



Tuesday, December 6, 2022
Civic Center, Memorial Hall 5:30 PM

Independence Planning Commission/Board of Zoning Appeals

To join by Conference Call dial:1-785-289-4727 Conference ID: 652-632-373#

I. CALL TO ORDER

II. MINUTES

- a. Consider approving minutes of the November 1, 2022 Planning and Zoning meeting.

III. BOARD OF ZONING APPEALS (DOES NOT INCLUDE OUTSIDE CITY APPOINTMENTS)

- a. Public Hearing to receive comments on a variance request to exceed size and number of signs in a C-3, business district zone at 113 W. Myrtle Street.
- b. Public Hearing to receive comments on a variance request for accessory uses as "permanent occupancy as housekeeping units" at 701 Taylor Road and 2423 Linda Jean Drive.

IV. PLANNING COMMISSION

- a. Public Hearing to receive comments to consider rezoning a tract of land at 701 Taylor Road from R-1, large lot single-family dwelling district to R-3, low density multifamily dwelling district.
- b. Public hearing to receive comments on a request for a conditional use permit for "Antiques - Retail" in a C-1 neighborhood business district at 504-506 South 10th Street.
- c. Public hearing to receive comments to consider rezoning three tracts of land at 600, 606 and 610 West Main Street from R-3, low density multifamily dwelling district to C-2, commercial services district.
- d. Public hearing to consider a text amendment to the zoning code relating to temporary signs.
- e. Consider initiating the rezoning of a tract of land at 800 N. 21st Street to M-1, light industrial district.

V. DISCUSSION

VI. ADJOURNMENT



**PLANNING COMMISSION ACTION / BOARD OF
ZONING APPEALS MINUTES
CITY OF INDEPENDENCE
December 6, 2022**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Consider approving minutes of the November 1, 2022 Planning and Zoning meeting.

SUMMARY RECOMMENDATION I move to approve the minutes of the November 1, 2022 Planning and Zoning/Board of Zoning Appeals meeting.

SUPPORTING DOCUMENTS

1. 110122 PZ Minutes Draft

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's November 1,
2022 Meeting**

I. Call to Order

Present: Rachel Lyon, Mary Jo Meier, Kendall Neill, Lisa Richard, Tim Haynes, Michelle Anderson

Absent: Anthony (Tony) Royse, Brent Littleton, Andy McLenon

Guests: George Eisele, Julie Eisele, Jason Elmore, Patrick Conway

II. Minutes

- a. Consider approving minutes of the October 4, 2022 meeting.

Motion:

On the motion of Tim Haynes, seconded by Kendall Neill the Commission approved the minutes of the October meeting.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Meier, Kendall Neill, Lisa Richard

Nay: None

III. Board of Zoning Appeals (Does not include outside City appointments)

- a. Public hearing to receive comments on a variance request to exceed size and number of signs in a C-3, business district zone at 113 E. Myrtle Street.

David Cowan requested the Board of Zoning Appeals to adjourn the public hearing to December 6, 2022.

Motion:

On the motion of Kendall Neill, seconded by Lisa Richard the Commission adjourned the public hearing to December 6, 2022.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Meier, Kendall Neill, Lisa Richard

Nay: None

IV. Planning Commission

- a. Public hearing to receive comments to consider rezoning a tract of land at 211 Taylor Road from R-1, large lot single-family dwelling district to C-1, neighborhood business district; and/or a conditional use permit for a "Daycare Center" in an R-1, large lot single-family dwelling district.

Kendall Neill opened the public hearing.

Miranda Bruening spoke on behalf of Sadie Sewell saying that there are two

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's November 1,
2022 Meeting**

options, one to rezone the property and two to issue a conditional use permit. The applicant would like the property rezoned to a C-1, neighborhood business district.

Tim Haynes asked if there is an additional building to be built.

Miranda Bruening stated that the applicant wants a separate structure on the property. By building a separate structure, all fire code requirements will have to be met.

Lisa Richard asked about the difference in setbacks between C-1 and R-1 and Kendall Neill referred her to the packet.

Kendall Neill closed the public hearing.

Motion:

On the motion of Tim Haynes, seconded by Rachel Lyon the Commission approved rezoning the R-1, large lot single-family dwelling district at 211 Taylor Road to C-1, neighborhood business district to allow a daycare center in the neighborhood.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Meier, Kendall Neill, Lisa Richard

Nay: None

- b. Public hearing to receive comments on a request for a conditional use permit for "Short-term Rentals Not Elsewhere Listed" in an R-3, low density multi-family dwelling district at 305 South 10th Street.

Kendall Neill opened the public hearing.

George Eisele stated that he was the previous owner of this property and he had been issued a conditional use permit to operate as an Airbnb. He stated that it worked out very well for them, there were no incidents for anyone. He further stated that he thinks the community needs a place like that to stay. It sleeps approximately 7 people.

Lisa Richard asked if they had already sold the property and Mr. Eisele said yes. Lisa then stated that this is basically transferring a conditional use permit because the new owner did not come in before the Planning Commission.

Kendall Neill closed the public hearing.

Motion:

On the motion of Tim Haynes, seconded by Kendall Neill the Commission

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's November 1,
2022 Meeting**

approved a conditional use permit for "Short-term Rentals Not Elsewhere Listed" with the same conditions as previously included in Resolution No. 2019-037, to wit, The applicant must meet the following requirements: 1. Off street parking will be provided on the applicant's private property. 2. Exterior lighting will not have an adverse effect by shining onto any neighboring properties. 3. The conditional use permit is not transferable to another property owner or to another location. 4. The applicant must be in compliance with all City codes and must continue to be in compliance with all City codes, in an R-3, low density multi-family dwelling district at 305 S. 10th Street.

Aye: Michelle Anderson, Tim Haynes, Mary Jo Meier, Kendall Neill, Lisa Richard

Nay: None

Abstain: Rachel Lyon

- c. Public hearing to receive comments on a request for a conditional use permit for single-family and multi-family dwellings in a C-3, central business district at 113 West Laurel Street.

Kendall Neill opened the public hearing.

Miranda Bruening spoke on behalf of the applicant and stated that they wish to have a retail property management business in the front of the building and a 2 bedroom executive residence and private garage in the middle and rear of the building.

Lisa Richard asked which building is 113 West Laurel Street and Miranda said it is the Eagles building. The rear of the property had a horse carriage and they will preserve the doors.

Kendall Neill closed the public hearing.

Motion:

On the motion of Michelle Anderson, seconded by Tim Haynes the Commission approved the conditional use permit for single-family and multi-family dwellings in a C-3, central business district at 113 West Laurel Street, with the added conditions in staff's recommendation, to wit, 1. The conditional use permit shall be issued solely to the applicant and/or property owner and is not transferable to another location. 2. With this conditional use permit, the storefront shall strictly be used for retail or service establishments dealing directly with consumers, defined for this conditional use permit as a property management company, with 888 square feet of the first-floor storefront to be used for the company with the remaining 2,368 square feet to be used as a 2 bedroom apartment and private garage. 3. The

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's November 1,
2022 Meeting**

residential area of 1,549 square feet in the center of the building must meet life safety and building code requirements. 4. The upper-story apartment must meet life safety and building code requirements. 5. Any additional exterior lighting on site will need to be approved by City staff. 6. IHPRC approval and a City Building Permit are required before work can begin.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Meier, Kendall Neill, Lisa Richard

Nay: None

- d. Public hearing to receive comments on a request for a conditional use permit for "Coffee Roasting" in a C-3, central business district at 107-109 East Main Street.

Kendall Neill opened the public hearing.

Lisa Richard asked Jason Elmore if he had been told the conditions he would need to follow.

Jason Elmore said the only thing he would change on the conditions would be the daily roasting amount from 20 lbs to 25 lbs.

Lisa Richard said that the conditions seemed to be flexible and good for the neighborhood and asked if she amended the motion to 25 lbs would Jason be comfortable with that.

Jason Elmore said yes and that most all of the conditions he would meet anyway.

Kendall Neill closed the public hearing.

Motion:

On the motion of Lisa Richard, seconded by Tim Haynes the Commission approved the conditional use permit for "Coffee Roasting" in a C-3, central business district at 107-109 East Main Street with the amended added conditions in Staff's recommendation, to wit, 1. The maximum amount of coffee beans that will be processed at this location will not exceed 50,000 pounds total per calendar year. Batches processed at any one time shall be not more than 25 pounds each. 2. The operation shall be accompanied by a retail component. 3. The applicant shall ensure that material efforts are made to substantially reduce coffee roasting odors, and any emissions from the site shall be in compliance with all laws and regulations. 4. The operation shall produce minimal off-site impacts and be compatible with office, retail and service uses. 5. The applicant will work with City staff to ensure the exhaust is vented in a manner to minimize impacts to residential units within the vicinity. 6. That no change in the coffee roasting equipment to increase

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's November 1,
2022 Meeting**

roasting capacity above 25 pounds shall be allowed unless approved by the Planning Commission following a public hearing. Modifications to equipment to improve exhaust quality may be considered as minor alterations by the Zoning Administrator following a recommendation by the Building Inspector.

7. The conditional use permit is not transferable to another property owner or to another location. 8. The applicant must be in compliance with all City codes and must continue to be in compliance with all City codes. This would include the requirement to acquire a City occupation license which must be renewed annually.

Aye: Michelle Anderson, Tim Haynes, Mary Jo Meier, Kendall Neill, Lisa Richard

Nay: None

Abstain: Rachel Lyon

V. Discussion

- a. Report on status of conditional use permit at 401 N. 8th Street

David Cowan said that the 401 N. 8th Street property owners have now finished with fencing and shrubbery and are in compliance with the conditional use permit.

- b. Status on budget for Comprehensive Plan.

Kendall Neill asked David Cowan about the budget and whether the update for the Comprehensive Plan was going through.

David Cowan stated that the budget had passed the City Commission with the update and Kelly Passauer would be sending out a request for proposals in 2023.

VI. Adjournment

Motion:

On the motion of Kendall Neill, seconded by Tim Haynes the Commission adjourned the meeting.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Mary Jo Meier, Kendall Neill, Lisa Richard

Nay: None

Kendall Neill, Chairperson

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's November 1,
2022 Meeting**

Tim Haynes, Secretary



**REQUEST FOR BOARD OF ZONING APPEALS ACTION
VARIANCE
CITY OF INDEPENDENCE
DECEMBER 6, 2022**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public Hearing to receive comments on a variance request to exceed size and number of signs in a C-3, business district zone at 113 W. Myrtle Street.

SUMMARY RECOMMENDATION This item was adjourned from your Tuesday, November 1, 2022 meeting. The applicant has requested this item be adjourned again until February 7, 2022.

BACKGROUND The applicant is working on alternative designs and is not ready to present.

SUGGESTED MOTION I move to adjourn a Public Hearing to consider a variance to exceed the size and number of signs in a C-3, central business district at 113 W. Myrtle Street to February 7, 2022 at 5:30 pm.

SUPPORTING DOCUMENTS

1. Public Hearing Notice VAR 06 113 E Myrtle
2. VFW Variance Application
3. VFW Portrait - 1

City of Independence, Kansas

NOTICE TO THE PUBLIC

The Independence, Kansas Board of Zoning Appeals will conduct a public hearing on:

Tuesday, November 1, 2022 at 5:30 p.m.

