area is 11 unplatted acres zoned RR Rural Residential (RR) that are located north of West 77th Street North, east of North 183rd Street West and south of K-96 Highway (18302 West 77th Street North). The application area is developed with an existing residence and several accessory buildings. The applicant proposes to install a 36-foot by 60-foot structure to be the accessory apartment.

The area surrounding the subject site is rural land zoned RR, with the closest house located approximately 750 feet to the west. There are three other homes located between 800 and 1,575 feet southwest, south and east of the application area. Highway K-96 is located immediately north of the application area.

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 RR zoning district property development standards call for a minimum rear setback of 25 feet for principal structures; however, an accessory structure rear building setback (Sec. III-D.7.e(1)) shall be at least ten feet from the centerline of any platted or dedicated alley, or if no alley exists, then the setback shall be five feet from the rear lot line; accessory structures may be within three feet of a side lot line if on the rear half of the property. Accessory structures may not utilize more than one-half of any required rear yard, and shall not exceed 60 percent of the allowable height limit for the zoning district unless the accessory structure conforms to principal structure setback requirements. The RR zoning district maximum height is 35 feet, or 45 feet if the structure is located at least 25 feet from all lot lines. An alternate building height may be established as a development standard with Conditional Use approval. The UZC parking standards require one off-street parking space per single-family residence and one per accessory apartment. The submitted site plan appears to conform to UZC requirements, except that the proposed building height is unknown.

CASE HISTORY: The property's RR zoning was applied in 1985 with the adoption of county-wide zoning.

ADJACENT ZONING AND LAND USE:

North: RR; Highway K-96
South: RR; Agriculture and farmstead
East: RR; Agriculture and farmstead
West: RR; Agriculture and farmstead

PUBLIC SERVICES: On-site water and sewer systems will be utilized. Other normally supplied rural utilities are available. North 183rd Street West and West 77th Street North are both sand and gravel roads.

CONFORMANCE TO PLANS/POLICIES: The Wichita and Small Cities 2030 Urban Growth Areas map designates the application area as part of the K-96 Special Uses Corridor. The K-96 Special Uses

Corridor encompasses areas of land identified in the K-96 Corridor Economic Development Plan. The K-96 Corridor Economic Development Plan contains policies designed to encourage land uses that benefit by having proximity to Highway K-96. The proposed use will not compromise any of the aims of the K-96 Corridor Plan.

RECOMMENDATION: Based upon the information available at the time the staff report was prepared, it is recommended that the request for a conditional use to permit an accessory apartment be approved subject to the following conditions:

1. The Conditional Use permits one single-family accessory apartment on the site. The site shall be developed and maintained in general conformance with the approved site plan, the approved elevation drawing, 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.
2. The applicant shall submit an elevation drawing to be approved by planning staff, demonstrating dimensions and exterior materials.
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: The area surrounding the subject site is rural land zoned RR, with the closest house located approximately 750 feet to the west. There are three other homes located between 800 and 1,575 feet southwest, south and east of the application area. Highway K-96 is located immediately north of the application area.

2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned RR which permits a limited range of single-family residential uses, agriculture and a few other public uses. The property could continue to be used for one single-family residence; the property easily accommodates an accessory apartment and the additional required parking space.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should not negatively impact nearby property owners given the size of the application area, 11 acres, and the distance to existing abutting farmsteads, between 750 feet and 1,575.

