



AGENDA
PLANNING COMMISSION
7651 E. Central Park Ave, Bel Aire, KS
December 08, 2022 6:30 PM



I. Call to Order

II. Roll Call

James Schmidt ____ John Charleston ____ David Floyd ____

Phillip Jordan ____ Dee Roths ____ Heath Travnichek ____ Paul Matzek ____

III. Pledge of Allegiance to the American Flag

IV. Consent Agenda

A. **Approval of Minutes from Previous Meeting**

Action: Motion to approve the minutes of November 10, 2022.

Motion ____ Second ____ Vote ____

V. Old Business/New Business

A. **CON-22-02 Property owner has requested to allow for an accessory apartment in an R-1 Residential Zoning district.**

Open Hearing

Close Hearing

Action: Motion to (recommend to allow / table / deny) the accessory apartment in an R-1 district for use exclusively by owner of 4460 Harding Ave or guests (as presented / with changes or conditions / without changes or conditions).

Motion ____ Second ____ Vote ____

VI. Staff Reports

Director Report

A. CON-22-02 staff report

VII. Next Meeting: January 12, 2023

Action: Motion to (approve / deny / table) next meeting date: January 12, 2023 at 6:30 p.m.

Motion _____ Second _____ Vote _____

VIII. Adjournment

Action: Motion to adjourn.

Motion _____ Second _____ Vote _____ Time _____



MINUTES
PLANNING COMMISSION
 7651 E. Central Park Ave, Bel Aire, KS
 November 11, 2022 6:30 PM



I. Call to Order

II. Roll Call

James Schmidt, David Floyd, Phillip Jordan, Dee Roths, Paul Matzek, and John Charleston, Heath Travnichuk were absent.

Also present were, Planning Commission Secretary, Jay Cook, and Code Enforcement Officer, Garrett Wichman.

III. Pledge of Allegiance to the Flag – Chairman Schmidt led the Pledge of Allegiance.

IV. Consent Agenda

A. **Approval of Amended Minutes from August Meeting**

Motion: Commissioner Floyd made a motion to approve the minutes of August 23, 2022. Commissioner Roths seconded the motion. *Motion carried 5-0*

B. **Approval of Minutes from Previous Meeting**

Motion: Chairman Schmidt made a motion to approve the Minutes of October 13, 2022 meeting. Commissioner Roths seconded the motion. *Motion carried 5-0*

V. Old Business/New Business

A. **VAC-22-03: Vacating 25' front setback to 20' at 5243-45 and 5237-39 Toben Court**

Chairman Schmidt opened and closed the public hearing as there was no representative of the applicant or any citizen present. After closing the hearing, the Planning Commission discussed the vacation request as presented. During consideration, the Planning Commission considered the criteria for review in Section 10.04 (B) of the subdivision regulations of the City Code. Each of the following were reviewed. Due and legal notice has been given. Staff submitted an affidavit of publication on October 20, 2022 to the Ark Valley News stating an official notice of vacation hearing. Certified letters were sent to all owners of real property within 200 feet of the area proposed to be changed as stated in 10.04 (A) (2) of the subdivision code. It was stated that no protest petition was submitted in conflict with the vacation. Staff received 5 of the 6 certified letters that were sent. No private rights will be injured or endangered. The public will suffer no loss or inconvenience; change in setback would not incur any loss to the public due to the location of easements and right-of-way on the properties.

Motion: Commissioner Roths made the motion to recommend the request to vacate the front building setback from 25' to 20' at 5243-45 and 5237-39 Toben Court without changes. Commissioner Floyd seconded the motion. ***Motion carried 5-0***

Director Report

Planning Commission Secretary, Jay Cook, discussed the progress of the new Comprehensive Development Plan. At this time, bids have been requested from three different engineering and design firms. Staff is awaiting two of three bids to be returned. There was also discussion on the importance of keeping statements and questions direct and concise when conducting an open hearing and when discussing applications for review regarding any case brought before the Commission.

VI. Next Meeting: Thursday, December 8th at 6:30 PM

After brief discussion the Planning Commission agreed upon December 8th, 2022, at 6:30 p.m.