To receive comments on a variance request to exceed size and number of signs in a C-3, business district zone.

Common Address:

113 East Myrtle Street

Legal Description:

W 4.2' Lot 2; All Lot 3 Block 43, Original Plat to the City of Independence, Montgomery County, Kansas.

Applicant/Owners:

Veterans of Foreign Wars Post 1186

Case Number:

2022/VAR/6

The hearing will be conducted in the Civic Center, Memorial Hall, Penn/Locust, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend, and they will be heard. You may also participate via conference call: [+1 785-289-4727](tel:+1785-289-4727) Conference ID: 652 632 373# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
811 W Laurel Street
Independence, KS 67301
(620) 332-2506

Information regarding this application is available in the Zoning Administrator's office. If special accommodation is required, please inform the Zoning Administrator.

Kelly Passauer, Zoning Administrator

APPLICATION TO BOARD OF ZONING APPEALS

CITY OF INDEPENDENCE, KANSAS

1. Date: 10/05/22

2. Name, Address and Telephone Number of Property Owner:

Veterans of Foreign Wars Post 1186
113 E. Myrtle St.
Independence, KS. 67301
620-221-6010

3. I appoint the following person as my agent during consideration of my request:

Name: Doug Harlin
Address: 1109 N. 10th St.
Telephone: Independence, KS. 67301
620-221-7001

4. Common Address of Land Involved:

113 E. Myrtle St.
Independence, KS. 67301

5. Legal Description of Land Involved:

ORIG PLAT, S31, T32, R16, W 4.2' LT 2; ALL LT 3 BLK 43; Lot Width: 050.8 Lot Depth: 140.0 Plat

6. Describe what you wish to do which the zoning code prohibits:

We wish to place a professionally painted mural that aligns with our mission and vision on the east side of 113 E. Myrtle. Please see the attached design. We have recently been notified since the mural states VFW it is considered a "sign" verses a mural. The mural will cover approximately a 20 ft X 50 ft area. The current sign regulation is 5% or 50 square feet of the total surface area.

7. The following condition(s), which were not created by the owner's actions, are unique to the property in question and are not commonly found in the same zone or district:

N/A

8. The proposed development would not adversely affect the rights of the adjacent property owners or residents because:

There is no building of a new structure or addition to any existing structures; therefore the project will not encroach on any neighboring building.

9. The literal enforcement of the zoning regulations will result in the following unnecessary hardships:

N/A

10: The proposed development will not be contrary to the public health, safety, morals, or general welfare because:

There is no development.

11: The proposed development will not be contrary to the general spirit and intent of the zoning ordinance because:

There is no development.

12: Please attach a site plan showing the dimensions of the lot, the location of building (both existing and proposed), and the location of existing buildings on adjacent property.

N/A

If the space provided is not sufficient, the applicant may attach additional pages. The applicant also may submit any other pertinent information including photographs, drawings, maps, statistics, legal documents, and letters of support.

Signature of Property Owner: _____

Case Number: _____
Date Filed: _____
Fee Received: _____
Present Zoning: _____





**REQUEST FOR BOARD OF ZONING APPEALS ACTION
VARIANCE
CITY OF INDEPENDENCE
DECEMBER 6, 2022**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public Hearing to receive comments on a variance request for accessory uses as "permanent occupancy as housekeeping units" at 701 Taylor Road and 2423 Linda Jean Drive.

SUMMARY RECOMMENDATION

BACKGROUND CA Holdings LLC is requesting a variance from the permitted accessory use 607.2.e., *"A guesthouse or rooms for guests in an accessory building, provided such facilities are used for the occasional housing of guests of the occupants of the principal building and not as rental units for permanent occupancy as housekeeping units."* The previous owners converted the detached garage into living quarters for a family member. The new owner wants to rent the garage out as an apartment separately from the house. The property is zoned R-1, which does not allow for multi-family use. Since the garage was turned into an apartment after the zoning code was adopted, it is not considered a non-conforming land use per 1301.1 that could be continued other than as an accessory use as a guest house under 607.2.e for occasional guests, which does not allow rental for permanent occupancy. According to 607.4, only short-term rentals of a tiny house are allowed with the approval of a conditional use permit per 607.4.d. However, the garage is over 1,000 square feet which does not fit the definition of a tiny house. The garage is an accessory use and, as such, cannot be rented out according to 607.2 e of the City code.

CA Holdings LLC is requesting a variance to allow the property owner to rent out the garage apartment as a permanent occupancy housekeeping unit.

403.0. - Definitions.

Accessory building: A subordinate building which serves a function customarily incidental to that of the main building which is located on the same lot as the main building. Customary accessory buildings include garages, carports, and small storage sheds.

Dwelling unit: A separate, independent living quarter consisting of one or more connected rooms with permanently installed bathroom and kitchen facilities, occupied by a family group or single person (or vacant quarters normally so occupied).

Tiny House: A dwelling that is 400 square feet in floor area or less, excluding lofts, and anchored to a permanent foundation.

607.0. - Accessory uses.

Accessory uses are permitted in any zoning district in connection with any principal use which is permitted.

607.1. Definitions: An accessory use is a structure or use which shall conform to all of the below:

- a. Is subordinate to and serves a principal building and principal use;
- b. Is subordinate in area, extent or purpose to the principal building or buildings served;
- c. Contributes to the comfort, convenience or necessity of occupants, business or industry in the principal building or principal use served;
- d. Is located on the same lot or contiguous lot as the principal building or principal use served.

607.2. Permitted accessory uses: Any structure or use that complies with the definition of section 607.1 may be allowed as an accessory use or structure. Accessory structures and uses include, but are not limited to, the following list of examples:

- a. Private garages or carports, not to exceed the following capacity:
 - 1. For single-family residence: Four cars.
 - 2. For multifamily residence: Two cars per dwelling unit.
- b. A structure for storage incidental to a permitted use, provided no such structure that is accessory to a residential building shall exceed 200 square feet in gross floor area.
Exception: Parking garages.
- c. A child's playhouse.
- d. A private swimming pool and bathhouse.
- e. A guesthouse or rooms for guests in accessory building, provided such facilities are used for the occasional housing of guests of the occupants of the principal building and not as rental units for permanent occupancy as housekeeping units.
- f. Statuary, arbors, trellises, barbecue stoves, wood piles for home use, flagpoles, fences, walls, hedges and radio and television antennas.
- g. Fallout shelters, provided that they shall not be used for any principal or accessory use not permitted in the zoning district.
- h. Signs.
- i. Off-street parking and loading spaces as regulated by article VII of these regulations.
- j. Storage of major recreational equipment, such as boats, boat trailers, camping trailers, converted buses or trucks, house trailers, shall be at the rear of the premises if there is access thereto, or if there is not access to the rear premises, then such recreational vehicles may be parked in the private driveway of the premises, at the side thereof, or at some other inconspicuous location thereon. In no event, however, shall such recreational vehicles be parked on public property, streets, or thoroughfares for longer than 72 hours.
- k. Restaurants, drugstores, gift shops, swimming pools, tennis courts, clubs and lounges and newsstands when located in a permitted hotel, motel or office building.
- l. Employee restaurants and cafeterias when located in a permitted business or manufacturing or industrial building.
- m. Offices for permitted business and industrial uses when said office is located on the same site as the business or industry to which it is an accessory.
- n. Retail sales for permitted industrial uses when located on the same site as the industrial use.
- o. The storage of retail merchandise when located within the same building as the principal retail business.
- p. Any wholesale or retail sales activity may also include accessory service or repair activity for goods which are sold on the premises.
- q. A hobby shop may be operated as an accessory use by the occupant of the premises for personal equipment, amusement or recreation; provided that articles produced or constructed are not sold on the premises.
- r. Accessory uses for any agriculturally oriented activity, which is subordinate and incidental to the principal permitted agricultural activity, shall be permitted in the A-1 district.
- s. A tiny house for use by the property owner's family.

607.4. Accessory uses permitted by conditional use: The following accessory uses shall only be permitted upon approval of a conditional use application:

607.4.d. A tiny house for short term rentals not elsewhere listed.

1301.1. A nonconforming land use or structure is one which existed lawfully, whether by variance or otherwise, on the date this zoning ordinance or any amendment thereto became effective and which fails to conform to one or more of the applicable regulations in the zoning ordinance or such amendment thereto.

BOARD OF ZONING APPEALS CONSIDERATIONS Acceptance of a variance must be based on the following factors:

- A. Unique condition to the property in question which is not ordinarily found in the same zone and is not created by any action of the property owner -- *The unique condition is the garage apartment, which was not created by the current property owner but by a previous property owner.*
- B. The variance will not adversely affect the rights of adjacent property owner -- *There does not appear to be any rights that would be affected by allowing this variance.*
- C. The strict enforcement of the regulations would cause an unnecessary hardship -- *The hardship would be the loss of rental income for the apartment. It is unknown if the buyer was aware of the zoning restrictions when they purchased the property.*
- D. The variance would not adversely affect public health, safety and morals -- *Staff does not foresee the variance would adversely affect public health, safety and morals.*
- E. The variance will be in keeping with the general intent and spirit of the zoning regulations. -- *If the property was rezoned to multi-family it would meet the general intent and spirit of the zoning regulations. However, it would be considered a spot zone. Also, earlier this year when the Planning Commission was considering the text amendment for tiny houses, they specifically did not want long-term rentals allowed when a tiny house was constructed as an accessory use, "607.2.s. A tiny house for use by the property owner's family." Short term rentals were allowed in tiny houses, but only with a conditional use permit.*

STAFF RECOMMENDATION Considering the current shortage of quality housing units available, City staff recommends approving the variance. However, the Planning Commission may wish to consider reviewing future possible text amendments relating to Accessory Dwelling Units (ADU's), such as garage apartments.

SUGGESTED MOTION I move to authorize a variance for "permanent occupancy as housing units" as an accessory use at 701 Taylor Road (also known as 2423 Linda Jean Drive).

SUPPORTING DOCUMENTS

- 1. Public Hearing Notice VAR 07 701 Taylor Rd
- 2. 701 Taylor - Variance Application
- 3. Aerial

City of Independence, Kansas

NOTICE TO THE PUBLIC

The Independence, Kansas Board of Zoning Appeals will conduct a public hearing on:

Tuesday, December 6, 2022 at 5:30 p.m.

To receive comments on a variance request for accessory uses as “permanent occupancy as housekeeping units”.

Common Address:

701 Taylor Rd

Legal Description:

N 160’ Lot 12, Gossetts Add to the City of Independence, Montgomery County, Kansas.

Applicant/Owners:

CA Holdings, L.L.C.

Case Number:

2022/VAR/07

The hearing will be conducted in the Civic Center, Memorial Hall, Penn/Locust, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend, and they will be heard. You may also participate via conference call: [+1 785-289-4727](tel:+1785-289-4727) Conference ID: 652 632 373# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
811 W Laurel Street
Independence, KS 67301
(620) 332-2506

Information regarding this application is available in the Zoning Administrator’s office. If special accommodation is required, please inform the Zoning Administrator.

