



FILE COPY

Wichita-Sedgwick County Metropolitan Area Planning Department

May 9, 2007

Donna M. Burdick
9901 S. 159th St. E
Rose Hill, KS 67133

RE: CON2007-08 – Conditional Use for an accessory apartment, generally located midway between 103rd and 95th Streets South, on the west side of 159th Street East.
(Sedgwick County District V)

Dear Mrs. Burdick:

At its regular meeting on April 5, 2007, the Metropolitan Area Planning Commission (MAPC) considered the above-captioned request. The action of the MAPC was to **APPROVE** the request subject to the conditions stated in the enclosed, signed resolution. Because there were no protest to your Conditional Use request the recommendation/action of the MAPC is final.

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

Sincerely,


Bill Longnecker
Senior Planner
Current Plans Division

WL/mc
Enclosure

cc: Gwen Welshimer, County Commissioner District V, Mail Stop, County Room #320
Bill Buchanan, County Manager, Mail Stop County Room #343
Bob Parnacott, County Law Dept., Mail Stop County Room #59
Glen Wiltse, County Code Enforcement, 1144 S. Seneca, Wichita, KS 67213
Jim Weber, County Public Works, 1144 S. Seneca, Wichita, KS 67213

CONDITIONAL USE RESOLUTION NO. CON2007-00008

WHEREAS, Donna M. Burdick (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 10 acres zoned "RR" Rural Residential described as:

Beginning at the Northeast corner of the Southeast Quarter; thence South 660 feet; thence West 660 feet; thence North 660 feet; thence East 660 feet to beginning, Section 24, Township 29, Range 2 East, Sedgwick County, Kansas. Generally located midway between 103rd and 95th Streets South, on the west side of 159th Street East (9901 S. 159th St. E, Rose Hill, Kansas, 67113).

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 April 5, 2007, 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 a Conditional Use for an Accessory Apartment on 10 acres zoned "RR" Rural Residential described as:

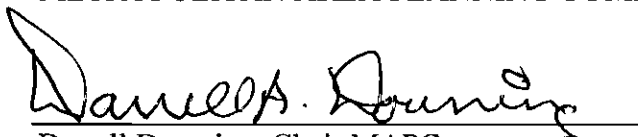
Beginning at the Northeast corner of the Southeast Quarter; thence South 660 feet; thence West 660 feet; thence North 660 feet; thence East 660 feet to beginning, Section 24, Township 29, Range 2 East, Sedgwick County, Kansas. Generally located midway between 103rd and 95th Streets South, on the west side of 159th Street East (9901 S. 159th St. E, Rose Hill, Kansas, 67113).

Approved subject to the following conditions:

1. The accessory apartment shall be subject to all requirements of Article III, Section III-D.6.a of the Unified Zoning Code; including the appearance of the accessory apartment shall be compatible with the primary residence.
2. The site will be generally developed as shown on the aerial, obtaining and conforming to all applicable permits, including but not limited to building, health, and zoning.
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 3rd day of May, 2007.

METROPOLITAN AREA PLANNING COMMISSION


Darrell Downing, Chair MAPC

ATTEST:



John L. Schlegel, Secretary

STAFF REPORT

MAPC April 5, 2007

CASE NUMBER: CON2007-00008

OWNER/APPLICANT: Donna M. Burdick

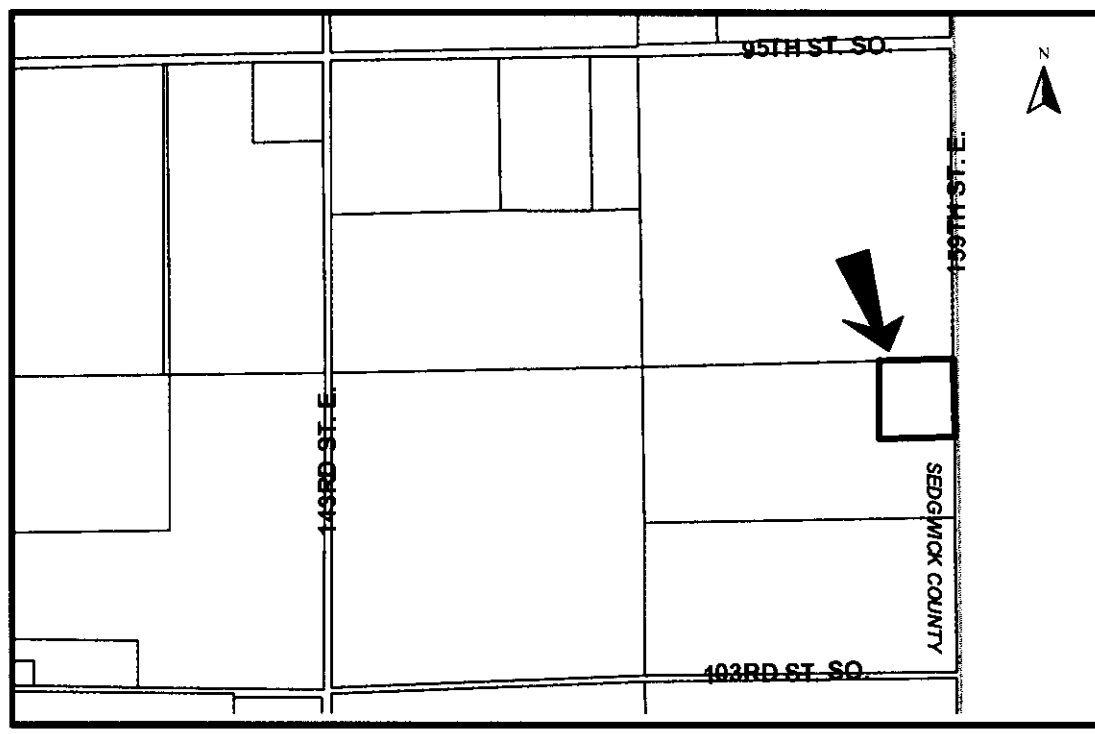
REQUEST: Conditional Use for an accessory apartment

