



Wichita-Sedgwick County Metropolitan Area Planning Department

July 14, 2010

Karen Frye
4214 N 143rd St E
Wichita, KS 67228

RE: CON2010-00019 - County Conditional Use request for an accessory apartment on property zoned RR Rural Residential, generally located on the east side of 143rd Street East, midway between 37th and 45th Streets North.

Dear Ladies and Gentlemen:

At its regular meeting on **June 17, 2010**, 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,

A handwritten signature in black ink, appearing to read 'Derrick K. Slocum'.

Derrick K. Slocum
Associate Planner
Current Plans Division

DKS:mc
Enclosure

Copies to: Mark Savoy, 433 S Hydraulic, Wichita, KS 67211
BCOC I, Dave Unruh, Mail Stop County, Room 320
Bill Buchanan, County Manager, Mail Stop County, Room 343
Bob Parnacott, Mail Stop, County Room 359
Glen Wiltse, County Code Enforcement, 1144 S Seneca, Wichita, KS 67213
Jim Weber, County Public Works, 1144 S Seneca, Wichita, KS 67213
Payne Township, Bryan G Jaax, 11915 E 69th St North, Wichita, KS 67226

CONDITIONAL USE RESOLUTION NO. CON2010-00019

WHEREAS, Karen and Jeffery Frye, (Owner/Applicant) and Mark Savoy (Agent); 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 9.61 acres zoned RR Rural Residential ("RR") described as:

That part of the South half of the Northwest Quarter of Section 25, Township 26 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at the Southwest corner of the Northwest Quarter; thence North along the West line of the Northwest Quarter 565 feet; thence East parallel with the South line of said Northwest Quarter 440 feet; thence South parallel with the West line of said Northwest Quarter 173.32 feet; thence East parallel with and 391.68 feet North of the South line of said Northwest Quarter 1594.01 feet to a point on a line which extends from a point 731.34 feet East of the Northwest corner of the East half of the South half of the Northwest Quarter to a point 701.34 feet East of the Southwest corner of the East half of the South half of the Northwest Quarter; thence Southerly along said extended line 391.76 feet to a point on the South line of said Northwest Quarter 701.34 feet East of the Southwest corner of the East half of the South half of said Northwest Quarter; thence West along the South line of said Northwest Quarter 2025.13 feet to the place of beginning; generally located on the east side of 143rd Street East, midway between 37th and 45th Streets North. (4214 N. 143rd Street East)

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 June 17, 2010, 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 9.61 acres zoned RR Rural Residential ("RR") described as:

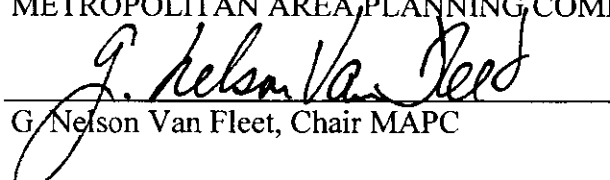
That part of the South half of the Northwest Quarter of Section 25, Township 26 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at the Southwest corner of the Northwest Quarter; thence North along the West line of the Northwest Quarter 565 feet; thence East parallel with the South line of said Northwest Quarter 440 feet; thence South parallel with the West line of said Northwest Quarter 173.32 feet; thence East parallel with and 391.68 feet North of the South line of said Northwest Quarter 1594.01 feet to a point on a line which extends from a point 731.34 feet East of the Northwest corner of the East half of the South half of the Northwest Quarter to a point 701.34 feet East of the Southwest corner of the East half of the South half of the Northwest Quarter; thence Southerly along said extended line 391.76 feet to a point on the South line of said Northwest Quarter 701.34 feet East of the Southwest corner of the East half of the South half of said Northwest Quarter; thence West along the South line of said Northwest Quarter 2025.13 feet to the place of beginning; generally located on the east side of 143rd Street East, midway between 37th and 45th Streets North. (4214 N. 143rd Street East)

Approved subject to the following conditions:

