



Wichita-Sedgwick County Metropolitan Area Planning Department

July 30, 2008

Mark Richards and Jerry Brown
7128 E. 101st Street North
Valley Center, KS, 67147

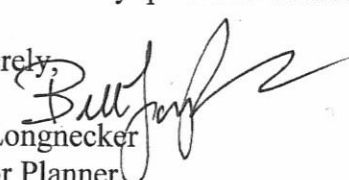
RE: CON2008-00027 – Conditional Use for an accessory apartment, generally located on the north side of 101st Street North, midway between 63rd and 79th Streets East. BoCC District #1

Dear Ladies and Gentlemen:

At its regular meeting on **July 23, 2008**, the Board of County Commissioners considered the above-captioned request. The action of the BoCC was to **APPROVE** the request subject to the conditions stated in the enclosed resolution.

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
Attachment

Copies to: Dave Unruh, BOCC 1, Mail Stop, County Rm 320
Bill Buchanan, County Manager, Mail Stop, County Rm 343
Bob Parnacott, County Law, Mail Stop, County Rm 359
Jim Weber, County Public Works, 1144 S. Seneca, Wichita, KS 67213
Glen Wiltse, County Code Enforcement, 1144 S. Seneca, Wichita, KS 67213
Larry Bierman, 8001 E. 101st North, Valley Center, KS 67147
Sherilyn Hurst, 7500 E. 101st North, Valley Center KS 67147

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RESOLUTION NO 117-8

A RESOLUTION FOR A CONDITIONAL USE FOR AN ACCESSORY APARTMENT ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D AS ADOPTED BY RESOLUTION NO. 84-01, AS SUBSEQUENTLY AMENDED.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS

SECTION I. That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-D of the Wichita Sedgwick County Unified Zoning Code, a Conditional Use for an Accessory Apartment on approximately 6.86-acres of property zoned RR Rural Residential ("RR") described as:

Case No. CON2008-00027

Beginning at the Southeast corner of the Southwest Quarter of Section 18, Township 25 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, thence West 570 feet; thence North 522 feet; thence East 570 feet; thence South 522 feet to the point of beginning.

Generally located on the north side of 101st Street North, midway between 63rd and 79th Streets East (7128 E 101st Street North).

SUBJECT TO THE FOLLOWING CONDITIONS:

1. The accessory apartment shall be subject to all requirements (except as noted) 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. Waive condition (d) of Article III, Section III-D.6.a of the Unified Zoning Code, in regards to water service being on the same meter as the primary residence. Rural Water District 2 requires separate meters for the primary residence and the accessory apartment. Provide a letter from the Rural Water District, stating that it does not allow another residence to hook up to the same line/meter as the primary residence. The letter will provide the basis for the waiver.
2. The site will be generally developed as shown on the site plan, obtaining and conforming to all applicable permits, including but not limited to building, health, and zoning. The accessory apartment will be completed within one-year of approval of the Conditional Use by the appropriate governing body.
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.

SECTION II. That upon the taking effect of this Resolution, the notation of such Conditional Use shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director of the Wichita-Sedgwick County Metropolitan Area Planning Department.

SECTION III. That this Resolution shall take effect and be in force from and after its adoption by the Governing Body.

Commissioners present and voting were:

DAVID M. UNRUH
TIM R. NORTON
KELLY PARKS
GWEN WELSHIMER
THOMAS G. WINTERS

Aye

Aye

Aye

Aye

DATED this 23rd day of July, 2008

BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS

Thomas G. Winters

Thomas G. Winters, CHAIRMAN
Third District

ATTEST:

Don Brace

DON BRACE
County Clerk



APPROVED AS TO FORM ONLY:

Robert W. Parnacott

ROBERT W. PARNACOTT
Assistant County Counselor

AGENDA ITEM REQUEST

Proposed Agenda Item: CON2008-00027 – Sedgwick County Conditional Use for an accessory apartment located on property zoned RR Rural Residential (“RR”), generally located on the north side of 101st Street North, midway between 63rd and 79th Streets East. (District 1)

Presented By: John L. Schlegel, Planning Director *JLS*

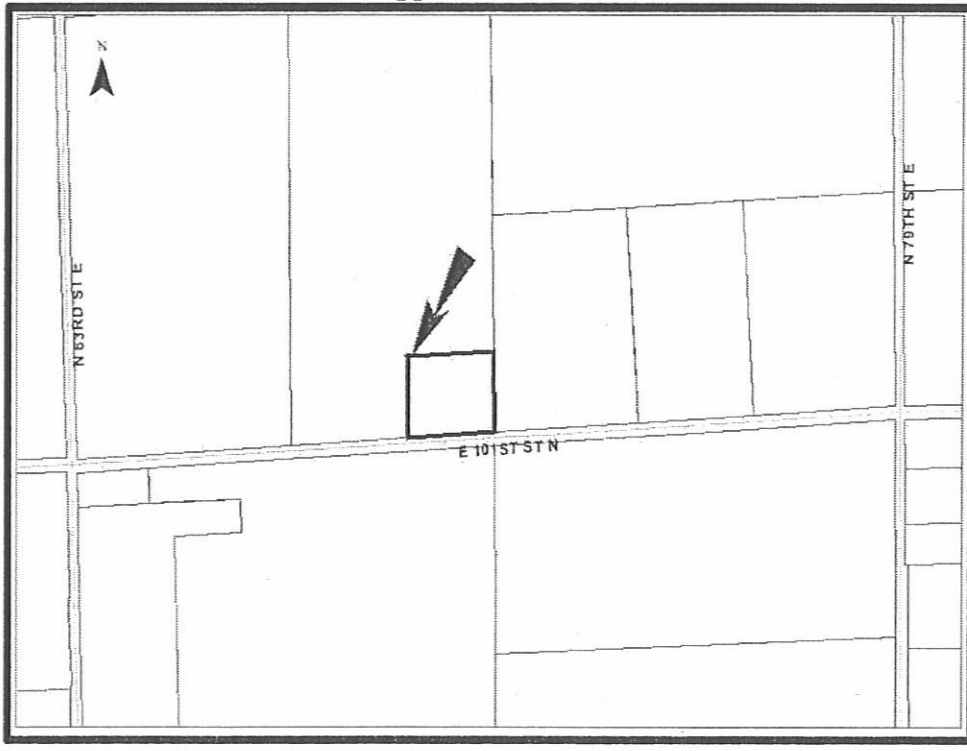
Recommended Action: Approve the Conditional Use, subject to the conditions recommended by the Metropolitan Area Planning Commission (MAPC), adopt the findings of the MAPC and authorize the Chairman to sign the prepared resolution.

