



Wichita-Sedgwick County Metropolitan Area Planning Department

December 22, 2009

Roxanna Austin and Sharon Delyria
6001 W. 76th St., South
Haysville, KS 67060

RE: CON2009-00034 - County Conditional Use for Accessory Apartment on property zoned RR Rural Residential, generally located on the south side of 76th Street South and 1/4 mile west of 55th Street West/Hoover Road.

Dear Ladies and Gentlemen:

At its regular meeting on **November 19, 2009**, 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 the conditions stated in the enclosed resolution.

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

Sincerely,

Bill Longnecker

A handwritten signature in black ink, appearing to read 'Bill Longnecker', written over the printed name.

Senior Planner
Current Plans Division

WL:mc
Enclosure

Copies to: BoCC II, Tim R. Norton, Mail Stop County, Room 320
Bill Buchanan, County Manager, Mail Stop County Room 343
Bob Parnacott, County Law, Mail Stop Room 359
Glen Wiltse County Code Enforcement, 1144 S Seneca, Wichita, KS 67213
Jim Weber County Public Works, 1144 S Seneca, Wichita, KS 67213
Haysville City Hall, 200 W Grand, P O Box 404, Haysville, KS 67060-0404
Ohio Township, Robert D Hay, 9171 S West Street, Haysville, KS 67060

CONDITIONAL USE RESOLUTION NO. CON2009-00034

WHEREAS, Roxanna M. Austin and Sharon Delyria (Owners/Applicants); 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 6.5-acres zoned RR Rural Residential ("RR") described as:

Lot 4, Block B, Aqueous Acres, Sedgwick County, Kansas, generally located midway between 71st Street South and 79th Street South, west of 55th Street West/Hoover Road, on the south side of 76th Street South.

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 Haysville Planning Commission did, at the meeting of November 12, 2009, consider said application and the MAPC did, at the meeting of November 19, 2009, 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 approximately 6.5-acres zoned RR Rural Residential ("RR") described as:

Lot 4, Block B, Aqueous Acres, Sedgwick County, Kansas, generally located midway between 71st Street South and 79th Street South, west of 55th Street West/Hoover Road, on the south side of 76th Street South.

APPROVED subject to the following conditions:

1. The appearance of an accessory apartment shall be compatible with the principal single-family dwelling and with the character of the neighborhood. The minimum standard shall be the Unified Zoning Code's Residential Designed Manufactured Home standards; Art IV, Sec IV-D and Art II, Sec II-11 (j).
2. 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. The accessory apartment shall be smaller than 1,600-square feet, which is the approximate ground floor size of the principal single-family dwelling.
3. Sewer service provided to the accessory structure shall not be provided as separate service from the principal single-family dwelling. Water service may be separate from the principal single-family dwelling.
4. The applicant shall obtain all applicable permits, including but not limited to building, health, and zoning.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the

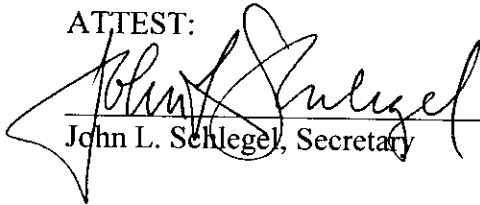
Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

Adopted this 19th day of November 2009

METROPOLITAN AREA PLANNING COMMISSION


G. Nelson Van Fleet, Chair MAPC

ATTEST:


John L. Schlegel, Secretary

STAFF REPORT

Haysville November 12, 2009
MAPC November 19, 2009

CASE NUMBER: CON2009-34

OWNER/APPLICANT: Roxanna Austin and Sharon Delyria

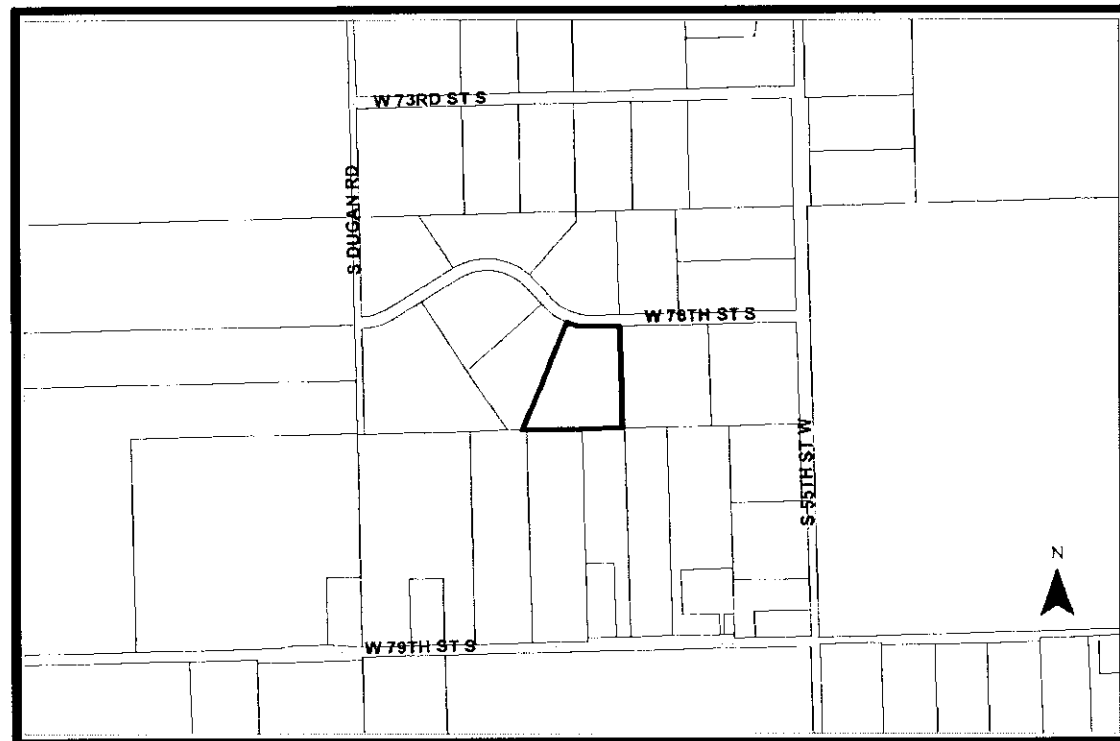
REQUEST: Conditional Use for accessory apartment