MOTION: Chairman Schmidt made the motion to approve the next meeting date to December 8, 2022, at 6:30 p.m. Commissioner Roths seconded the motion. ***Motion carried 5-0.***

VII. ADJOURNMENT

MOTION: Commissioner Charleston made a motion to adjourn the meeting. Commissioner Roths seconded the motion. ***Motion carried 5-0.***

APPLICATION

This form MUST be completed and filed at City Hall, Bel Aire, Kansas, 7651 E. Central Park, Bel Aire, Kansas 67226. AN INCOMPLETE APPLICATION CANNOT BE ACCEPTED. Check the appropriate box below for type of application being submitted. A separate application and filing fee is required for each application. A preapplication conference with City Staff is recommended before filing this application.

BOARD OF ZONING APPEALS

☐ To vary applicable requirements in Sections 10-107c1 through 5 in conjunction with a Conditional Use Application.

☐ Conditions placed on permitted Conditional Use _____

☐ Security bond is required
☐ Approved ☐ Rejected

Name of owner Gary and Julie Breault

Address 4046 Harding Rd Telephone 316.305.8944

Agent representing the owner _____

Address _____ Telephone _____

1. The application area is legally described as Lot(s) 9; Block(s) G, Aurora Park Addition Addition, Bel Aire, Kansas. If appropriate, a metes and bounds description may be attached.

2. The application area contains 2.75 acres.

3. This property is located at (address) 4046 Harding Rd which is generally located at (relation to nearest streets) 39th St & Harding Rd.

4. State why the proposed conditional Use will not cause substantial injury to the value of other property in the neighborhood, how it is to be designed within district regulations:

This structure previously existed. We are rebuilding the original garage and adding an additional 672 sf of floor space for an accessory apartment. The original structure received compliments from neighbors and will be rebuilt in the same manner. The apartment is intended for use by our family and friends. We have no intentions to rent to strangers while we own the property. It will be one bedroom and one bathroom with a loft for storage when eventually finished. The original building was 32' x 48' - the new building will be 48' x 48'.

5. County control number: 238527

6. NAMES OF OWNERS - For land inside the city limits, an ownership list of the names, addresses and zip codes of the owners of record of real property located within 200 feet of the exterior boundary of the area described in the application both within the city limits and extending outside the city limits when necessary.

If such area is located adjacent to but within the city limits, the ownership list, in addition to the 200 feet inside the city limits, shall provide similar information extending to 1,000 feet into the unincorporated area.

If such area is located outside the city limits, the ownership list shall extend for 1,000 feet in the unincorporated area and, if the latter extends into the city limits, then such owners for 200 feet inside the city must also be included on the list.

The names of the owners of all property included in this application MUST be listed as applicants. Contract purchasers, lessees or other directly associated with the property may also be listed if they desire to be advised of the proceedings.

1. Applicant * attached * Phone _____
Address _____ Zip Code _____

Agent _____ Phone _____
Address _____ Zip Code _____

2. Applicant _____ Phone _____
Address _____ Zip Code _____

Agent _____ Phone _____
Address _____ Zip Code _____

3. Applicant _____ Phone _____

Address _____ Zip Code _____

Agent _____ Phone _____
Address _____ Zip Code _____

4. Applicant _____ Phone _____
Address _____ Zip Code _____

Agent _____ Phone _____
Address _____ Zip Code _____

5. Applicant _____ Phone _____
Address _____ Zip Code _____

Agent _____ Phone _____
Address _____ Zip Code _____

6. Applicant _____ Phone _____

Agent _____ Phone _____
Address _____ Zip Code _____

7. Applicant _____ Phone _____

Agent _____ Phone _____
Address _____ Zip Code _____

The applicant certifies that the foregoing information is true and correct to the best of their knowledge and acknowledges that the Planning Commission and/or Governing Body shall have authority to impose such conditions as it deems necessary in order to serve the public interest and welfare.


Applicant's Signature

BY

Authorized Agent (If Any)

The Petition must bear the signature(s) of the property owner(s). If an authorized agent signs on the owner's behalf, the agent shall sign his own name and attach the owner's written notarized authorization to this application.