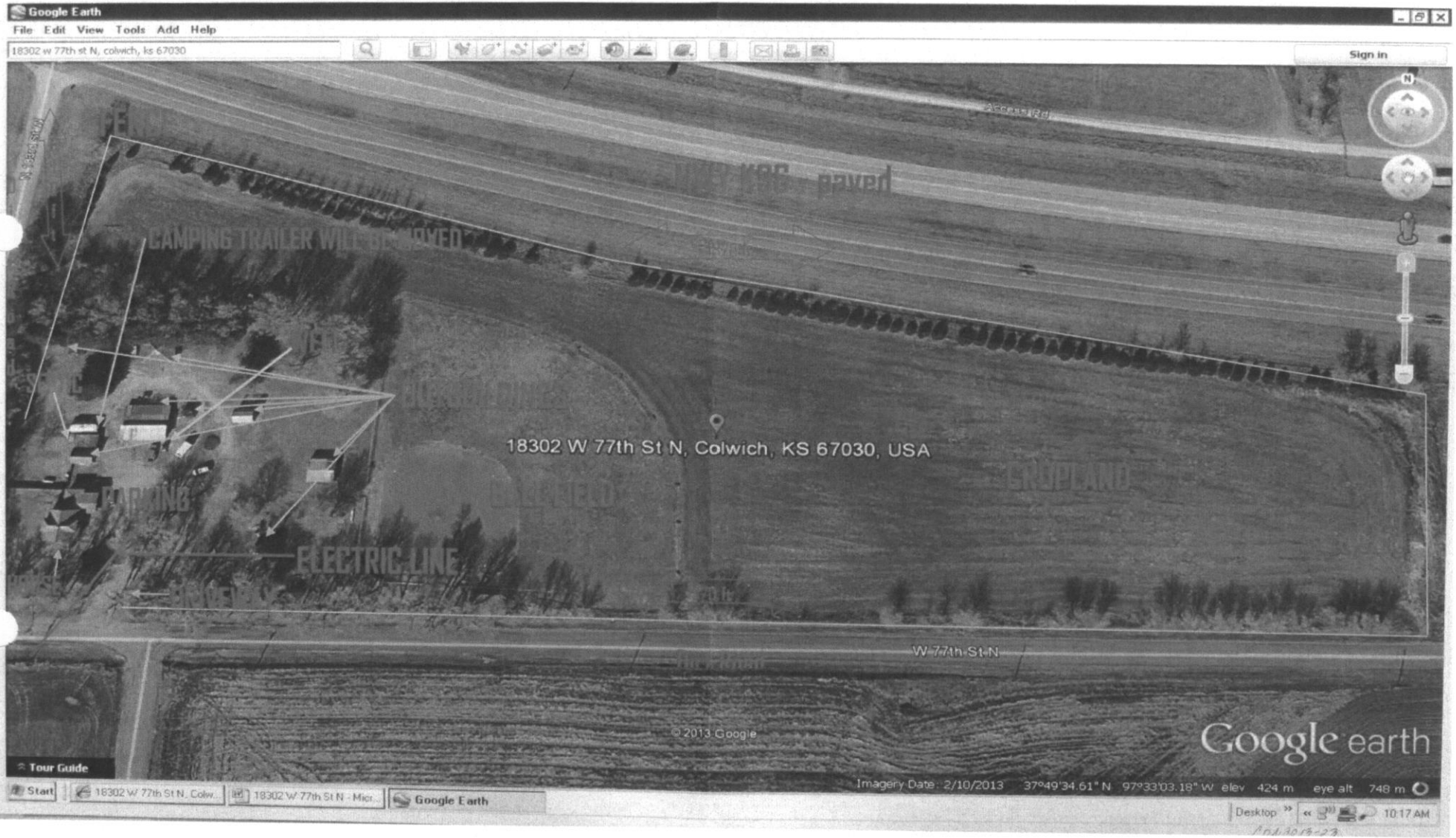
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval would benefit the applicant as the second residential unit would increase the value of the property. Approval will not negatively impact the health, safety and welfare of the public in that the proposed project will not hinder the potential development of highway oriented uses along K-96.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Wichita and Small Cities 2030 Urban Growth Areas map designates the application area as part of the K-96 Special Uses Corridor. The K-96 Special Uses Corridor encompasses areas of land identified in the K-96 Corridor Economic Development Plan. The K-96 Corridor Economic Development Plan contains policies designed to encourage land uses that benefit by having proximity to Highway K-96. Approval of the request will not compromise the aims and goals of the K-96 Corridor Economic Development Plan or the Wichita-Sedgwick County

Comprehensive Plan.

6. Impact of the proposed development on community facilities: Existing facilities are either in place or can be installed or extended. Approval of the request will not noticeably impact community facilities.

EXISTING PROPERTY Sheet Size: 26" x 12" minimum.



SITE PLAN FOR CONDITIONAL USE WITH ACCESSORY APARTMENT



CUP2013-23