



**Wichita-Sedgwick County Metropolitan Area Planning Department**

September 26, 2011

Kevin Meyer and Sheryl Meyer  
27319 West 13<sup>th</sup> Street North  
Garden Plain, KS 67050

**RE: CON2011-00026** - County Conditional Use request for an Accessory Apartment on property zoned RR Rural Residential ("RR"), generally located South of West 13th Street North and one fourth mile east of 279th Street West (27319 West 13th Street North).

Dear Mr. and Ms. Meyer:

At its regular meeting on September 8, 2011, 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. No protests have been received. This action is now final.

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

Sincerely,

A handwritten signature in cursive script, appearing to read 'Donna Goltry'.

Donna Goltry, AICP  
Principal Planner  
Current Plans Division

DG:mc  
Attachment

Copies to: BCOC III Karl Peterjohn, Mail Stop County, Room 320  
Bob Parnacott, County Attorney, Mail Stop County Room 359  
Garden Plain City Hall, PO Box 336, Garden Plain, KS 67050  
Garden Plain Township, Attn: Michael Weber, 29601 W 13<sup>th</sup> St N, Garden Plain, KS 67050  
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. CON2011-00026**

**WHEREAS**, Kevin Meyer and Sheryl Meyer (owner); 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 17.08 acres zoned RR Rural Residential (“RR”), described as:

A tract of land located in the East half of the Northwest Quarter of Section 16, Township 27 South, Range 3 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas, more particularly described as beginning at the Northwest corner of the East half of the Northwest Quarter of said Section 16; thence North 90°00’00” E along the North line of said Northwest Quarter for a distance 555.00 feet; thence South 02°33’52” W for a distance of 1469.81 feet; thence North 79°34’52” W a distance of 499.56 feet to the West line of the East half of the Northwest Quarter; thence North 00°05’12” E along said West line for a distance of 1378.00 feet to the point of beginning south of West 13th Street North and one fourth mile east of 279th Street West (27319 West 13th Street North.

**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 September 8, 2011, 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 17.08 acres zoned RR Rural Residential (“RR”), described as:

A tract of land located in the East half of the Northwest Quarter of Section 16, Township 27 South, Range 3 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas, more particularly described as beginning at the Northwest corner of the East half of the Northwest Quarter of said Section 16; thence North 90°00’00” E along the North line of said Northwest Quarter for a distance 555.00 feet; thence South 02°33’52” W for a distance of 1469.81 feet; thence North 79°34’52” W a distance of 499.56 feet to the West line of the East half of the Northwest Quarter; thence North 00°05’12” E along said West line for a distance of 1378.00 feet to the point of beginning south of West 13th Street North and one fourth mile east of 279th Street West (27319 West 13th Street North.

Approved subject to the following conditions:

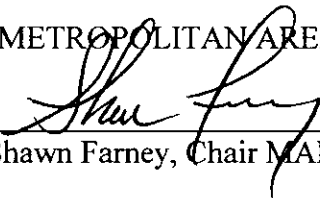
1. The accessory apartment shall be subject to all requirements of Art III, Sec III-D.6.a of the Unified Zoning Code (UZC) for accessory apartments.
2. The site will be generally developed as shown on an approved site plan, obtaining and conforming to all applicable permits, including but not limited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

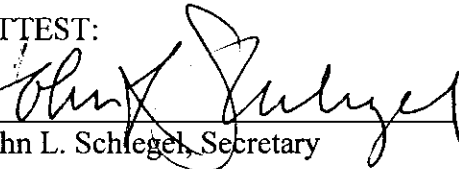
4. The owner shall dedicate full right-of-way width for 13<sup>th</sup> Street North prior to obtaining the building permit.
5. If the owner desires to separate the property into two separate lots and the property is platted and recorded with the County Recorder of Deeds, at that time the Zoning Administrator, with the concurrence of the Planning Director, could declare the Conditional Use could be declared null and void.

Adopted this 8<sup>th</sup> Day of September 2011.