OWNERSHIP LIST

PROPERTY DESCRIPTION

PROPERTY OWNER

Lot 9, Blk G, & 1/20 undivided interest in Fawn Lake Subject Property	Aurora Park Addition	Gary L. & Julie A. Breault 4046 N. Harding Ave. Bel Aire, KS 67220
Lot 7, Blk G, & 1/20 undiv interest in Fawn Lake	"	Ronald W. & Melanie R. Penner 4100 N. Battin Bel Aire, KS 67220
Lot 8, Blk G, & 1/20 undiv interest in Fawn Lake	"	Joseph E. & Sylvia M. Forte 4072 N. Harding Bel Aire, KS 67220
Lot 10, Blk G, & 1/20 undiv interest in Fawn Lake AND Lot 2, Blk C	"	Sallie Olson & Gary L. Olson 4171 N. Edgemoor Bel Aire, KS 67220
Lot 11, Blk G, & 1/20 undiv interest in Fawn Lake	"	Cecil & Susan R. Gardner 5110 E. 39 th St. Bel Aire, KS 67220
Lot 12, Blk G, & 1/20 undiv interest in Fawn Lake	"	Sarah A. Almquist & Bradley M. Lewis 5116 E. 39 th St. Bel Aire, KS 67220
Lot 1, Blk B	"	Logan A. & Ashley D. Schrag 4071 N. Harding Bel Aire, KS 67220
