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525 North Main Street 3rd
Floor
Wichita, KS 67203

Legislation Text

File #: 15-0305, Version: 1

CON2015-00011 - CONDITIONAL USE TO PERMIT AN ACCESSORY APARTMENT ON PROPERTY ZONED RR RURAL RESIDENTIAL (RR) GENERALLY LOCATED ON THE NORTHEAST CORNER OF SOUTH 343RD STREET WEST AND WEST 32ND STREET SOUTH (3300 SOUTH 343RD STREET WEST) (DISTRICT 3).

Presented by: John Schlegel, Director, Metropolitan Area Planning Department.

RECOMMENDED ACTION: Adopt the findings of the Metropolitan Area Planning Commission (MAPC), approve the Conditional Use subject to the conditions recommended by the MAPC, and authorize the Chairman to sign the resolution.

Background: The applicant requests a Conditional Use for an "accessory apartment" on unplatted property zoned Rural Residential (RR). The site is located on the northeast corner of South 343rd Street and West 32nd Street South (3300 South 343rd Street West). The property is currently developed with a single-family residence, a number of accessory buildings and a variety of animal enclosures located on 11.55 acres. The applicant proposes to convert an existing structure, shown on the eastern side of the applicant's site plan that is attached to a structure identified as the "garden store kitchen" into an accessory apartment. Access to the site is via South 343rd Street West, which is unpaved. Based upon the submitted site plan, the site's existing driveway has been or can be extended to provide vehicular access to the proposed apartment. The principal structure located on the site appears to be a single-wide manufactured home with cream or beige colored vinyl or metal siding. The exterior of the proposed accessory apartment is unpainted galvanized metal or aluminum. The site utilizes on-site sanitary sewer and water well. The application area has an existing hedgerow located on a small portion of the southern property line abutting West 32nd Street South, which is also unpaved.

The applicant's site plan is not drawn to scale and does not provide any dimension control relative to the proposed accessory apartment's specific location. A comparison of a 2011 aerial (the latest to which staff has access) indicates the structure proposed to house the accessory apartment was built after 2011.

All properties abutting or adjoining the application area are zoned RR. The property located immediately north of the site contains railroad tracks. North of the railroad tracks is a 16-acre pasture. North of the pasture is a single-family residence. Property (7.3 acres) located to the east is developed with a site-built single-family residence. Property (multiple lots containing between eight and 9.9-acres) located to the south of the site, across West 32nd Street South, are developed with a mix of manufactured and site-built single-family residences. Some of the homes located south of the site front to the east onto South 339th Street West while some front west onto South 343rd Street West. Land (7.4 acres) located west of the site, across South 343rd Street West, is developed with a manufactured home.

The Wichita-Sedgwick County Unified Zoning Code ("UZC") defines an "accessory

apartment" (Article II, Section II-B.1.b) as a dwelling unit that may be wholly within, or may be detached from a principal single-family dwelling unit. Accessory apartments are also subject to supplementary use regulation Article III, Section III-D.6.a (1) a maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling unit that may be within the main building, within an accessory building or constructed as an accessory apartment; (2) the appearance of an accessory apartment shall be compatible with the main dwelling unit and with the character of the neighborhood; (3) the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium and (4) the water and sewer service provided to the accessory apartment shall not be provided as separate service from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services.

With respect to the applicant's current proposal, the existing structure is not in compliance with Supplementary Use Regulations Article III, Section III-D.6.a(2) and (4). Section III-D.6.a(2) requires the appearance of the accessory apartment to be compatible with the main dwelling unit and with the character of the neighborhood. As noted above, the exterior of the proposed accessory structure is unfinished metal or aluminum while the exterior of the principal structure is cream or beige vinyl. Section III-D.6.a.(4) requires "sewer service provided to the Accessory Structure shall not be provided as separate service from the main dwelling." Staff has been advised that because the proposed accessory apartment is attached to the "garden store kitchen" in which food is proposed to be prepared, including the processing of chicken, the "garden store kitchen" and the accessory apartment will need to be connected to a separate on-site sanitary sewer system. Article V, Section V-D.6(f) allows modifications to the Supplementary Use Regulation requirements by the governing body. Waivers for these two requirements have been requested.