Kelly Passauer, Zoning Administrator

APPLICATION TO BOARD OF ZONING APPEALS**CITY OF INDEPENDENCE, KANSAS**

1. Date:

2. Name, Address and Telephone Number of Property Owner:

Ca holdings llc. 2670 herron rd. Frankfort
mi 49635. 231-871-0004 (chuck)

3. I appoint the following person as my agent during consideration of my request:

Name:

Address:

Telephone:

Chuck Beale 2670 herron rd.
Frankfort mi 49635. 231-871-0004

4. Common Address of Land Involved:

701 taylor rd independence ks

5. Legal Description of Land Involved:

PropertyTaxID:063-086-24-0-10-11-001.100-0
The north 180' of lot 12 gossetta addn to the city of independence county of montgomery kansas

6. Describe what you wish to do which the zoning code prohibits:

Have two separate living structures (one is currently an accessory structure) on one lot.
There are both currently existing structures on one lot that exceeds 20000 sf.

7. The following condition(s), which were not created by the owner's actions, are unique to the property in question and are not commonly found in the same zone or district:

A larger than 20000 sf lot and two separate structures.

8. The proposed development would not adversely affect the rights of the adjacent property owners or residents because:

Both structures would still be used as single family residences

9. The literal enforcement of the zoning regulations will result in the following unnecessary hardships:

Deprive the community of an additional quality rental unit.

10: The proposed development will not be contrary to the public health, safety, morals, or general welfare because:

It conforms to the same uses as other uses in the area.

11: The proposed development will not be contrary to the general spirit and intent of the zoning ordinance because:

It's still being used as single family Structures on a lot, that, according to current zoning, would be enough for two lots (each with one home).

12: Please attach a site plan showing the dimensions of the lot, the location of building (both existing and proposed), and the location of existing buildings on adjacent property.

Please see email sent to Lydia Collins dated 11/29/22.

If the space provided is not sufficient, the applicant may attach additional pages. The applicant also may submit any other pertinent information including photographs, drawings, maps, statistics, legal documents, and letters of support.

Signature of Property Owner: _____

Chuck Beale

dotloop verified
11/29/22 11:52 AM CST
76UT-GEC0-TE42-498T

Case Number: _____

Date Filed: _____

Fee Received: _____

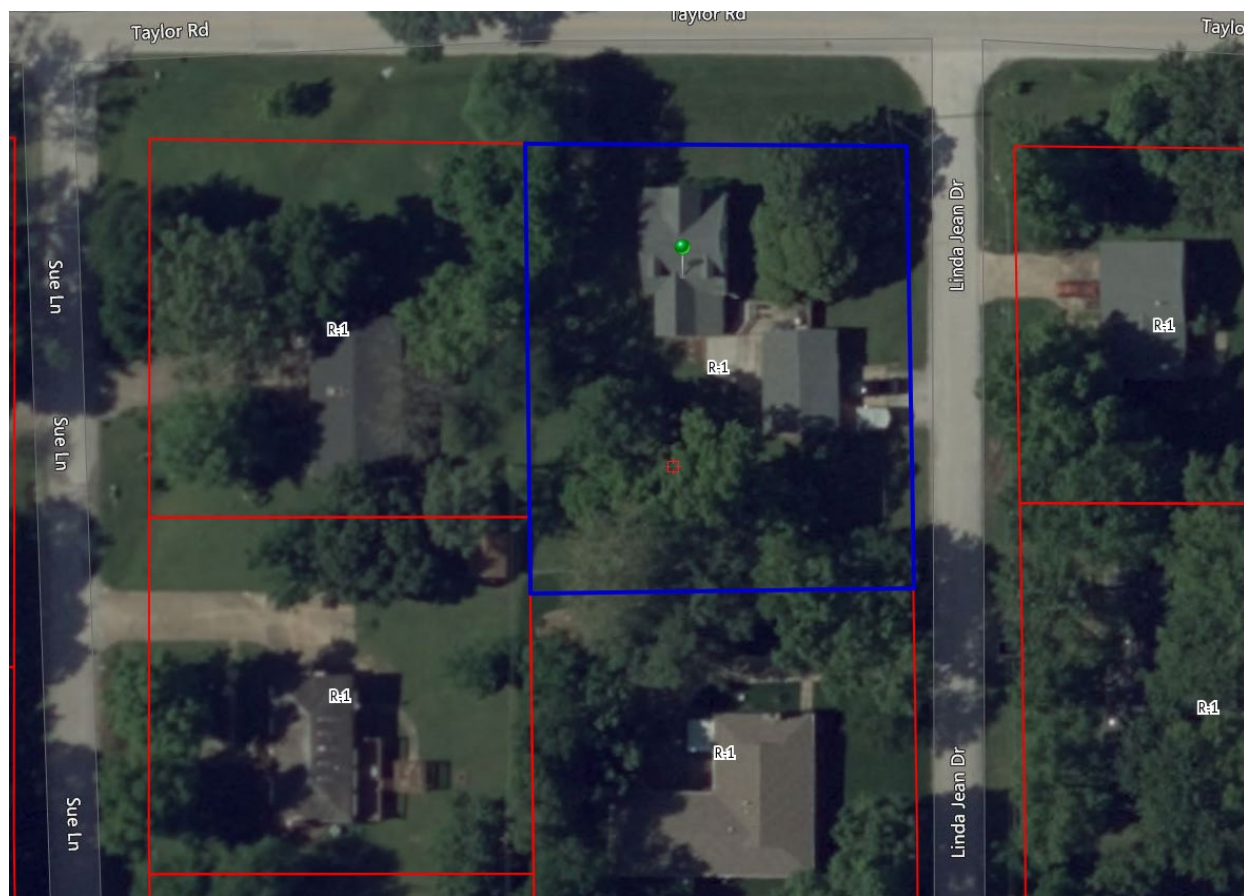
Present Zoning: _____

From: [Lydia Collins](#)
To: [Kathy Passauer](#)
Subject: FW: 2423 Linda Jean
Date: Tuesday, November 29, 2022 1:45:43 PM
Attachments: [image001.png](#)

This is what they sent. They are using the existing building. They are on the road and aren't sure what to use as a site plan.

----- Forwarded message -----

From: **Lydia Collins** <lydiac@independences.gov>
Date: Wed, Nov 2, 2022 at 1:21 PM
Subject: 2423 Linda Jean
To: [REDACTED]



Lydia Collins
Administrative Aide, City of
Independence, KS
Phone: 620-332-2507
Email: lydiac@independences.gov
Web: www.independences.gov
811 W. Laurel Street
Independence, KS 67301



REQUEST FOR PLANNING COMMISSION ACTION REZONING CITY OF INDEPENDENCE DECEMBER 6, 2022

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public Hearing to receive comments to consider rezoning a tract of land at 701 Taylor Road from R-1, large lot single-family dwelling district to R-3, low density multifamily dwelling district.

SUMMARY RECOMMENDATION Approve the rezoning.

BACKGROUND 502.0. - R-1, large lot single-family dwelling district.

502.1. Intent: The purpose of this district is to provide for large lot single-family residential development of low population density and relatively spacious character together with such public buildings, schools, churches, public recreational facilities and accessory uses, as may be necessary or are normally compatible with residential surroundings.

504.0. - R-3, low density multifamily dwelling district.

504.1. Intent: The intent of this district is to provide for areas moderate density residential development that would provide a transition between low density single-family and high density multifamily areas. The principal use of land is for two-family and three-family dwellings and related recreational, religious and educational facilities normally required to provide a balanced residential area.

At 701 Taylor Road a garage was remodeled as a "mother-in-law" type residence for the mother to live in while the grown children lived in the house. The new property owners, CA Holdings, want to now rent out the garage which can not be done in an R-1, large lot single-family district. An R-3 district allows for multi-family structures.

District	Intensity of Use			Maximum Height		Minimum Yard Requirements		
	Minimum Lot Area	Minimum Lot Width	Maximum Lot Coverage	Feet	Stories	Front Yard	Side Yard	Rear Yard
R-1	10,000 sf	80' Except cul-de-sac lots, 35'	30%	35'	2.5	25'	8' Abutting street, 25'	10'
R-2	7,200 sf/du	50' Except cul-de-sac lots, 35'	30%	35'	2.5	25'	8' Abutting street, 25'	10'
R-3	1 fam., 7,200 sf/du 2 fam., 4,000 sf/du 3 fam., 3,000 sf/du	None	35%	35'	2.5	25'	8' Abutting street, 25'	10'

		Permitted Zoning District												
Land Use Category	Code	A-1	R-1	R-2	R-3	R-4	R-5	O/P	C-1	C-2	C-3	C-4	M-1	M-2
Dwelling, in nonresidential structure	1190							C	C		C			
Dwelling, mobile home not on permanent foundation	1151					C	C							
Dwelling, mobile home on permanent foundation	1152					C	C							
Dwelling, multifamily	1130				P	P	P	P			C			
Dwelling, single-family attached	1113				P	P	P	P			C			
Dwelling, single-family detached	1111	C	P	P	P	P	P				C			
Dwelling, two-family	1120				P	P	P				C			

POLICY EXPLANATION Acceptance of a rezoning request must be based on the following factors: A) Character of the neighborhood, B) Zoning and uses of properties nearby, C) Suitability of the subject property for the uses to which it has been restricted, D) Extent to which the proposed use will detrimentally affect nearby property, E) Length of time the subject property has remained vacant as zoned, F) Public gain versus private hardship, G) Economic impact on the owner of the subject property and the economic impact on the surrounding properties, H) Recommendation of City's permanent staff, I) Conformance with the comprehensive plan, J) Availability and adequacy of required utilities and services to serve the proposed use, K) Impact on streets and parking, L) Environmental impacts, M) Ability to meet requirements of applicable codes.

LEGAL ADDRESS N 160' Lot 12, Gossetts Add to the City of Independence, Montgomery County, Kansas.

DESCRIPTION OF TRACT(S) The tract is 160 X 141.5, or 22,640 square feet, lying on the southwest corner of Taylor Road and Linda Jean Drive.

ZONING AND USES OF PROPERTY NEARBY R-1 Residential properties to the east and west and the Country Club across the street to the north.

CHARACTER OF THE NEIGHBORHOOD Large lot single-family residential.

SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED The property is suited to the large lot single-family restrictions.

LENGTH OF TIME THE PROPERTY HAS REMAINED VACANT AS ZONED The property has not been vacant. The new property owner wants to rent out the garage of the existing property.

EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY Adding multi-family into a single-family neighborhood could change the dynamic of the area. However, this property was previously utilized as a residence for a relative of the owner, so it is unknown how renting the apartment would differ as it relates to detrimentally affecting the nearby property unless it was rented to several individuals with multiple vehicles.

RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY, AND WELFARE BY THE DESTRUCTION OF THE PETITIONER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNERS

It is unknown how the rezoning may affect public health, safety, and welfare, as some of the future influencing factors are unknown, such as how well the rental property is maintained and managed. There is a rental property ordinance that does require rental property to meet Housing Quality Standards (HQS). However, if the property is rented to multiple people, it could increase neighborhood traffic and parking. Regarding the

general public, there is a shortage of quality rental housing, and allowing the rental of this garage apartment would provide one additional housing unit. The hardship to the landowner is if the property is not rezoned the new property owner will not be able to rent the garage apartment separately, in addition to renting the main residential structure on the same lot.