Lot 2, Blk B	"	James A. Bender 4051 N. Harding Bel Aire, KS 67220
Lot 3, Blk B	"	David Ray Newman II 4031 N. Harding Bel Aire, KS 67220
Lot 4, Blk B	"	Mark & Richelle Arrasmith 4001 N. Harding Bel Aire, KS 67220

Lot 5, Blk B	“	Carlos Castro Rodriguez & Aida Vargas 3901 N. Harding Bel Aire, KS 67220
Lot 1, Blk C	“	Homecrest Trust Wallace D. Cook & Marlene G. Cook 3900 N. Harding Bel Aire, KS 67220
Lot 3, Blk C	“	Gary N. & Carolyn J. Gunzelman 5029 E. 39 th St. Bel Aire, KS 67220

We hereby certify the foregoing to be a true and correct list of the property owners of the herein before described lots within a 200 foot radius of:

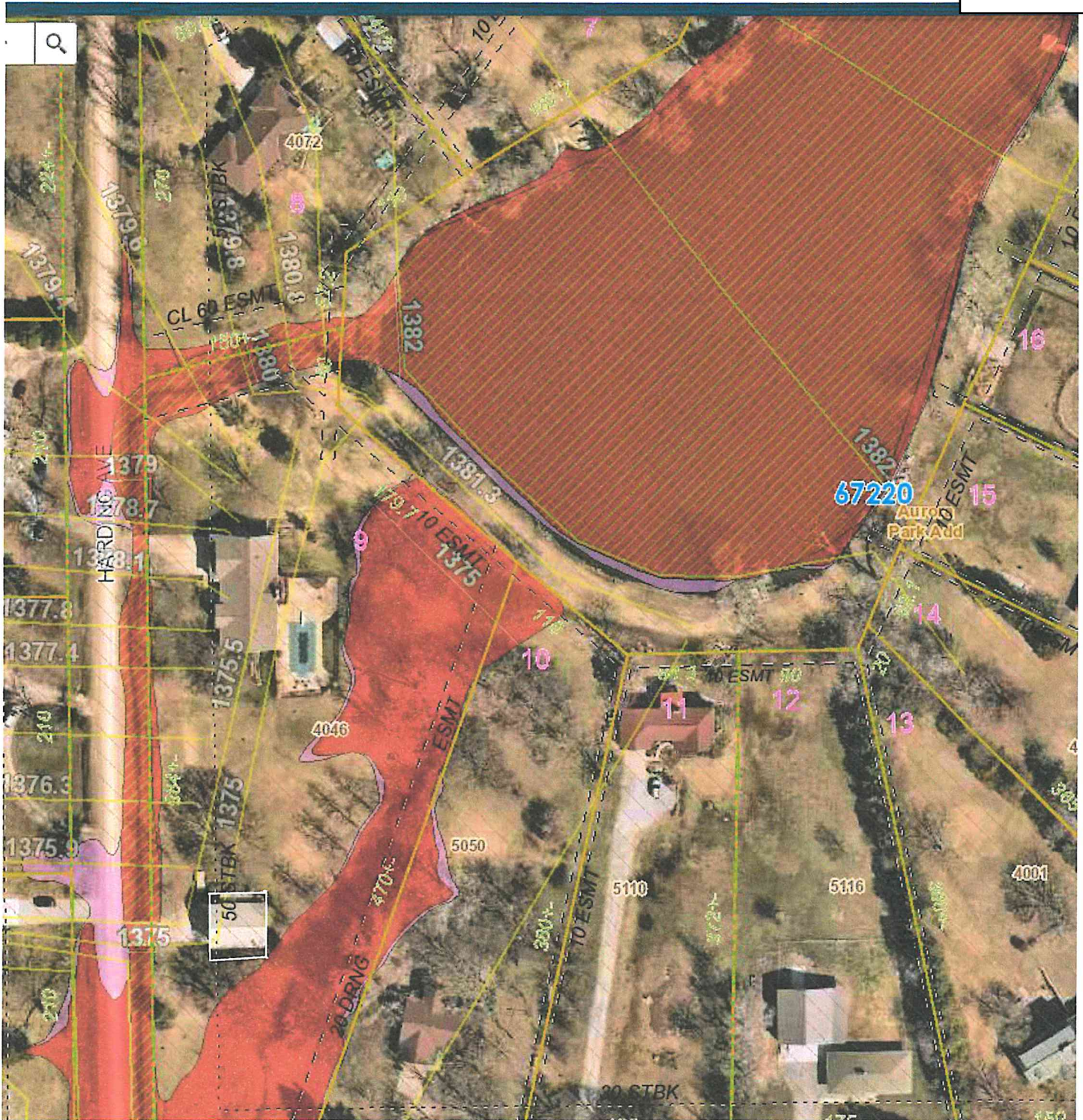
Lot 9, Block G, in Aurora Park, an Addition to Bel Aire, Sedgwick County, Kansas, and a one/twentieth undivided interest in that portion of the Aurora Park surveyed and recorded as “Fawn Lake”.