CURRENT ZONING: RR Rural Residential ("RR")

SITE SIZE: 6.5-acres

LOCATION: Midway between 71st Street South and 79th Street South, on the west of 55th Street West/Hoover Road, on the south side of 76th Street South

PROPOSED USE: Accessory Apartment for a parent



BACKGROUND: The applicants are requesting a Conditional Use to allow an accessory apartment on Lot 4, Block B, Aqueous Acres, 6001 West 76th Street South. The mother of one of the applicants' will live in the accessory apartment. The 6.5-acre subject site is zoned RR Rural Residential ("RR"). Because the proposed additional structure will contain a kitchen and sleeping quarters, it is classified as dwelling unit and thus requires a Conditional Use approval for an accessory apartment. The site is located in Sedgwick County, within the City of Haysville's zoning area of influence, and as such will be considered by their Planning Commission at their November 12, 2009, meeting; Unified Zoning Code (UZC), Art. V, Sec. V-b, 4(d).

The site plan submitted by the applicant shows the accessory apartment sitting in front of the primary residence on the north side of the site, towards 76th Street South. An accessory building can be located closer to the front property line than the principal building on tracts/lots 5-acres or more in size; the subject lot is 6.5-acres, UZC, Art III, Sec III-D, 7.e (2). The site plan shows the primary residence, the accessory apartment and the lagoon to be located behind the platted 35-foot setback and 25-foot drainage and utility easements on its north, front, side. It also shows all structures and the sewage lagoon to be outside a large platted floodway easement on the site's south side. The accessory apartment is proposed to have a separate drive onto 76th Street. 76th Street provides access for the site onto Hoover Road.

Built in 2005, the applicant's current residence is a one-story, stick frame, partial brick and lap siding, building, approximately 1,600-square feet in size, with attaches garage. No square footage, no building materials, and no garage are shown for the proposed accessory apartment; however, in order to be considered an accessory residential structure the requested apartment must have less square footage than the principal structure.

The subject site is located in the partially developed Aqueous Acres addition, which consists of 12 lots, ranging in size from approximately 5-10 acres. The existing single-family residences in the subdivision have been built from 1999 through 2005. There are large lot/tract single-family residences abutting and adjacent to all sides of the site. There is another accessory apartment in this subdivision, CON2004-31, located on the southwest corner of 76th and Hoover Road. Both the Haysville Planning Commission and the MAPC approved CON2004-31. The site is approximately 2-miles west of the city of Haysville and is outside its growth area.

As per the Unified Zoning Code, the "Conditional Use" requirements for accessory apartments stipulate the following:

- (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 property is part of the Aqueous Acres addition, which was recorded with the Register of Deeds August 13, 1990.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Large lot single-family residences
SOUTH:	RR	Large lot/tract single-family residences
EAST:	RR	Large lot single-family residences
WEST:	RR	Large lot single-family residences

PUBLIC SERVICES: Hoover Road is a sand and gravel Ohio Township road. The 2030 Transportation Plan projects no change in its status. 76th Street South is a sand and gravel residential road. The site has access to public water from the City of Clearwater and is outside any rural water districts, but the site is served by a well. The site has a lagoon, as it currently has no access to public sewer.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identifies this area as "Rural" and outside of the City of Haysville's growth area. The Rural classification is located outside of any city's growth area and is intended to accommodate agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County and predominately large lot residential development. The policies of the Unified Zoning Code allow one accessory apartment to be associated with a principal dwelling as a Conditional Use if the proposed use is compatible with the principal dwelling, is in character with the surrounding residential development, is accessory to the main structure in size, 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 Section III-D.6.a of the Unified Zoning Code; including the appearance of the accessory apartment shall be compatible with the primary residence and shall not be larger in floor area than the principal structure.
2. The applicant shall obtain 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: There are numerous large tract/lot single-family residences with adjacent agricultural land in the area. The site sits in a partially developed large lot single-family residential subdivision, with the existing houses having been built from 1999 through 2005. Most of the existing houses are single story, stick frame, partial brick with lap siding. The exceptions are a log home and a metal residence and attached garage in the subdivision. There are outbuildings on many of the tracts/lots, along with the residential structures, including barns or sheds for horses. The applicant's accessory apartment would be the second (CON2004-31) in the subdivision and in the immediate area.
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 UZC 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. The site is outside any rural water district. An increase in traffic will be minimal.