CONFORMANCE WITH THE COMPREHENSIVE PLAN Objectives for providing a range of housing choices:

Objective H2 Encourage the development of a wide range of housing choices.

Policy H21 The opportunity shall be provided for owner-occupied and rental housing in a variety of residential housing types, including multiple-family, mobile homes and small-lot development. Moderate- and high-density uses shall be clustered at appropriate locations and be buffered from low-density residential areas by landscaping or back-to-back separation.

Objective H3 Provide ample amounts of multiple-family housing in suitable locations.

Policy H31 To avoid large amounts of traffic traversing single-family areas, medium to high density multiple-family projects should be located on a major street specifically designated as a collector or arterial. High density multiple-family projects shall be encouraged to be in the area immediately surrounding the CBD, but not limited to this area.

STAFF RECOMMENDATION Considering the current shortage of quality housing units available, City staff recommends approving the rezoning. However, the Planning Commission may wish to consider reviewing future possible text amendments relating to Accessory Dwelling Units (ADU's), such as garage apartments.

SUGGESTED MOTION I move to recommend approving rezoning a tract of land at 701 Taylor Road from R-1, large lot single-family dwelling district to R-3, low density multi-family district.

SUPPORTING DOCUMENTS

1. 701 Taylor Rd Public Hearing Notice and 200 foot Notification
2. 701 Taylor Rd Rezoning App
3. What's Blocking an ADU Boom? -- Planning Magazine -- By Adina Solomon
4. Overcoming Barriers to Bringing Accessory Dwelling Unit Development to Scale -- Enterprise Community Partners -- By Ahmad Abu-Khalaf

City of Independence, Kansas

NOTICE TO THE PUBLIC

The Independence, Kansas, Planning Commission will conduct a public hearing on:

Tuesday, December 6, 2022, at 5:30 p.m.

To receive comments to consider rezoning a tract of land at 701 Taylor Road from R-1, large lot single-family dwelling district to R-3, low density multifamily dwelling district.

Legal Description:

N 160' Lot 12, Gossetts Add to the City of Independence, Montgomery County, Kansas.

Common Address:

701 Taylor Rd

Applicant/Owners:

CA Holdings, L.L.C.

Case Number:

2022/ZA/08

The hearing will be conducted in the Civic Center, Memorial Hall, Penn/Locust, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend, and they will be heard. You may also participate via conference call: [+1 785-289-4727](tel:+17852894727) Conference ID: 652 632 373# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
811 W Laurel Street
Independence, KS 67301
(620) 332-2506

Information regarding this application is available in the Zoning Administrator's office. If special accommodation is required, please inform the Zoning Administrator.

Kelly Passauer, Zoning Administrator

200' Notice



**INDEPENDENCE
PLANNING & ZONING
COMMISSION**

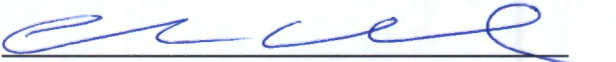
**APPLICATION
FOR
REZONING**

1. Case #: _____
 2. Date Filed: _____
 3. Fee Paid: _____
 4. Hearing: _____
 5. Published: _____

To be filled out by applicant

1. Applicant's name: CA Holdings LLC / Chuck Beale
2. Applicant's address: 2670 Herron Rd Frankfort Phone: 231-871-0004
Mi 49635
3. Address of property proposed for rezoning: 701 Taylor 2423 Linda Jean
4. Present owner's name: CA Holdings LLC
5. Present zoning: R1 Proposed zoning: R3
6. Legal description of property proposed for rezoning (if more space is required, use back of form):
The North 180' of Lot 12, Gossett's Addition to the City
of Independence, Montgomery County, Kansas
7. Present use of property (check one of the following): _____
 (a) Vacant ☐ (b) Residential ☒ (c) Commercial ☐ (d) Industrial ☐
8. Desired use of property: 2 Family
9. Use and zoning of adjacent property:
- | | | | |
|------------|-------------------------|--------|-----------|
| North: Use | <u>Golf course</u> | Zoning | _____ |
| South: Use | <u>R1 single family</u> | Zoning | <u>R1</u> |
| East: Use | <u>R1 Single family</u> | Zoning | <u>R1</u> |
| West: Use | <u>R1 single family</u> | Zoning | <u>R1</u> |
10. List reasons for this request:
- lot size larger than 20,000 sq'
- Two structures - each 1 family

Date: 11/7/22

Signature: 

Planning Commission Action – do not write in this space

1. Facts found: _____

2. Determination: _____

CITY OF INDEPENDENCE

REC#: 01207050 11/07/2022 8:41 AM
OPER: JESS TERM: 001
REF#:

ACCT #: XXXX-XXXX-XXXX-3015
AUTH #: 41038D
TRAN #: 000000880877

TYPE: PURCHASE
APP NAME: Visa
ENTRY MODE: CHIP

AMOUNT USD\$ 300.00

EMV DETAILS:
AC: 653841AAE93C34D6

TRAN: 1.9000 VARIANCE
CA HOLDING 701 TAYLOR
200 REZONING & 100 VARIANCE
MISC FEES 300.00CR

TENDERED: 300.00 CREDIT CARD
APPLIED: 300.00-

CHANGE: 0.00



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PLANNING MAGAZINE

What's Blocking an ADU Boom?

Accessory dwelling units are gaining national momentum, but these regulatory and financial hurdles still need to be cleared.

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[INTERSECTIONS \(/PLANNING/SECTION/INTERSECTIONS/\)](#) HOUSING



An ADU in Florence, a Massachusetts village where local bylaws were revised in 2014 to support their construction. Photo courtesy of Backyard ADUs.

By ADINA SOLOMON

While increasing housing density can address scarcity and affordability issues, it often faces political hurdles, particularly in suburban and rural areas. But one measure is steadily gaining acceptance in communities of all sizes: accessory dwelling units (ADUs), or residential structures on the same property as detached single-family homes.

Over the past 20 years, hundreds of cities and counties — if not more — have embraced ADUs, says David Morley, AICP, a planner and research manager at the American Planning Association. States have passed their own legislation, too, including California and Oregon in the past few years.

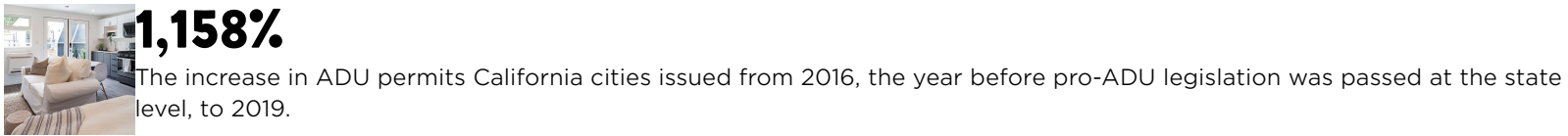
That momentum has held through the pandemic, as unemployment and uncertainty around eviction moratoriums have made the existing housing crisis even more dire. Sarasota, Florida (<https://www.sarasotamagazine.com/home-and-real-estate/2021/07/accessory-dwelling-units-sarasota-building-mother-in-law>), approved new legislation in July, as did Barnstable, Massachusetts (<https://www.barnstablepatriot.com/story/news/2021/07/17/barnstable-approves-adu-by-law-first-step-toward-more-housing/7999028002/>), the tenth Cape Cod town to adopt an ADU bylaw. Lexington, Kentucky (<https://www.kentucky.com/news/local/counties/fayette-county/article253471924.html>), and Kalispell, Montana (<https://nbcmontana.com/news/local/kalispell-accessory-dwelling-unit-ordinance-passes-1st-reading>), near Glacier National Park, are currently considering their own.

"So many jurisdictions across the country devote more land area to single-family detached housing than any other land use," Morley says. That means plenty of backyards that could offer a new home. And in many places, homeowners are making it happen. Los Angeles, the epicenter of the nation's ADU push, saw permits increase from 71 in 2014 to 6,747 in 2019, two years after California's statewide legislation went into effect.

But laws alone can't kick-start an ADU boom. Local preemption, high costs, and regulatory issues are just some of the hurdles that need to be cleared to encourage construction.

Uneven successes

California is one of the most significant examples of what happens when a government allows ADUs, Morley says. Following statewide legislation, the number of ADU permits issued increased (<https://www.buildinganadu.com/adu-blog/california-adu-charts>) from 1,269 in 2016 to 14,702 in 2019. A year later, five more bills were passed (<https://planning/2020/feb/intersections-housing/>) to further incentivize ADUs and reduce barriers. Despite the pandemic, 12,392 permits were issued in 2020.



Source: California Dept. of Housing & Community development.; buildinganadu.

LA isn't the only city where construction has skyrocketed; San Jose and Oakland each saw a nine-fold or higher increase in permits between 2016 and 2020. At the same time, however, Malibu, Coronado, and other cities (<https://pacificlegal.org/still-no-place-to-live/>) have enacted onerous requirements for homeowners or taken more than the mandated 60 days to review applications.

And on the other side of the country, Vermont's most populous city, Burlington, has seen few ADU permit requests: one to eight per year. The state passed regulations making ADUs legal in 2005, but homeowners continue to report financial, zoning, and regulatory snags (<https://www.sevendaysvt.com/vermont/two-burlington-residents-talk-accessory-dwelling-units-pros-and-cons/Content?oid=33203355>).

The state of Vermont was frank about these impediments in its 2020 ADU checklist. "The permits and steps all have important functions," it reads, "but, taken as a whole, can make the process difficult, expensive, or even impossible."

Building ADUs is a more complicated process than laws alone acknowledge, confirms Ahmad Abu-Khalaf, a planner and senior research analyst on the policy development and research team at nonprofit Enterprise Community Partners. His [2020 report on barriers to ADU development \(https://www.enterprisecommunity.org/resources/overcoming-barriers-bringing-adu-development-scale-11049\)](https://www.enterprisecommunity.org/resources/overcoming-barriers-bringing-adu-development-scale-11049) identifies a variety of regulatory and financial issues. For homeowners, that can include identifying a financing source, securing a construction team, and acting as a landlord.

If cities want to meet affordability targets for ADU owners, he says, they need to get more involved. Most people tap into personal savings or home equity to finance construction, a challenge for lower- and moderate-income households. To "democratize" construction, Abu-Khalaf calls for the creation of lending products that are not only tailored to ADU development, but also accessible to lower- and moderate-income households. Governments can also offer subsidies to develop homes that are affordable for households making 30 percent or 50 percent of the area median income.

"It's not a process that will happen in an organic way," Abu-Khalaf says. "There should be more intentional efforts by policymakers or multiple nonprofits." He calls for lending products that are tailored to ADU development and accessible to lower- and moderate-income households. He points to the nonprofit [LA Más \(https://www.mas.la/affordable-adus\)](https://www.mas.la/affordable-adus), which helped lower-income homeowners build ADUs they agreed to rent to housing-voucher holders for at least the first five years.

In addition to looking at minimum lot size, height, parking, and other regulatory requirements, Abu-Khalaf says planners can work with local housing finance or affordable housing departments to design financial programs for lower- and moderate-income households interested in building ADUs.