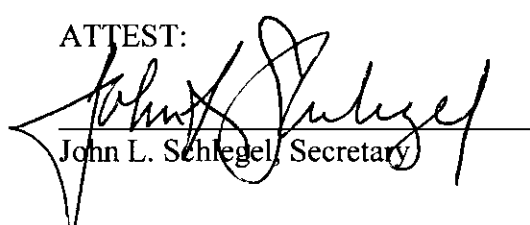
1. The accessory apartment shall be subject to all requirements of Art III, Sec III-D.6.a of the Unified Zoning Code (UZC) for accessory apartments.
2. The site will be generally developed as shown on an approved site plan, obtaining and conforming to all applicable permits, including but not limited to building, health, and zoning, including connection to water & sewer. The site shall utilize existing driveway approaches.
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 17th Day of June, 2010

METROPOLITAN AREA PLANNING COMMISSION


G. Nelson Van Fleet, Chair MAPC

ATTEST:


John L. Schlegel, Secretary



AGENDA ITEM NO. 7

STAFF REPORT

MAPC: June 17, 2010

Tentative County Commission Date:
July 21, 2010

CASE NUMBER: CON2010-00019

APPLICANT/AGENT: Karen and Jeffery Frye; (Applicant(s)/Owner)
Mark Savoy; (Agent)

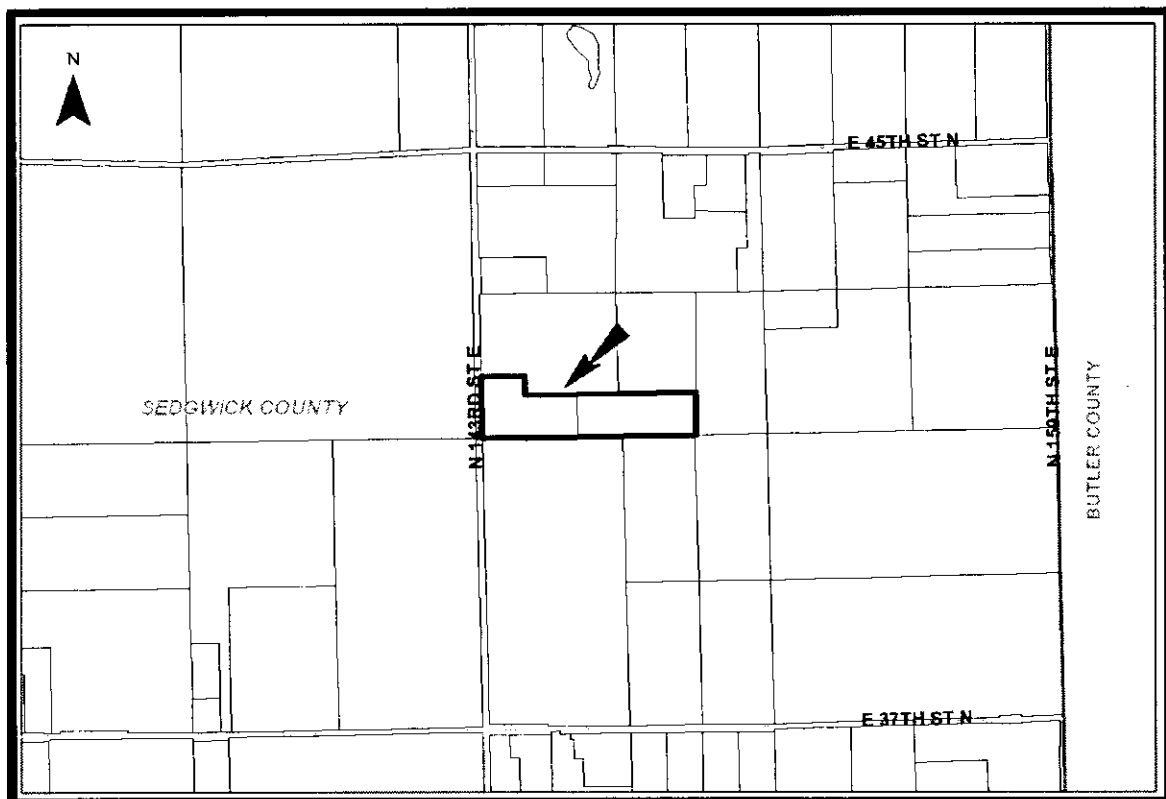
REQUEST: Conditional Use to allow an Accessory Apartment