as shown by the last deed of record filed in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 2nd day of November, 2022, at 7:00 A.M.

Security 1st Title, LLC

By: Jacqui Childers
Licensed Abstracter

Order: SG945
KJK



Flood Plain area around the site of the detached garage.

We have paid to have our property surveyed. They will mark the borders of the flood plain so we can be sure to keep the barn out of that area.

West Side Roof turned



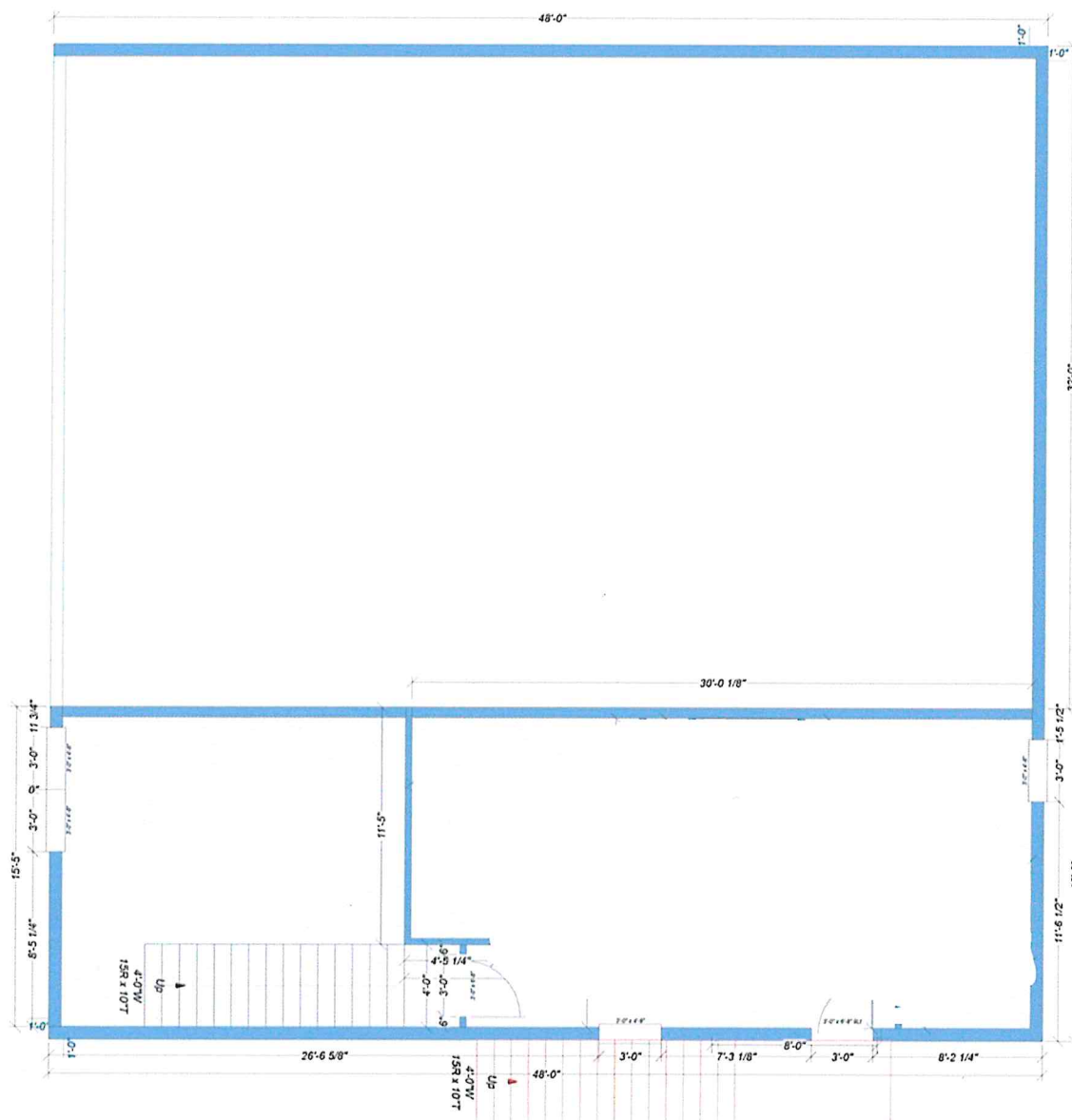
South West Side



Section V, Item A.

Second Floor

N ↑



To the Members of Bel Aire Planning Commission:

Heath Travnichuk John Charleston Phillip Jordan James Schmidt
David Floyd Dee Roths Paul Matzek

Re: R-1 Residential Change on December 8, 2022 Agenda

We object to the plan to place an apartment in our single-family Aurora Park development which has opposed multifamily dwellings in the past. We will be out of the country and thus unable to attend. We request a postponement of the item on December's meeting. We also request that this be included in the packet for the commissioners.

As a former member of the Planning and Zoning Commission, I know this is not unreasonable. Many of the Certified letters were not received/signed for. I was informed we needed to have all 13 respond in favor of a postponement. Well, only 8 or 9 signed as receiving it.

We do not understand why the project has been considered. The requested location is in an R-1 residential area as per the city of Bel Aire zoning plan. Why are we even being asked this? Aurora Park has specific standards on dwelling sizes and setbacks. A simple denial would be sufficient and in keeping with neighborhood integrity.

We also have a question about the other owners of Fawn Lake. Since the dam and lake are common property of 20 owners, why weren't all notified? The common property is contiguous with the property in question and Fawn Lake is within the 200 feet. Fawn Lake is listed on our property taxes.

5.02. AMENDMENTS TO ZONING CODE, ZONING DESIGNATION, OR DISTRICT BOUNDARIES

2. All property located within 200 feet of the designated property... are included within the area of notification. A certified list of the names and addresses of all owners of property shall be provided with the zoning Administrator by the petitioner.

We maintain that the additional required notification was never sent. There was not due diligence in the application. I have also notified Mr. Cook of this belief. Bel Aire owes its residents this consideration.

Although the petitioner has stated honorable intentions, situations and owners change. We had a situation where a parents' unit was later converted into a duplex and advertised by the realtor as having income potential. At the time the city refused to investigate because there was only one mailbox.