CURRENT ZONING: "RR" Rural Residential

SITE SIZE: 10-acres

LOCATION: Generally located midway between 103rd and 95th Streets South, on the west side of 159th Street East (BoCC District #5)

PROPOSED USE: Accessory Apartment for self



BACKGROUND: The applicant is requesting a Conditional Use to allow an accessory apartment on a 10-acre tract, located at 9901 South 159th Street East. The applicant will live in the proposed accessory apartment, while her son and his family live in the existing approximately 1,375-square foot single-family residence. This residence was built in 1961, is a single-story frame house, bricked almost half way up all the exterior walls, with lap siding from there up to the gable and roof overhangs. The subject site is zoned "RR" Rural Residential. Because the proposed additional structure will contain a kitchen, bathroom and sleeping quarters, it is classified as a dwelling unit and thus requires a "Conditional Use" approval for an accessory apartment. The site is located in unincorporated Sedgwick County. The applicants have provided an aerial of the site.

The aerial shows the development of the site including the proposed accessory apartment located behind/west of the existing residence, several outbuildings, tree lines, the driveway and other features. The accessory apartment shares the same drive onto 159th Street East as the primary residence. No size is given for the proposed accessory apartment. No dimension control is given.

The subject site is located in rural Sedgwick County, on the Sedgwick – Butler County line. There are agricultural fields (mostly in winter wheat) located on all sides of the subject site, with the nearest neighbor located approximately ¼ -mile northeast of the site in Butler County. All of the land located north, west and south of the site is zoned "RR" Rural Residential. All of the land located east of the site is in Butler County.

The Unified Zoning Code's Conditional Use requirements for accessory apartments are as follows:

- (a) A maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling;
- (b) The appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood;
- (c) 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.
- (d) The water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling.

CASE HISTORY: The subject site is an unplatted tract.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR" Rural Residential	Agricultural fields
SOUTH:	"RR" Rural Residential	Agricultural fields
EAST:	Butler County	Agricultural fields
WEST:	"RR" Rural Residential	Agricultural fields

PUBLIC SERVICES: 159th Street East is an unimproved Rockford Township road. The 2030 Transportation Plan projects no change in its status. The site is in Rural Water District 3 and is served by a well. The site has no access to public sewer and is served by a lagoon. All other necessary utilities are present.

CONFORMANCE TO PLANS/POLICIES: The 2001 Sedgwick County Development Guide Land Use Guide of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* designates this area as "Rural". The Rural category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services. The policies of the Unified Zoning Code 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.

RECOMMENDATION: Based upon information available prior to the public hearing, Staff recommends that the request be APPROVED subject to the following conditions being completed within a year:

1. The accessory apartment shall be subject to all requirements of Article III, Section III-D.6.a of the Unified Zoning Code; including appearance of the accessory apartment shall be compatible with the primary residence.
2. The site will be generally developed as shown on the aerial, obtaining and conforming to all applicable permits, including but not limited to building, health, and zoning.
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's character is rural with agricultural fields and scattered farmsteads and houses.
2. The suitability of the subject property for the uses to which it has been restricted: Accessory apartments are allowed as a Conditional Use in "RR" zoning, provided the applicant and the site meet the specified criteria. The application and the site appear to meet these criteria.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental effect should be minimized by the conditions for accessory apartments by the UZC and the conditional use.

4. Conformance of the requested change to adopted or recognized Plans/Policies: The Unified Zoning Code makes specific provision for accessory apartments in "RR" zoning. This application appears to comply with all the provisions outlined in the UZC for accessory apartments.
5. Impact of the proposed development on community facilities: The applicants' request should have a minimal impact on community facilities; there is no public water or sewer available at this time.

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