The RR zoning district property development standards call for a minimum rear setback of 25 feet for principal structures; however, accessory structure rear building setback (Sec. III-D.7.e(1)) shall be at least ten feet from the centerline of any platted or dedicated alley, and if no alley exists, then five feet from the rear lot line. Accessory structures may not utilize more than one-half of any required rear yard, and shall not exceed 60 percent of the allowable height limit for the zoning district unless the accessory structure conforms to principal structure setback requirements. The RR district has a 20-foot interior side yard setback requirement; accessory structures may be located within three feet of a side lot line if located on the rear half of the property. The front yard setback is 30 feet. The UZC parking standards require one off-street parking space per single-family residence and one per accessory apartment. The fire department requires a 20-foot wide rock or paved driveway; however, there is not requirement that the parking space be next to the apartment or that there be a driveway to the proposed apartment. The proposed accessory apartment complies with the development standards referenced in this paragraph.

Analysis: The request was heard by the Metropolitan Area Planning Commission (MAPC) on April 2, 2015. Several nearby property owners spoke in opposition. In general, those in opposition expressed the opinion that the applicant's property was over-developed with accessory buildings; the exteriors of the accessory buildings appear to be salvaged materials, and concern that the applicant was requesting a waiver for two to the standard conditions of approval; use of a second sanitary sewer solution and approval of a building façade material that is different than that used on the primary structure located on the site. The accessory apartment's exterior is corrugated unpainted metal, which does not match the site's principal home exterior façade material or color (beige vinyl or aluminum siding). The MAPC recommended the request be approved (8-1), including the requested

waivers, subject to the conditions listed below.

1. The Conditional Use permits one single-family accessory apartment on the site. The site shall be developed and maintained in general conformance with the approved site plan and in conformance with all applicable regulations, including but not limited to: local zoning, including Article III, Section III-D.6.a(1) and (3); building, fire and utility regulations or codes. Article III, Section III-D.6.a(2) and (4) are waived.
2. The applicant shall submit a revised site plan that includes dimension control and abutting roadways. The applicant shall also submit a photograph or elevation drawing of the approved accessory apartment. The appearance of the accessory apartment shall be maintained in substantial compliance with that approved by the planning commission or governing body. Modifications to the accessory apartment may be made with the concurrence of the Zoning Administrator provided the improvements are consistent with the spirit and intent of the accessory apartment regulations.
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.

The request was reviewed by the Cheney Planning Commission on March 23, 2015. No one other than the applicant was present to speak. The Cheney Planning Commission unanimously recommended approval, including the two requested waivers.

Valid protests totaling 17.5 percent have been received. Cases with a protest of 20 percent or less may be approved by a simple majority.

Alternatives: 1. Adopt the findings of the MAPC, approve the Conditional Use subject to the conditions recommended by the MAPC, and authorize the Chairman to sign the resolution (requires a simple majority vote).

2. Deny the Conditional Use and override the MAPC's recommendation (requires a two-thirds majority vote).

3. Return such recommendation to the MAPC with a statement specifying the basis for the BOCC's failure to approve or disapprove (requires a simple majority vote).

Financial Considerations: There are not any additional financial considerations to the County associated with this application.

Legal Considerations: Approved as to form and signed by County Counselor's Office: The City and County are authorized by K.S.A. 12-741, et seq. to adopt and amend a comprehensive plan, joint zoning code and official zoning map. The City and County have done so, and in that code have provided for the zoning of properties, including overlay districts, planned unit developments, protective overlays, conditional uses and community unit plans.

Policy Considerations: The MAPC recommendations are based upon the findings of fact stated in the MAPC minutes.

Outside Attendees: Joshua Price (Applicant / Agent)

Multimedia Presentation: PowerPoint