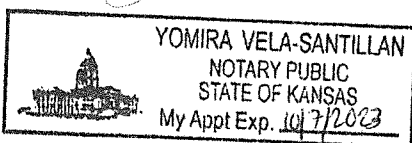
There needs to be written restrictions regarding stated the temporary/conditional use of said property with needed enforcement by zoning officials, should you go that route

Sincerely,


Joseph Forte


Sylvia Forte

 November 29th 2022



FOR MEETING OF	12/8/22
CITY COUNCIL	
INFORMATION ONLY	

City of Bel Aire

STAFF REPORT

DATE: 12/02/2022

TO: Bel Aire Planning Commission

FROM: Keith Price

RE: Agenda

SUMMARY:

Case No. CON-22-02 Property owner has requested to allow an Accessory Apartment in a R-1 single-family zoning district.

The hearing ad was placed in the Ark Valley News November 17, 2022, and surrounding property owners within 200' were notified as required.

The R-1 zoning district has listed specifically an accessory apartment as a conditional use item. Ordinance 568 has allowed accessory use similar to allowing a stand along business. Below is part of the code for apartments that speaks to the intent of the code:

Apartment Units are allowed in certain situations to: a. Create new housing units while preserving the look and scale of the associated zoning district and neighborhood and are subject to the standards established within each Zoning District; b. Provide a means for residents, particularly seniors, single parents, and couples, to remain in their homes and neighborhoods, security, companionship and services.

The code also states 960 square feet is the design standard for the living space. The footprint appears to have approximately 705 square feet in the lower floor and 240 square feet in loft for an approximate total of 945 square feet. The garage portion also covers approximately 1,504 square feet meeting the private garage standard definition.

There are covenants filed for the platted addition, however previous zoning cases before the planning commission have not shown enforcement or HOA activity. As always, the city is sensitive of the issues when reviewing how a requested use will impact a neighborhood long term. The city code related to covenants and private agreements is below:

1.07 RELATIONSHIP TO PRIVATE RESTRICTIONS The provisions of these regulations are not intended to abrogate any deed restriction, covenant, easement or any other private agreement or restriction on the use of land. Provided, that where the provisions of these regulations are more restrictive or impose higher standards than any such private restriction, the requirements of these regulations shall govern. The City does not have the responsibility to enforce such private agreements.

CONDITIONAL USE. A use which may be appropriate within a specific zoning district, nature of such use and the nature of the effected zoning district, must be approved by recommendation of the Planning Commission and action of the Governing Body. A conditional use runs with the land until the use of the land changes, as set forth within this Code.

Criteria for Review. The following criteria shall be the basis for evaluation of the rezoning request in relation to the specific case being considered:

1. The character of the neighborhood;

1950's larger lots, one acre minimum, mixture of large and small housing. Gravel roads, gravel drives and paved drives

2. The zoning and uses of properties nearby;

R-1 single-family, single-family housing, some with home-based businesses.

3. The suitability of the subject property for the uses to which it has been restricted; The extent to which removal of the restrictions will detrimentally affect nearby property;

The old garage was burnt to the ground and has not been rebuilt, yet. The size of building would increase, but the activity related to use would not change substantially based on the submitted application.

4. The length of time the subject property has remained vacant as zoned;

Currently the property is an active single-family site; the RV garage was recently destroyed by fire.

5. The relative gain to the public health, safety, and welfare by the destruction of the value of petitioner's property as compared to the hardship imposed upon the individual landowners;

Having a location to place family nearby is a comfort that is not always possible; 4-6 persons would be the maximum occupancy load based on the city property maintenance code. 1-2 cars added to the current use. It doesn't appear to create a property value concern for others. The lot size is 2.75 acres, large enough for two houses. This is one of the higher valued houses in the neighborhood.

6. Recommendations of permanent staff;

If the Covenant's concerns can be reviewed and weight given to imposed conditions to the request and the site can be clear of the floodplain by survey, this is a reasonable request.

7. Conformance of the requested change to the adopted or recognized master plan being utilized by the city.

The conditional use item for accessory use apartment is contained in the R-1 district portion of the zoning code because of the bulk use of the property is less dense. The lot is 2.75 acres and will still meet the density of the neighborhood.

8. The opinions of other property owners may be considered as one element of a decision in regard to the amendment associated with a single property, however, a decision either in support of or against any such rezoning may not be based upon a plebiscite of the neighbors.

City staff has received one call opposing the request, and one requesting to take item off of the agenda for the meeting. This will be discussed at the meeting with any other correspondence received.

<https://www.betterontheedge.org/>