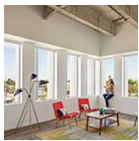
Still, ADUs are not a cure-all for the affordability crisis, experts say; they're part of a [larger housing agenda \(/planning/2021/winter/3-zoning-changes-that-make-residential-neighborhoods-more-affordable/\)](/planning/2021/winter/3-zoning-changes-that-make-residential-neighborhoods-more-affordable/). Morley says planners can play a role in facilitating conversations as communities consider whether they provide housing choice at affordable levels for everyone.

"If the answer is no, and frankly the answer is no in a lot of places, then it's about considering what are our alternatives for increasing the supply of housing, for increasing the diversity of types of housing that are available in the community," he says. "Accessory dwelling units are often one of the easiest strategies to build agreement on."

Adina Solomon is an Atlanta-based freelance journalist who writes about city planning and death.

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- 

TOOLS

5 Ways to Partner with Hospitals on Affordable Housing (</planning/2021/summer/5-ways-to-partner-with-hospitals-on-affordable-housing/>)

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INNOVATIONS

3 Zoning Changes That Make Residential Neighborhoods More Affordable (</planning/2021/winter/3-zoning-changes-that-make-residential-neighborhoods-more-affordable/>)

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**NEW REFLECTIONS ON
AFFORDABLE HOUSING DESIGN,
POLICY AND PRODUCTION:**

Overcoming Barriers to Bringing Accessory Dwelling Unit Development to Scale

By Ahmad Abu-Khalaf



ACKNOWLEDGMENTS

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ABOUT THE AUTHOR

Ahmad Abu-Khalaf is a senior research analyst on Enterprise’s Policy Development & Research team. He conducts research and analysis of affordable housing and community development policy, focusing on strategies for expanding the supply of affordable homes and bending the cost curve. Ahmad holds a master’s degree in urban planning from the University of Arizona, Tucson.

 @Ahmad_AbuKhalaf

ABOUT THE POLICY DEVELOPMENT & RESEARCH (PD&R) TEAM

PD&R provides thought leadership and data-backed recommendations to influence housing and community development policy, addressing both emerging policy issues and long-term needs. Read reports and policy briefs by the team (bit.ly/PDR_Reports) and follow us on Twitter @E_HousingPolicy.

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Unless otherwise specifically stated, the views and opinions expressed in the report are solely those of the report’s author and do not necessarily reflect the views and opinions of JPMorgan Chase & Co. or its affiliates.



ABOUT THIS SERIES

The need for affordable housing is on the rise. Nationwide, more than 10 million renter households are severely cost burdened – that is, they spend more than 50 percent of their income on housing. Through our Expanding the Supply of Affordable Homes research initiative, the Enterprise Policy Development and Research (PD&R) team has identified the use of design, construction and production innovations as a particularly promising approach to help expand the supply, contain the cost and improve the quality of affordable housing development.

The housing industry has been eager to utilize innovative design, construction and production strategies, including off-site construction, accessory dwelling units (ADUs) and 3D home printing, to substantially improve the cost effectiveness and efficiency of the housing delivery system. This series looks at opportunities and challenges to innovate around construction, design and production to bring these innovations to scale to help expand the supply of affordable homes and address cost challenges. The objective of this research initiative is to reframe the national conversation on construction and design innovations. It aims to shift the conversation from how these innovations could completely change how we build and deliver housing to how these tools can function effectively as part of the existing housing delivery system.

In July 2019 Enterprise released the first piece of this series of white papers, exploring strategies to overcome barriers to bringing off-site construction to scale. Continuing our research on design, construction and production innovations, this white paper looks at opportunities and barriers to bringing accessory dwelling unit (ADU) development to scale to boost affordability and diversity in housing options, especially in predominantly single-family zoned neighborhoods. This research was informed by practitioners’ responses to a short survey on barriers to ADU development, as well as interviews with a group of industry experts and practitioners.

CONTENTS

NEW REFLECTIONS ON AFFORDABLE HOUSING DESIGN, POLICY AND PRODUCTION: Overcoming Barriers to Bringing Accessory Dwelling Unit Development to Scale

Background3

 Housing Policy Goals 3

 ADU Definition 4

 ADU Types 5

 ADU Development Timeline 5

 ADU Construction Types 5

 Overcoming Land Use Barriers 7

 Addressing Local Opposition to Gentle Density 8

 Using Gentle Density to Support Aging in Place 9

 Using Gentle Density as an Income-Generation and Wealth-Building Strategy 9

Overcoming Regulatory Barriers to ADU Development 11

 Discretionary review processes 11

 Occupancy requirements 12

 Off-street parking requirements 13

 Setbacks 14

 Lot size requirements 14

 Size, height and number of allowed ADUs 15

 Design standards 16

 Impact fees and utility connections 17

 Statewide Regulatory Changes in Support ADU Development in California 18

Overcoming Barriers to Financing ADU Development 20

 Scarcity in lending products tailored to ADU financing 20

 Challenges in using traditional lending products for ADU financing 23

 Offering subsidized financing to support deeper affordability levels 25

Key Takeaways 27

References 30



BACKGROUND

Photo Credit: BuildingAnADU.com

Housing Policy Goals

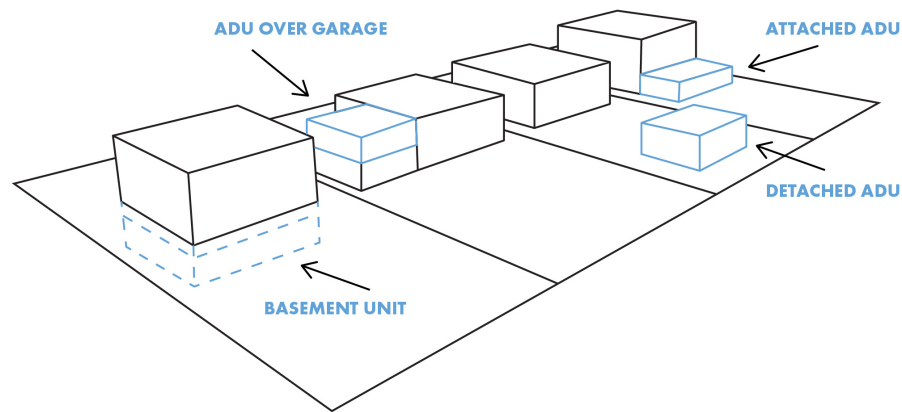
Accessory dwelling unit (ADU) development continues to be perceived by many stakeholders, including policymakers, affordable housing practitioners, advocates and researchers, as a housing production solution with great potential to increase density, housing options and affordability, especially in predominantly single-family neighborhoods. Interest in ADU development has been gaining steady traction among these stakeholders due to a combination of factors, including:

- Allowing for ADU development, the lowest end of the “Missing Middle” spectrum¹, typically requires a low regulatory lift that does not induce heavy local opposition.
- ADU development can support aging in place and multigenerational housing strategies, which are essential for addressing challenges facing senior households.
- Permitting rental ADUs can boost the diversity of housing types in single-family zoned areas, creating smaller rentals that are typically cheaper to develop and rent than single-family homes.
- Lower- and moderate-income homeowners, in support from policymakers and philanthropy, can utilize ADU development to generate additional income and build wealth by boosting property value.

It is important to note that ADU development is a homeowner-initiated process. That is, bringing this housing production strategy to scale primarily relies on homeowners’ willingness to navigate the planning, design, permitting, financing, construction and approval processes to create ADUs on their properties. And there are inherent and perceived complexities in these processes that often discourage many homeowners from pursuing ADU development. First, there are local jurisdictions that still prohibit ADU development and other forms of “gentle density” in their single-family zoned neighborhoods. And not all jurisdictions that allow for ADU development permit it as a “by right” use, requiring either a conditional use or special exception (see page 13). This requirement creates a significant risk in covering the costs of hiring an expert to prepare and submit an application with necessary technical drawings and documents as well as the application fee, without any guarantees that the submitted permit application will be approved. Further, there have been persisting regulatory barriers in many markets, such as occupancy, minimum lot size and on-site parking requirements, and while these barriers do not explicitly inhibit ADU development, they often constrain homeowners’ ability to create ADUs and discourage them from pursuing this housing production strategy. Finally, there are significant barriers to financing ADU development, especially for lower- and moderate-income homeowners.

ADU Definition

Accessory dwelling unit (ADU) is a broad term that refers to a smaller, self-contained residential dwelling that is located on the same parcel as a primary, larger residential dwelling, typically a single-family home.² The term ADU is often interchangeably used with other common names, such as in-law/mother-in-law suites, granny flats, secondary dwelling units, casitas and carriage units. ADUs can be created in variety of ways. An ADU can be an internal portion of the primary dwelling that is converted into a separate, smaller unit, such as a basement unit, a sheltered garage or an attic. ADUs can also be created through the rehabilitation of an existing/construction of a new external structure that could be detached or attached to the primary dwelling. While external attached and detached ADUs are commonly built in the backyard of the primary residence, depending on the local zoning requirements and lot size and configuration, ADUs could be developed in a side/front yard, or on the top of an external, sheltered garage.



ADU Types

Homeowners, in partnership with an expert like an architect, designer, builder or contractor, should take into consideration a number of factors in selecting an ADU type for their property. This includes site size and conditions, local zoning requirements, property size, layout and placement on site, estimated development cost and desired additional space and use. It is important to note that the ADU type selection process has cost and time implications. For example, while developing an external, detached/attached ADU could provide more privacy for both the ADU’s and primary unit’s residents as well as more flexibility in designing and constructing desired residential spaces, this option is typically more expensive and time consuming than converting an existing internal space into an ADU. This can be partially explained by the higher construction and development costs induced by the additional site and foundation work and the need for separate, new electrical and plumbing systems (when expanding existing home systems is not an option).

ADU Development Timeline

Both internal and external ADU development projects follow similar planning, permitting and construction processes, yet new construction ADU development typically follows longer construction timelines. ADU development typically starts with working with an expert, such as an architect, designer, builder or general contractor – unless the homeowner will pursue ADU development as a general contractor and it is authorized under local codes, to draft necessary architectural and engineering drawings and documents and then submit a permit application to local authorities. In addition to collecting a building permit fee, many local jurisdictions require a range of fees for ADUs like development impact fees. Once

a building permit is received and the needed financing is secured (see page 22), ADU construction could proceed. Depending on the complexity of the project and the homeowners’ preferences, the homeowner could hire a general contractor who manages the whole project and find subcontractors for mechanical and electrical work, or hire a designer and a builder and then identify subcontractors to do the mechanical and electrical work (the builder could also serve as a general contractor if needed). Once the ADU development process is complete, an inspection is typically required to ensure the compatibility of the developed ADU with the permitted architectural and engineering plans as well as local zoning and building codes.

ADU Construction Types

The building industry has developed a range of ADU construction strategies. This ranges from traditional stick-build construction to offsite construction, including modular and offsite construction.³ Under modular construction, the fabrication of the ADU as a module (a unit prefabricated and assembled off-site) is completed at a factory/fabrication facility, followed by delivery and on-site placement processes. Pursuing this construction technique for backyard ADUs on sites with limited vehicular access on the rear property line can be very challenging. Those sites cannot be easily accessed by shipping trucks that drop off the module at the site using cranes, which vertically lift the module and then place it on the site (like a LEGO block). These challenges could be addressed by using prefabricated development, a construction technique under which construction components (panels) get fabricated at a factory and then connected onsite to complete the assembly process.