METROPOLITAN AREA PLANNING COMMISSION

  
Shawn Farney, Chair MAPC

ATTEST:

  
John L. Schlegel, Secretary

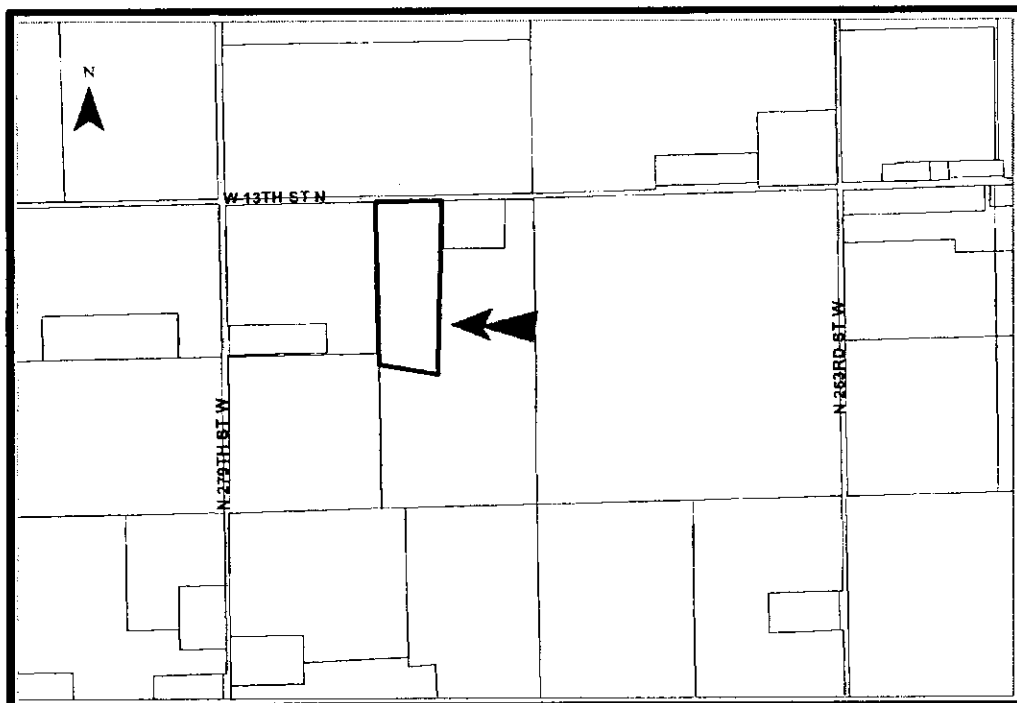


## STAFF REPORT

MAPC September 8, 2011

Garden Plain Planning Commission August 31, 2011

- CASE NUMBER: CON2011-00026
- APPLICANT/AGENT: Kevin and Sheryl Meyer (owner)
- REQUEST: Conditional Use for an Accessory Apartment
- CURRENT ZONING: RR Rural Residential ("RR")
- SITE SIZE: 17.08 acres
- LOCATION: South of West 13th Street North and one fourth mile east of 279th Street West (27319 West 13th Street North)
- PROPOSED USE: Accessory apartment (second dwelling unit on unplatted tract)



**BACKGROUND:** The applicants are requesting a Conditional Use to allow an “accessory apartment” on unplatted property located on the south side of West 13th Street North and one fourth mile east of 279th Street West (27319 West 13th Street North). The applicant proposes to build a new dwelling as the principal dwelling and convert the existing dwelling into a free standing rental unit. The 17.08-acre subject site is zoned RR Rural Residential (“RR”). The site is located in Sedgwick County, within the Garden Plain zoning area of influence.

The site plan submitted by the applicant shows the new dwelling on the western side of the 555-foot wide tract. The new home site is located within an area of the property that lies outside the FEMA Zone A, commonly referred to as the 100-year floodplain. The applicant intends to build an ICF (insulated concrete foam) residence approximately 1,400 square feet in size, with a front setback of about 150 feet south of the 30-foot half-width right-of-way and with a 60-foot interior side setback. The site plan shows a sewage lagoon farther south, which also is situated outside of the FEMA floodplain.

The existing dwelling is located on the eastern side of the property, is somewhat smaller than the proposed new dwelling, and is located within the mapped (but not studied) FEMA Zone A. The existing dwelling appears to have been elevated when it was constructed around 1910, so possibly it might be above the minimum flood elevation, however the BFE has not been established for this location.

All property surrounding the subject site is zoned RR and is in agricultural use with some farmsteads. Aleppo, a small rural community with St. Mary Church and cemetery and several residences, is located three-fourth mile to the east.