Proposed Agenda Date: July 23, 2008

Outside Attendees: Jerry D. and Tamara N. Brown

Multimedia Presentation: Powerpoint

Donations: Not applicable



Background: The applicants are requesting a Conditional Use to allow an accessory apartment on a 6.86-acre RR Rural Residential ("RR") zoned unplatted tract. The site is located in rural, unincorporated Sedgwick County, on the north side of 101st Street North, midway between 63rd (Woodlawn Boulevard) and 79th (Rock Road) Streets East. One of the applicants' 80-year old mothers will live in the proposed accessory apartment, while the applicants will continue to live in the existing approximately 1,611-square foot single-family residence. This residence (listed as a farmstead in the GIS files) was built in 1908, is a two-story frame house with lap siding and gable roofs. 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 in the RR zoning district.

The site plan shows the proposed accessory apartment, located in line and east of the existing residence, the existing septic, water and the driveway onto 101st Street North. The proposed accessory apartment is an approximately 1,248-sqaure foot (26 feet 4 inches {x} 48 feet) residential designed manufactured home on a permanent concrete foundation. The site plan does not show the site's existing outbuildings nor does it show if the accessory apartment and the primary residence will share the same drive onto 101st Street.

The subject site is located in rural, RR zoned, Sedgwick County, with scattered residences in the area. There are agricultural fields located on all sides of the subject site, with the nearest neighbors/residences located southeast (built 1980), across 101st, east (1996), and approximately ¼ - mile east and southwest (1890, 1978) of the site. All of the land abutting and adjacent to the site is zoned RR.

The Unified Zoning Code's (UZC) 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 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 as separate service from the main dwelling.

Analysis: The MAPC considered the requested Conditional Use at their June 19, 2008, meeting and recommended (10-1) approval with the conditions recommended by staff. The MAPC's recommended conditions of approval are:

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. Some Rural Water Districts will not allow another residence to hook up to the same line/meter as the primary residence. If that is the case on this property, then Staff recommends that the applicant provide a letter from the Rural Water District, stating that it does not allow another residence to hook up to the same line/meter as the primary residence. The letter will provide the basis for a waiver of condition (d) of Article III, Section III-D.6.a of the Unified Zoning Code.

2. The site will be generally developed as shown on the site plan, obtaining and conforming to all applicable permits, including but not limited to building, health, and zoning. One drive shall serve the primary residence and the accessory apartment. The accessory apartment will be completed within one-year of approval of the Conditional Use by the appropriate governing body.
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.

There were protests against the request at the MAPC meeting. Some of the objections to the requested accessory apartment included: protesting that another residence was being put on the property rather than the accessory apartment being a part of the primary residence; the proposed accessory apartment being a residential design manufactured home and thus out of character with the rural area and the proposed accessory apartment having a negative impact on the area's property values. During the subsequent two-week protest period following the MAPC meeting, Staff received protests equaling 95.36% of the net land area, which is more than the 20% requiring a three-quarter majority vote by the Commission to override neighborhood protest.

Alternatives:

1. Approve the conditional use, subject to the conditions recommended by the Metropolitan Area Planning Commission (MAPC), adopt the findings of the MAPC and authorize the Chairman to sign the resolution. (Three-quarter majority vote required)
2. Deny the application by making alternative findings, and override the MAPC recommendation. (Two-thirds majority vote required)
3. Return the case to the MAPC for further consideration with a statement specifying the basis for the BoCC's failure to approve or deny the application. (Simple majority vote required)

Financial Considerations: None.

Policy Considerations: The MAPC recommendation for approval is based on the findings found in the MAPC minutes.

Legal Considerations:  *Approved as to form and signed by County Counselor's Office*

CON2008-27

N.
↑

SITE PLAN

APPROVED July 21, 2008 BY Blongner Ker

7 Acre Area

Jerry & Tamara Brown
7128 E. 101st N.
Valley Center 67147
316-744-2149

conditions use

Our Home
Existing
3 people

130'
Existing
Septic
Tank
1000 Gal

(Lucoda Brown)
Manufactured Home on concrete Foundation
Mother Home

Proposed area
26'4" x 48"
1 person

Tie in
to
Existing

160'

160'

160'

* one Drive
allowed = to be
shared by both
Accessory Apartment &
Primary Residence

two drives not allowed

Gravel
Driveway

10' parking

Ditch

Edge of rd.

West

101st

Center of Highway

East