CURRENT ZONING: RR Rural Residential ("RR")

SITE SIZE: 9.61 acres

LOCATION: Generally located on the east side of 143rd Street East, midway between 37th and 45th Streets North. (4214 N. 143rd Street East)

PROPOSED USES: Accessory Apartment



BACKGROUND: The applicants are requesting a Conditional Use to allow an accessory apartment on unplatted property located at 4214 North 143rd Street East. The applicant plans to construct a free standing accessory apartment to provide a stable and independent living environment for one of the applicant's brother. The 20-acre subject site is zoned RR Rural Residential ("RR"), and is located outside any small cities' zoning area of influence.

The site plan submitted by the applicant shows the accessory apartment sitting approximately 100-feet south of the primary residence, which is located in the center of the property, approximately 120-feet east of the right-of-way of 143rd Street East. The site plan shows the primary residence, the accessory apartment and the lagoon to be located behind the front 30-foot setback and 30-foot rural water district easement located along 143rd Street East. The accessory apartment is proposed to share the same access drive onto 143rd Street. The principal residence was built in 1979, and is approximately 1,350-square feet in size. 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. All property surrounding the subject site is zoned RR and is use for farming and agricultural operations.

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 in the rural area of the county and is currently unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Farming and Ranch Operations
SOUTH:	RR	Farming and Ranch Operations
EAST:	RR	Farming and Ranch Operations
WEST:	RR	Farming and Ranch Operations

PUBLIC SERVICES: 143rd Street East is an unpaved, two-lane section line road. The 2030 Transportation Plan projects no change in its status. The site is within the Butler Rural Water District #5 and also is served by a well. The site has a lagoon, as it currently has no access to public sewer.

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan identifies this property as being within the Wichita 2030 Urban Growth Area. The Wichita 2030 Urban Growth Area is

a category that identifies Wichita's urban fringe areas that are presently undeveloped but have the potential to be developed by 2030, based upon Wichita population growth projections and current market trends. This is the area in which city limits expansion and extension of municipal services and infrastructure should be focused during the period from 2005 to 2030.

Determination of growth direction and amount is based upon municipal political considerations, anticipated municipal population growth, efficient patterns of municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors.

The typical reason for an accessory apartment is either an aged parent or a member of the family having a medical hardship; however, it is not unusual to have a Conditional Use filed for an accessory apartment where a hardship does not exist. Staff usually supports these requests, while noting that there is nothing in the UZC to prevent the accessory apartment from being rented out to someone who is not a member of the family. It needs to be noted that the code permits an application for a Conditional Use for a temporary manufactured home in the county (Art.III, Sec.III-D, 3) for people with medical hardships. This Conditional Use requires the temporary manufactured home be removed from the property within 90 days of any change in the circumstances used as a basis for the Conditional Use; in this case the elderly parent not living in the temporary manufactured home any longer.

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 Art III, Sec III-D.6.a of the Unified Zoning Code (UZC) for accessory apartments.
2. The site will be generally developed as shown on an approved site plan, obtaining and conforming to all applicable permits, including but not limited to building, health, and zoning, including connection to water & sewer. The site shall utilize existing driveway approaches.
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:** All property surrounding the subject site is zoned RR and is use for farming and agricultural operations.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned RR, which accommodates agricultural uses, low-density single-family residential development and complementary land uses. The site is developed with a single-family residence and an accessory building, and could continue to be used as currently zoned.