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.

Normally, an accessory apartment is subordinate to the main dwelling by being smaller in size and is located within the same part of the site, generally attached to the main dwelling, as a separate outbuilding or as part of the garage. This site differs as follows: (1) the new structure would become the principal structure, (2) the existing structure intended to become the accessory unit for rental purposes is separated by a distance of 300 feet, (3) it will require extending the water and sewer line connections across a small tributary to a creek to comply with accessory apartment rules for a single

water and sewer service to serve both units, and (4) the existing unit is nonconforming as to setbacks (approximately 60 feet from centerline of the section-line road instead of the minimum 85 feet) and is within the mapped FEMA Zone A.

**CASE HISTORY:** The property is in the rural area of the county and is currently unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH:	RR	Agriculture, farmsteads
SOUTH:	RR	Agriculture, farmsteads
EAST:	RR	Agriculture, farmsteads
WEST:	RR	Agriculture, farmsteads

**PUBLIC SERVICES:** The existing house has a private water well and a septic tank. However, County maps show the location as being suited for a service by sewage lagoon rather than a septic tank. It is anticipated that a sewage lagoon would need to be installed for the new dwelling, and the Accessory Apartment requirements for one sewer service would require the existing dwelling to be connected to this sewage lagoon. Similarly, both dwellings would be required to be connected to the same water well service. The site is located on an unpaved and lightly traveled section-line road under the maintenance of the Garden Plain Township.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide, Map as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area to be appropriate as “Rural Areas.” The purpose of this category is “to accommodate agricultural uses and rural based uses that are not more offensive than those agricultural uses commonly found in Sedgwick County.” The site lies beyond “Small City 2030 Urban Growth Area” for Garden Plain.

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.

**RECOMMENDATION:** Based upon the constraints discussed in the “Background” section of this report, this particular request has several site constraints that will make compliance with the Accessory Apartment requirements more difficult and perhaps more costly. However, staff has typically allowed accessory apartments unless the additional unit would impinge on the use of adjoining properties, which would not be likely on this site. Therefore, staff recommends that the request be APPROVED subject to the following conditions being completed.

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 and sewer.
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.
4. The owner shall dedicate full right-of-way width for 13<sup>th</sup> Street North prior to obtaining the building permit.
5. If the owner desires to separate the property into two separate lots and the property is platted and recorded with the County Recorder of Deeds, at that time the Zoning Administrator, with the concurrence of the Planning Director, could declare the Conditional Use could be declared 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 in agricultural use with some farmsteads. Aleppo, a small rural community with St. Mary Church and cemetery and several residences, is located three-fourth mile to the east.
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 it is.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Provided that the proposed new dwelling meets all applicable codes and requirements so that the original structure is converted to the status of an Accessory Apartment and it is located with a front setback of 150 feet and interior side setback of 60 feet, it should have no significant impact on the surrounding farmsteads and agricultural fields.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2030 Wichita Functional Land Use Guide, Map as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area to be appropriate as “Rural Areas.” The purpose of this category is “to accommodate agricultural uses and rural based uses that are not more offensive than those agricultural uses commonly found in Sedgwick County.” The site lies beyond “Small City 2030 Urban Growth Area” for Garden Plain. 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. In this case, if in the future the owner wishes to sell off the separate unit, then the proper procedure would be to complete the normal platting process to create two separate lots.

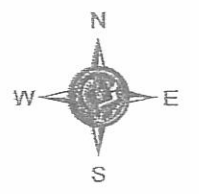
5. **Impact of the proposed development on community facilities:** If developed in compliance with the recommended conditions of approval (single water well connected to both dwellings, single sewage lagoon connected to both dwellings), then it should not have any impact on community facilities.








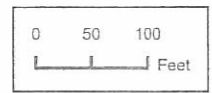
27319 W 13th St N

Sedgwick County, Kansas



**Legend**

-  Index Contours
-  Intermediate Contours
-  Property Boundaries



DATE: 6/15/2011

It is understood that the Sedgwick County GIS, Division of Information and Operations, has no indication or reason to believe that there are inaccuracies in information incorporated in the base map.

The GIS personnel make no warranty or representation, either expressed or implied, with respect to the information or the data displayed.