Using off-site construction techniques to develop external ADUs can help homeowners attain a range of benefits. First, off-site construction projects typically have shorter timelines than traditional construction projects, as off-site construction allows for conducting site and foundation work concurrently with factory fabrication phase. Further, pursuing off-site construction can help mitigate unexpected development costs, as this construction strategy typically offers more accurate projected costs than traditional construction. It also minimizes on-site disruption throughout the construction process, as the larger chunk of the construction work takes place at the factory/fabrication facility. Finally, a number of fabricators serve as a one-stop-shop that does the planning, permitting, design, fabrication and assembly work. This means that the homeowner would only work with one expert, who is responsible of completing the development process from the beginning till the end, which can help address difficulties in navigating the ADU development process.

Barriers to ADU Development

Writing from a policy-driven perspective, we aim to facilitate a broad conversation among industry stakeholders on how common land use, regulatory and financial challenges can be addressed in order to bring ADU development to scale. In addition, this research aims to shift the conversation from how ADU development could potentially play a significant role in alleviating the nation's housing affordability and supply challenges toward understanding a range of persisting barriers holding ADU development back. This white paper, which was informed by a series of interviews with stakeholders and responses from practitioners to a short survey on challenges to ADU development, explores strategies to overcome land use, regulatory and financial challenges to ADU development.



OVERCOMING LAND USE BARRIERS

Single-family zoning continues to dominate residential land use, contributing to persisting supply shortages and affordability challenges across the country.

This challenge is especially prevalent in expensive housing markets, where many low- and moderate-income families struggle to access housing in high-opportunity, single-family zoned neighborhoods with better access to jobs, schools and daycares, healthcare facilities and other necessary services. A recent analysis from The New York Times⁴ found that single-family zoned residential land accounts for 81 percent of Seattle's residential land; 79 percent in Chicago; 75 percent in Los Angeles; and 36 percent in Washington, D.C. In addition, between 1990 and 2016, single-family homes accounted for nearly 80 percent of all new housing construction in the nation's largest 100 metro areas.⁵ Permitting ADU development in single-family zoned areas can unlock underutilized land and potentially (depending on demand for

ADU development among homeowners and the local regulatory and financial landscapes) could boost "gentle density," housing type diversity, affordability and opportunity for less-affluent, renter households, who have been excluded from those neighborhoods for years. Gentle density, as defined by Brent Toderian, is "attached, ground-oriented housing that's more dense than a detached house, but with a similar scale and character."⁶ This type of density, which is also known as the missing middle housing, includes ADUs, duplexes, semi-detached homes, rowhouses and townhouses.

Addressing Local Opposition to Gentle Density

Proposals to increase density in predominantly single-family zoned areas often face local opposition. These proposals are generally perceived as a green light for high-density residential development, often conceived of as towering apartment buildings, that would lead to a range of issues, including high traffic, increases in demand for parking, drops in home value and changes in neighborhood character, among other concerns. Allowing ADU development has been utilized by policymakers and urban planners as a strategy to navigate debates/concerns around boosting density in an easier, more expedited manner. Allowing for ADU development in single-family zoned areas could help reassure opponents of density by proving that the outcome will be the lower end of the “gentle density” spectrum and far away from any form of high-density development. That said, proposals to allow for ADU development still face local opposition in many single-family neighborhoods on the basis of the aforementioned factors — yet allowing for ADU development is likely to face less local opposition than proposals for higher forms of density. Despite this, some state and local governments have recently moved toward a stronger stance on allowable density, permitting a broad range of “gentle density” approaches that allow for more than adding one secondary unit, including duplexes, triplexes, fourplexes and small multifamily housing.⁷ Here are three brief examples:

- In 2019, Oregon became the first state to adopt a zoning reform on a statewide basis.⁸ The state has eliminated local bans on duplexes in every low-density residential area in all cities with more than 10,000 residents and all urban lots in the Portland metro area. And in cities of more

than 25,000 and within the Portland metro area, the state authorizes triplexes, fourplexes, attached townhomes and cottage clusters on some lots in all areas zoned for residential use.

- In 2019, the Minneapolis City Council officially adopted Minneapolis 2040⁹, a comprehensive plan to permit duplexes and triplexes in single-family home zones across the city; eliminate parking minimums for all new construction; and allow for higher density along transit corridors.
- Also, in 2019, the Seattle City Council passed Mandatory Housing Affordability (MHA) upzones¹⁰ to allow higher density and impose affordable housing requirements on more than two dozen neighborhoods. This measure upzones around 27 neighborhood hubs, requiring developers in those areas to set aside between 5 and 11 percent of their developments as affordable units or pay \$5 to \$32.75 per square foot in fees. It also allows for denser housing on about 6 percent of lots where new construction is currently reserved exclusively for single-family homes, as well as upzones blocks where apartment buildings and commercial buildings are already allowed by one or several stories.



Using Gentle Density to Support Aging in Place

In addition, unlocking gentle density through ADU development has also been utilized by housing stakeholders as an aging in place strategy. ADU development can help empty-nest seniors who own single-family homes stay in their homes, while either creating multigenerational housing that is desired and needed in some communities or adding smaller, rentals units to the market. The latter can support density, housing type diversity and affordability in single-family zoned neighborhoods. Under this strategy, seniors who own single-family homes and would like to downsize could live in either the primary unit/ADU and rent out the other unit, when permitted by local codes, or let their adult child/grandchild/relative move into the primary/secondary unit while they occupy the other unit. The former option allows empty-nest seniors to generate additional income while downsizing, and the latter helps facilitate a multigenerational living

situation, which is particularly helpful for seniors who need more care and attention. In addition, an adult child could build an ADU on their single-family lot to allow their senior parent/relative to live in an independent dwelling that is constructed on the same lot.

Using Gentle Density as an Income-Generation and Wealth-Building Strategy

A range of housing stakeholders, including policymakers, housing experts and community organizations, have been exploring how unlocking gentle density through ADU development can be utilized as an income-generation and wealth-building strategy for lower- and moderate-income homeowners. When codes allow a homeowner with an ADU to rent out either the ADU/primary unit to tenants (who are not family members and reside in the primary/secondary dwelling through an official lease with specific agreed upon terms), homeowners can use their ADU

to generate additional monthly rental income. This model is similar to the traditional model of developing duplexes, triplexes and quadraplexes to enable the property owner to live in one unit while renting out the rest of the units, generating a monthly rental income. And this explains why small-scale multifamily properties with one to four units are still considered as “single-family” housing in the U.S. mortgage system.

In addition to income generation, this model can help lower- and moderate-income homeowners build wealth by enhancing their properties and potentially increasing the total property value. This can be particularly helpful in building intergenerational wealth for low- and moderate-income homeowners of color, who were excluded from homeownership in affluent and desirable neighborhoods through discriminatory housing and lending policies like redlining.” These discriminatory policies, which also marked neighborhoods with predominantly homeowners of color as less

desirable neighborhoods, have had impacted their ability to build intergenerational wealth through homeownership. However, advancing wealth building through ADU development relies on whether there is a difference between the pre-development appraisal and the post-development valuation – an increase in the total property value after adding an ADU to the property. (See page 25).

While addressing land use barriers to ADU development is the first step toward allowing for the lowest end of the gentle density spectrum in single-family zoned areas, many single-family homeowners who are interested in creating ADUs on their properties still face regulatory and financial barriers to ADU development.



State and local zoning regulations are one of the prominent factors in shaping the form and scale of ADU construction. These regulations also determine the viability of using this housing production strategy to generate rental income and boost property value, which can help lower- and moderate-income homeowners build wealth.

At a minimum, municipal governments must permit ADU development in some/all single-family zones to support ADU development. However, in many jurisdictions where ADU development is permitted, there are zoning provisions that can create regulatory barriers to ADU development, which can result in complex, lengthy permitting processes; reduce the feasibility of creating ADUs; and discourage homeowners from pursuing ADU development. This research looks at some of the most common regulatory barriers to ADU development, as zoning requirements vary by jurisdiction.

Discretionary review processes

The Challenge:

- Allowing ADU development via a discretionary review process creates a complex and lengthy permitting process that could discourage homeowners from pursuing creating ADUs on their lots. A discretionary review process gives municipal, legislative or administrative bodies the authority to impose specific requirements on each ADU development proposal on a case-by-case basis, creating uncertainty, extended timelines and possible complexities for homeowners interested in creating ADUs on their lots.

- Under a discretionary review process, the applicant is typically asked to submit an application that discusses the impact of the proposed ADU development on the homeowners' neighboring lots and the overall residential area, as well as its compliance with any discretionary provisions or requirements. One common form of discretionary approvals is applying for a conditional use (special use) permit for the creation of an ADU on the lot, which otherwise would not be a by-right use in the zoning district, subject to meeting a set of specific requirements and conditions. The municipal body leading the discretionary review process could also require holding a public hearing to discuss the proposed ADU development's compliance with its criteria/guidance and the proposal's potential impacts on the lot's surroundings, inviting public input on and possible opposition to the proposed ADU construction.

The Solution:

- Allowing for the by-right development of ADUs streamlines and expedites the permitting process, potentially incentivizing more homeowners to explore this housing production strategy. By-right zoning means that an ADU development proposal would receive a permit as long as it complies with the current underlying zoning requirements for the single-family zoned lot where it will be constructed. This means that the proposed ADU development would only require a ministerial review to confirm compliance with municipal zoning requirements and would not require going under additional reviews or meeting additional site-specific conditions.

Occupancy requirements

The Challenges:

- Municipal zoning regulations can impose a range of regulatory restrictions on the occupancy of ADUs:
- One of the most stringent restrictions is prohibiting homeowners from using their ADUs as rentals to non-family members under an official lease with agreed upon terms. This restriction prohibits ADU owners from renting them out to create additional rental income, contradicting with the use of ADU development as a strategy to build wealth for lower- and moderate-income homeowners. It also inhibits accomplishing a range of ADU development's policy goals, including boosting the supply of rental housing that is more affordable than single-family homes in neighborhoods that often have higher access to opportunity.
- And even when renting ADUs out to non-family members is permitted, jurisdictions can still impose owner-occupancy regulations, which require that the homeowner continues to live in either the primary unit/ADU while renting the other dwelling out. This means that the owner of the primary residence and ADU cannot legally rent out both units if they move to a different jurisdiction or into a new home. This requirement can create legal burdens if the owner would want a relative to live in either the primary/ADU unit while renting the other unit to a non-family member, requiring adding the relative's name to the property deed. There is a generic consensus among housing practitioners that these restrictions can impact appraised home values, as it restricts the use of the property and the owner's ability to rent the primary and ADU units under a range of scenarios, such as inheriting a single-family home with an ADU while living in a different home/jurisdiction or relocating to a different neighborhood/jurisdiction.

- In addition, some municipal governments institute occupancy quotas for either the primary dwelling and the ADU or the ADU alone, which can impose further restrictions on the use of ADUs. For example, if zoning regulations impose a six-person cap on the number of people who could live in the primary dwelling and the ADU and five people already live in the primary dwelling, then only a one-person household would be allowed to live in the ADU.