3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Provided that the proposed accessory apartment meets all applicable codes, the proposed accessory use should have no effect on the surrounding properties.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The Comprehensive Plan identifies this property as being within the Wichita 2030 Urban Growth Area. The Wichita 2030 Urban Growth Area is a category that identifies Wichita's urban fringe areas that are presently undeveloped but have the potential to be developed by 2030, based upon Wichita population growth projections and current market trends. This is the area in which City limits expansion and extension of municipal services and infrastructure should be focused during the period from 2005 to 2030. Determination of growth direction and amount is based upon municipal political considerations, anticipated municipal population growth, efficient patterns of municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors. The policies of the UZC 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's hook-up. An accessory apartment is typically viewed as a compatible use to a single-family residence, as long as there is enough land area and services can be provided for the additional dwelling unit. The proposed accessory apartment must be smaller than the primary residence. An accessory apartment must remain under single ownership and cannot be subdivided off of the subject site and sold off. The condition of the accessory apartment being on the same water and sewer assures that it will not be subdivided and sold off.
5. **Impact of the proposed development on community facilities:** If developed in compliance with the recommended conditions of approval, existing facilities are adequate.

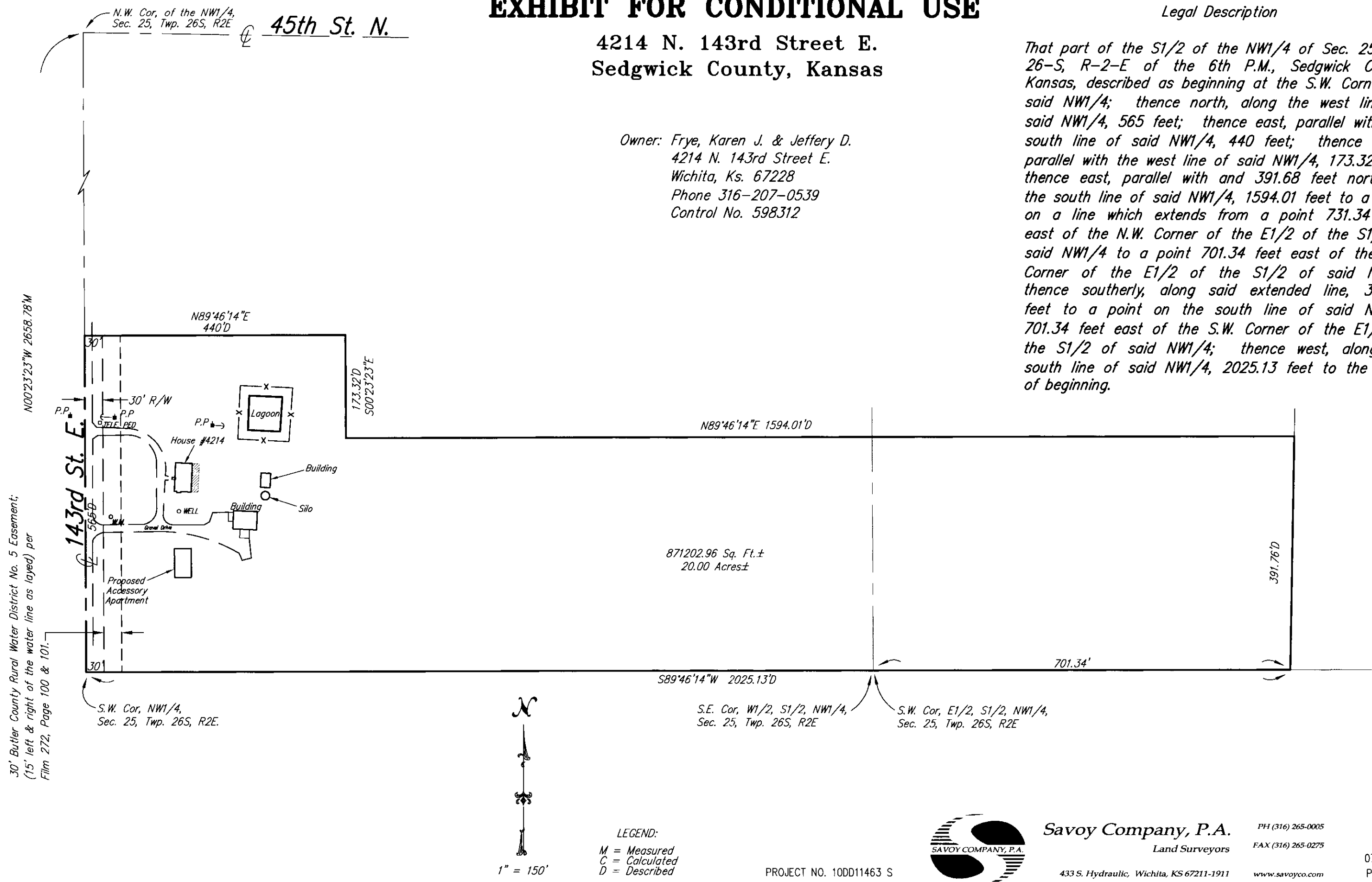
EXHIBIT FOR CONDITIONAL USE

4214 N. 143rd Street E.
Sedgwick County, Kansas

Owner: Frye, Karen J. & Jeffery D.
4214 N. 143rd Street E.
Wichita, Ks. 67228
Phone 316-207-0539
Control No. 598312

Legal Description

That part of the S1/2 of the NW1/4 of Sec. 25, Twp. 26-S, R-2-E of the 6th P.M., Sedgwick County, Kansas, described as beginning at the S.W. Corner of said NW1/4; thence north, along the west line of said NW1/4, 565 feet; thence east, parallel with the south line of said NW1/4, 440 feet; thence south, parallel with the west line of said NW1/4, 173.32 feet; thence east, parallel with and 391.68 feet north of the south line of said NW1/4, 1594.01 feet to a point on a line which extends from a point 731.34 feet east of the N.W. Corner of the E1/2 of the S1/2 of said NW1/4 to a point 701.34 feet east of the S.W. Corner of the E1/2 of the S1/2 of said NW1/4; thence southerly, along said extended line, 391.76 feet to a point on the south line of said NW1/4, 701.34 feet east of the S.W. Corner of the E1/2 of the S1/2 of said NW1/4; thence west, along the south line of said NW1/4, 2025.13 feet to the place of beginning.