The Solutions:

- Eliminating occupancy requirements – which either prohibit homeowners who own ADUs from renting them out to non-family members or require those homeowners to live in the primary dwelling/ADU to rent one of the two units out – is essential to allow for the use of ADU development as a strategy to build wealth for lower- and moderate-income homeowners and boost the supply and affordability of rental housing in single-family zoned areas. In addition, imposing occupancy quotas for either the primary dwelling and the ADU or the ADU alone should be done in a flexible way that would not add unnecessary restrictions to the use of ADUs either as a rental or a portion of a multigenerational housing.

Off-street parking requirements

The Challenges:

- Requiring that homeowners interested in creating ADUs on their lots provide one or more off-street (on-site) parking spots for the developed secondary dwelling can significantly hurt the viability of ADU development. Creating one parking space or more on the site can create additional financial and logistical challenges that could discourage homeowners from pursuing ADU development. In addition to inducing additional costs in the ADU

development process, homeowners can face logistical barriers to creating additional on-site parking spaces for the sole use of ADUs' residents. Some sites may have irregular boundaries, size limitations, challenging topographic or physical barriers like trees that can complicate the on-site parking creation process.

- Some jurisdictions require a homeowner who converts their on-site, parking structure (garage) into an ADU to replace the converted parking space by an additional parking space on top of the off-site parking requirements for the developed ADU. It is important to note that these requirements can discourage garage conversions into ADU in transit-rich neighborhoods where excessive on-site parking requirements are unnecessary. In addition, these requirements can be specifically challenging in smaller sites and/or those with physical or topographic barriers that inhibit replacing the converted parking structure and creating additional on-site parking for the ADU.

The Solution:

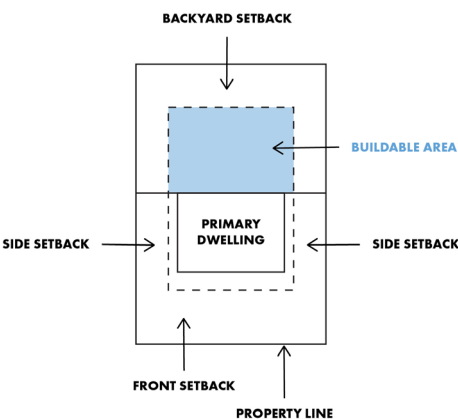
- Off-street parking requirements for ADUs must take into consideration factors that shape on ground (actual) demand for this type of parking. For example, not all households residing in ADUs own private vehicles, and therefore, the additional parking space(s) may be left unutilized. ADUs' tenants may also use alternative transportation modes, such as bicycles, scooters or ride-share services, as well as public transportation, especially when they live in transit-rich neighborhoods or close to transit hubs.
- Some municipalities have moved towards relaxing their parking requirements, including off-street parking requirements for ADUs, in areas

that are close to public transportation hubs or well served with public transportation. Relaxing or waiving off-site parking requirements for ADUs can incentivize homeowners, especially lower- and moderate-income homeowners, to pursue creating ADUs on their lots, as it eases financial and logistical barriers to ADU development.

Setbacks

The Challenge:

- Commonly, zoning codes impose setback requirements on external, attached/detached ADUs. Setbacks require complying with a minimum distance between the ADU and the property lines (the sides and the rear property lines when the ADU is constructed in the primary dwelling’s backyard). In addition, some zoning and land use codes require specific setbacks between the primary dwelling and a detached ADU sharing the same lot. Setback requirements for ADUs vary across jurisdictions. Also, the way the setbacks are developed vary from one jurisdiction to another. For example, it could be 4 ft. from the side and rear property lines, or 10 ft. from the side property lines and 20 ft. from the rear property line. The rationale behind requiring setbacks is ensuring privacy and adequate light and air access to neighboring properties. However, excessive setback requirements can inhibit ADUs in smaller lots. That is because requiring large (excessive) setbacks is likely to result in a very small developable area in smaller- and moderately sized lots, and this developable area may not be sufficient for creating an ADU or may result in a micro-ADU that won’t be sufficient to serve and/or be desired as a residential dwelling or a rental.



The Solution:

- Municipalities should avoid imposing excessive setbacks for external ADUs that would either create a very small developable area or inhibit ADU development in smaller- and moderately sized lots.

Lot size requirements

The Challenge:

- Municipalities that impose excessive “minimum lot size” requirements on ADU development indirectly prohibit homeowners with smaller- and moderately sized lots from creating ADUs on their lots. The higher the minimum lot size the more restrictive the requirement is. The rationale behind these requirements is preserving neighborhood characteristics and containing residential development density in single-family home zoned areas. However, excessive “minimum lot size” requirements often limit the number of ADUs that could be constructed in more dense single-family home zones with smaller lots, where there is likely higher demand for smaller rentals like rental ADUs.

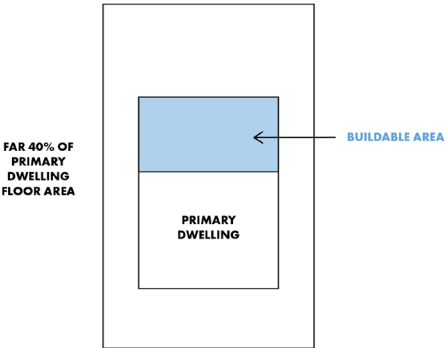
The Solution:

- Some municipal governments have shifted towards either eliminating or easing “minimum lot size requirements” to allow for more ADU development in their single-family zoned lots.

Size, height and number of allowed ADUs

The Challenges:

- Most municipal governments impose a range of size caps on ADU development. Generally, those requirements are imposed on homeowners to ensure that the resulting secondary dwelling (ADU) is smaller than the primary dwelling. Zoning codes rely on a range of measurement methods in determining ADU size caps. One prominent method is requiring compliance with the lesser of: 1) a specific square footage cap on ADUs (i.e. 450, 600, 800, 1200 sq. ft.); and 2) Floor-Area-Ratio (FARs), a ratio between the ADU’s size to the total lot size, or a ratio between the ADU’s floor area to the primary dwelling’s floor area.



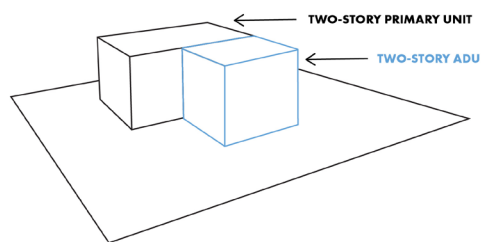
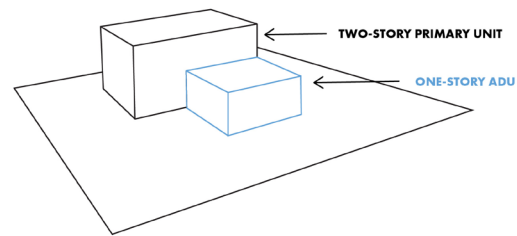
- Imposing excessive size restrictions can impede the development of ADUs that can be used as residential dwelling for two-person or more households, especially in neighborhoods with

smaller houses and/or lots. These excessive size caps often result in small ADUs that are close in size to micro-units or small studios. For example, if the primary residence is a 1,200 sq. ft. single-family home and the zoning and land use specifications require that the resulting ADU shall not exceed 30 percent of the primary dwelling’s floor area, then this requirement will result in a 360 sq. ft. ADU. It is also important to note that benefiting from the allowable ADU size may not be possible on a parcel that is under excessive setback requirements and with physical barriers, such as the placement of the primary dwelling in the middle of the site or topographic slopes and barriers.

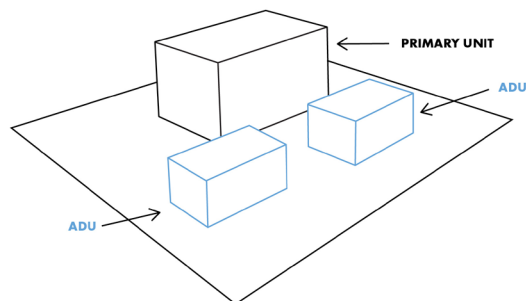
- The extent of ADU height requirements vary by jurisdiction. Zoning regulations could require that the height of the ADU does not exceed the primary dwelling’s height, which allows for developing two-story ADUs. Other regulations would set a specific height limit (i.e. 10, 16, 20 or 25 ft.). Imposing low height caps, such as 10 or 12 ft., impedes developing a two-story ADU or an ADU with a mezzanine floor, which is a partial floor with low ceiling that is placed nearly halfway the highest ceiling from the ground, creating a double volume and projecting like a balcony. In an ADU, especially smaller ADUs, a mezzanine can be used as an additional bedroom, den or office space.



Photo Credit: BuildingAnADU.com



- On the top of size and height requirements, zoning ordinances typically set limitations on the number of ADUs per lot. The majority of local codes limit the number to one ADU per lot. However, some jurisdictions have moved toward allowing for creating more than one ADU per lot in specific areas. Some jurisdictions have also relaxed their ADU requirements allowing for creating more than one ADU per lot and/or creating ADU on certain multifamily zoned lots, requiring meeting specific conditions and standards.



The Solutions:

- Municipal governments should avoid imposing maximum size requirements for ADUs that would result in small ADUs that are close in size to micro-units or junior studios, prohibiting the homeowner from unlocking and benefitting from their lot's developable area.
- Municipal governments should allow for the development of at least two-story ADUs in any single-family zoned area, as most single-family homes comprise two stories, unless there are valid reasons for imposing different ADU height requirements.
- Municipal governments should explore permitting more than one ADU per parcel as well as ADU development on multifamily zoned lots on sites suitable for these zoning allowances.

Design standards

The Challenges:

- Municipalities typically adopt design standards for ADU development to ensure compatibility between the aesthetics and character of the developed external, attached/detached ADU and the existing primary unit. These standards vary in their specificity and scope across local jurisdictions. Design standards governing ADU development could include compatibility in exterior walls' building material and color; roof material, type and slope; and windows' treatment, proportion and spacing. Some ADU design standards prohibit having the ADU's main entrance facing the front property line (both the main dwelling's and the ADU's main entrances facing the front property line) or even a public right-of-way.

- These design standards that aim to ensure compatibility between the developed ADU's and the primary unit's design aesthetic and character vary in their stringency. That is, compatibility could mean that the developed ADU should be designed in a way that its external design completely matches the external design of the primary unit, including the windows, doors, external walls and roofs. In other instances, compatibility could be a broader term that means there would be some form of harmony without requiring matching the external design of the primary unit. However, while this lack of specificity could offer some flexibility, it can also cause confusion among designers and homeowners interested in pursuing ADU development. In addition, there are ADU design standards that can create additional financial and logistical/technical burdens. For example, requiring matching the primary unit's window treatment, placement, proportion and spacing could create logistical burdens in ADU development.

The Solutions:

- Avoiding requiring external design compatibility between the ADU and the primary unit may be necessary to limit tradeoffs between rigid requirements and vagueness and uncertainty in design standards compliance.
- Municipalities should avoid imposing prescriptive design requirements on ADU development, as these requirements can create additional financial and technical burdens. The alternative would be adopting objective design standards, which allows for flexibility in meeting the end design goals.