Savoy Company, P.A.
Land Surveyors

433 S. Hydraulic, Wichita, KS 67211-1911

PH (316) 265-0005
FAX (316) 265-0275

www.savoyco.com

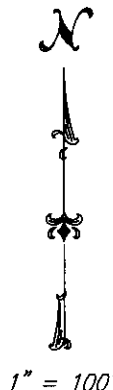
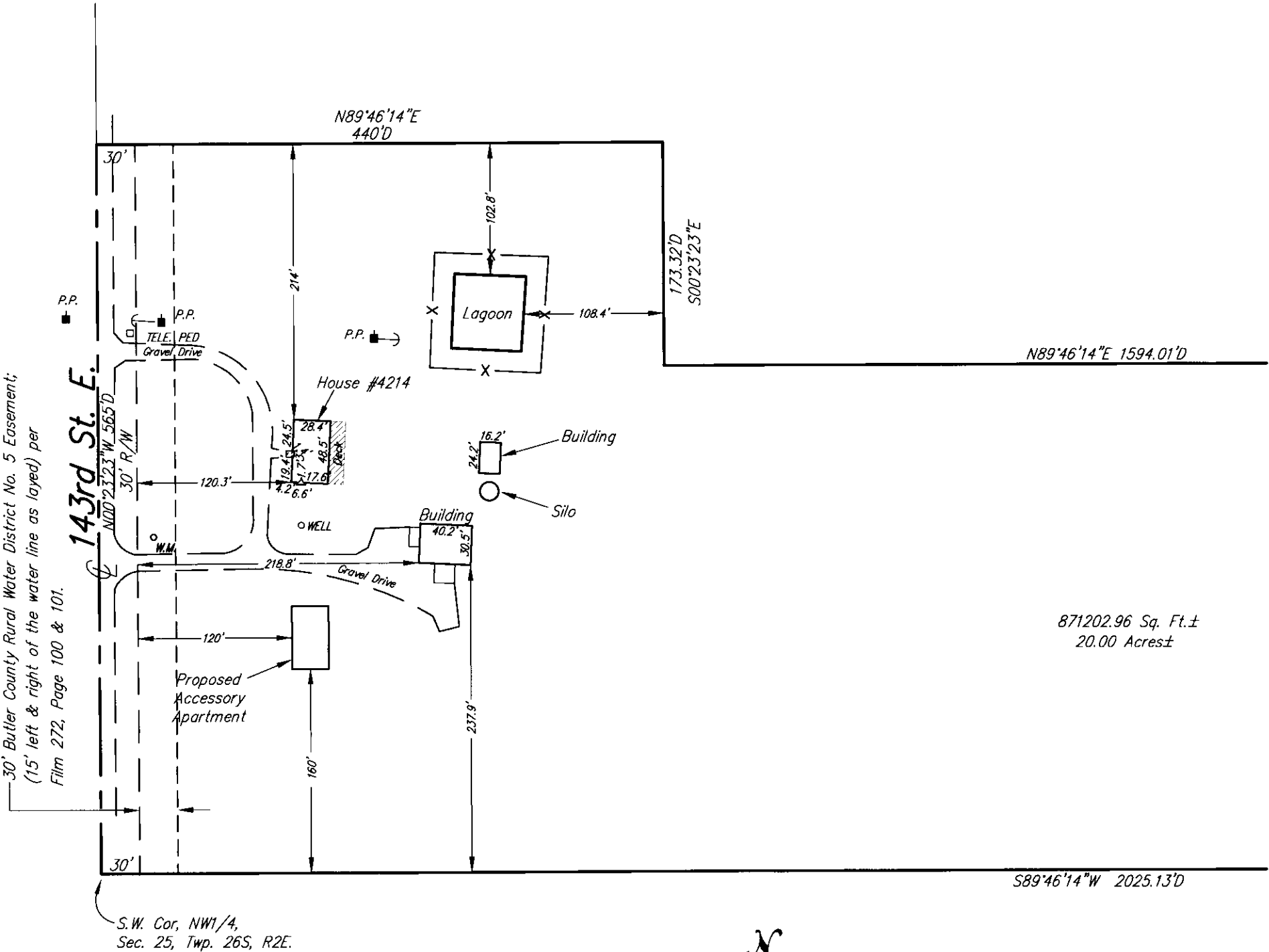
EXHIBIT FOR CONDITIONAL USE

4214 N. 143rd Street E.
Sedgwick County, Kansas

Legal Description

That part of the S1/2 of the NW1/4 of Sec. 25, Twp. 26-S, R-2-E of the 6th P.M., Sedgwick County, Kansas, described as beginning at the S.W. Corner of said NW1/4; thence north, along the west line of said NW1/4, 565 feet; thence east, parallel with the south line of said NW1/4, 440 feet; thence south, parallel with the west line of said NW1/4, 173.32 feet; thence east, parallel with and 391.68 feet north of the south line of said NW1/4, 1594.01 feet to a point on a line which extends from a point 731.34 feet east of the N.W. Corner of the E1/2 of the S1/2 of said NW1/4 to a point 701.34 feet east of the S.W. Corner of the E1/2 of the S1/2 of said NW1/4; thence southerly, along said extended line, 391.76 feet to a point on the south line of said NW1/4, 701.34 feet east of the S.W. Corner of the E1/2 of the S1/2 of said NW1/4; thence west, along the south line of said NW1/4, 2025.13 feet to the place of beginning.

Owner: Frye, Karen J. & Jeffery D.
4214 N. 143rd Street E.
Wichita, Ks. 67228
Phone 316-207-0539
Control No. 598312



1" = 100'

LEGEND:
M = Measured
C = Calculated
D = Described

PROJECT NO. 10DD11463 S



Savoy Company, P.A.
Land Surveyors

433 S. Hydraulic, Wichita, KS 67211-1911

PH (316) 265-0005
FAX (316) 265-0275

www.savoyco.com