Impact fees and utility connections

The Challenge:

- Requiring homeowners pursuing ADUs on their lots to pay impact fees to the municipal government is one of the regulatory requirements that creates additional financial barriers to ADU development. Impact fees are generally imposed by municipal governments on real estate developers to offset the cost of new demands for public infrastructure and services created by the new development project. This one-time payment is collected by municipal governments to mitigate the cost of creating and maintaining public infrastructure, such as sidewalks, sewage and water systems, roads, parks and schools, as well as providing public security and safety services like fire stations. Some jurisdictions adopt fixed impact fees for ADU development that are typically not proportional to the ADU size and the projected impact of and demand on public infrastructure and services created by the ADU development.
- Some municipalities require that the ADU has a separate connection to and meters for the public water, sewage and electricity systems from the primary dwelling. These requirements can add significant financial barriers to ADU development as well as extend the permitting and development processes. This includes covering the costs of installing water and sewage pipes that connect the ADU to public infrastructure, which is a very costly process that will require additional permits and likely extend the ADU development process. While separating utility connections and meters could be beneficial for using of developed ADUs as rentals, these requirements can add cost burdens to the ADU development process by adding utility connection fees to the overall cost.

The Solutions:

- It is unreasonable to require an ADU owner to pay impact fees that are equivalent to those imposed on single-family homes and larger residential properties. ADUs are smaller than single-family homes and are typically occupied by smaller households, particularly one- to two-person households. One solution is halting impact fees for ADUs. For example, the City of Portland offers a waiver of system development charges (SDCs), which are collected by the city to offset the impact of new development on its storm and sanitary sewer systems, parks and recreation facilities, water and street systems, for homeowners who participate in the ADU SDC Waiver program. This program requires participating homeowners to sign a covenant stating that neither the ADU nor the primary residence will be rented as a short-term rental for 10 years.¹² In addition, some municipal governments have moved towards requiring fees that are proportional to the ADU’s size, waiving/reducing those fees for smaller ADUs. And others have moved toward taking into consideration the difference between the ADU and the primary unit sizes in calculating imposed impact fees.
- To mitigate the cost and time implications of requiring that ADUs have separate connections to and meters for public utility systems, municipalities can explore either waving those utility connection fees for ADUs or making those proportionate to the ADU size and the estimated burden of the ADU on the public utility systems.

STATEWIDE REGULATORY
CHANGES IN SUPPORT OF ADU
DEVELOPMENT IN CALIFORNIA

In 2019, California Governor Gavin Newsom signed into law a group of bills aimed at addressing a range of regulatory barriers to ADU development across the state.¹³ Enacting statewide ADU laws requires that all local jurisdictions follow the state’s rules, regardless of whether they have their own ADU laws. These adopted regulatory changes relax regulatory restrictions on and provide more flexibility in ADU development, including:

PERMITTING AND REVIEW PROCESSES
• Reducing application review time for ADUs to 60 days from the receipt day of a completed application. • Prohibiting local agencies from requiring the correction of existing nonconforming zoning conditions as a condition for “ministerial approval of a permit application” for an ADU or junior ADU. • Allowing ADU owners with violation of codes, upon application and approval, to correct non-health- and safety-related violations within five years. • Prohibiting covenants, conditions and restrictions (CC&Rs) from banning or unreasonably restricting ADU development on single-family lots.
OCCUPANCY REQUIREMENTS
• Freezing owner-occupancy requirements for all proposed ADUs until January 1, 2025.

OFF-STREET PARKING REQUIREMENTS
• Capping parking requirements for ADUs at one parking space per ADU or bedroom (whichever number is smaller). • Eliminating parking requirements for ADUs under certain circumstances, such as when the lot is located within one-half mile walking distance of public transit or when there is a car share vehicle located within one block of the accessory dwelling unit. • Clarifying that local agencies cannot require off-street parking replacement for an ADU that was created through a garage/covered parking structure conversion.
SETBACKS
• Capping rear yard and side setbacks for ADUs at 4 feet (ft.).
LOT SIZE REQUIREMENTS
• Prohibiting imposing minimum lot size requirements on ADU development.
SIZE, HEIGHT AND NUMBER OF ALLOWED ADUS
• Prohibiting local agencies from adopting maximum ADU size requirements of less than 850 sq. ft. for a one-bedroom ADU and 1,000 sq. ft. for an ADU with two or more bedrooms. • Prohibiting local agencies from adopting any other size limits, such as maximum lot coverage, floor area ratio and open space requirements, that do not allow for creating at least an 800 sq. ft. ADU with a minimum 16 ft. height and 4 ft. rear yard and side setbacks. • Allowing for creating a junior ADU, in addition to the lot’s larger ADU, within the walls of the proposed or existing single-family residence or accessory structure, capping the size of a junior ADU to 500 sq. ft. • Permitting creating at least one ADU within an existing multifamily development, capping the number of the developed ADU(s) to 25 percent of the existing dwelling count. These ADUs can only be created within the “portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements or garages.” • Permitting creating up to two detached ADUs on a lot that has an existing multifamily development. These ADUs are subject to a height limit of 16 ft. and 4 ft. rear yard and side setbacks.
IMPACT FEES AND UTILITY CONNECTIONS
• Exempting ADUs up to 750 sq. ft. from impact fees and requiring that impact fees for larger ADUs are proportional to the square footage of the primary residence.



OVERCOMING BARRIERS TO FINANCING ADU DEVELOPMENT

There is a consensus among housing developers and practitioners that inadequate access to financing is one the prominent challenges to bringing this housing production strategy to scale. This includes scarcity of lending products tailored to ADU development across the country.

Further, the most common paths to covering the costs of ADU development require homeowners to tap into their personal savings or home equity, which thus excludes many lower- and moderate-income homeowners from pursuing ADUs on their lots. This section discusses two main barriers to accessing ADU financing: **1) scarcity in lending products tailored to ADU financing;** and **2) challenges in using traditional lending products for ADU financing.**

Scarcity in lending products tailored to ADU financing

Generally, there is scarcity in loan products tailored for ADU development. Due to the lack of familiarity with ADU development in the lending industry, many lenders see ADU development as an unconventional investment that is more risky than traditional residential construction. And therefore, the number of lending products designed specifically for financing ADU development is very limited across the U.S. housing market. The scarcity of lending products

tailored for ADU financing has made tapping into homeowners' cash savings or home equity the most common path for financing ADU development. While this path may work well for higher-income homeowners or those who are able to tap into their home equity, lower-income homeowners are less likely to be able to use these financing mechanisms. In addition, there are challenges in using these lending products to finance ADU development, including counting the projected rental income from the ADU in calculating the loan value and determining the borrower's eligibility. Here are some of the common ADU equity financing mechanisms¹⁴:

- **Cash savings or other liquid assets**

Under this path, a homeowner would use cash savings or stocks that can be liquidated to fund ADU development on their lot. This path is typically not attainable and/or feasible for low-income and some moderate-income homeowners.

- **Home equity lines of credit (HELOC)**

Homeowners with equity in their homes can tap into it to access a revolving line of credit that can be used to finance large expenses like ADU development. Accessing HELOC is based on a recent home value appraisal, borrower's Loan-To-Value (LTV) ratio, plus a range of eligibility requirements that vary from one lender to another. Basically, showing that the borrower owns a certain share of their home's equity by looking at the current home appraised value and LTV as well as meeting a lender's eligibility requirements would allow the borrower to tap into a flexible revolving line of credit. At the same time, the borrower's home equity is considered as a collateral that can be taken over by the lender if the borrower fails to make their loan payments. The lender may allow the

borrower to pay only interest payments for a specific period of time, and once the borrower taps into the HELOC, they will be required to pay interest and principal payments moving forward.

There are challenges to using HELOC to finance ADUs. A homeowner who does not meet the lender's eligibility requirements, such as minimum LTVs and credit scores, will not be able to access a line of credit through their home equity. In addition, some lenders may require variable interest rates, which can increase the borrower's loan payments if the interest rate increases. This option can also be risky for homeowners who are not certain about their ability to make their monthly loan payments on HELOCs, as defaulting on the new loan could lead to losing their home equity.

- **First mortgage cash-out refinance**

Under this lending tool, a homeowner would replace an existing home mortgage with a new one that has a higher value and different terms, and would tap into their home equity via one lump sum payment. After paying any remaining balances, the difference between the new, higher value mortgage and the original mortgage debt (in this case it would be labeled as the balance of the homeowner's home equity) is paid to the borrower as a lump sum cash payment. Eligibility requirements vary across lenders, including minimum LTVs. This option can be helpful when the borrower is able to access a new loan with more favorable terms, such as lower interest rates. However, pursuing a cash-out refinance can create some risks. A cash-out refinance resets the home mortgage amortization schedule. That is, the homeowner will have a new mortgage

with more debt, and the homeowner's ability to make the new loan's monthly payment will rely substantially on receiving a monthly rental income from the developed ADU. And defaulting on the new loan under financial hardships could lead to the loss of the homeowner's home equity, as the home will be considered as a collateral by the lender.

In addition to tapping into the homeowners' personal savings or home equity to finance ADU development, renovation and construction loans may be used to finance ADU development. However, there are challenges to using these lending options to finance ADU development.



Photo Credit: BuildingAnADU.com

- **Renovation loans**

These loans are unsecured financing products that help homeowners cover the cost of a home improvement project. That is, the property is not considered as a collateral that can be taken over by the lender when the borrower fails to make the monthly loan payments. Those loans are typically fixed-rate loans (typically with higher interest

rates due to the lack of collateral and higher perceived risks) that cover a certain share of the projected costs based on an appraisal that includes the increase in total property value caused by completing a home improvement project, i.e. the total projected home value after adding an ADU to the lot. Attaining a fair market appraisal can be challenging due to the lack of familiarity with ADUs' property values in local market, as we still have yet to see ADU development at scale on the local or state level, and to a certain extent that would enable the industry to capture comprehensive cost and value data sets on ADU development. This may result in undervalued appraisals and lower access to financing necessary to cover ADU development costs, and under those circumstances, ADU development will not add significant value to the total property value after the completion of project.

While there are no federally backed loans tailored for ADU financing, there are some federally backed home improvement loans that can be used to finance ADUs. These lending products include Fannie Mae-backed HomeStyle Renovation mortgages and Freddie Mac-backed CHOICERenovation mortgages.

In addition, lenders commonly require that the homeowner hire a contractor who will have access to the loan's funds via multiple payments that are only received after proving progress on the home improvement project. This can extend the ADU development process and create a range of challenges, such as limitations on the number of contractors who are familiar with ADU development and are willing to take on such development projects. Also, these loans may not be accessible to all homeowners due to a range of eligibility requirements like high credit scores.



Photo Credit: BuildingAnADU.com

- **Construction loans**

Another option is using a construction loan to finance new ADU construction. These loans generally have higher interest rates, as new construction is often perceived as a risky investment due to the lack of a physical structure that can be taken as collateral in the case of the borrower's failure to make the monthly loan payments. Similar to home improvement loans, lenders typically require hiring a professional contractor who will be receiving monthly payments upon reaching certain construction milestones. Construction loans are short-term loans, typically last for only one year, as they expire upon the completion of the construction process. The homeowner can either pay off the balance of the construction loan upon the end of the construction timeline or choose to transform the construction loan into a permanent loan with different terms, including the loan type, length and interest rate.

Challenges in using traditional lending products for ADU financing

There are a range of persisting challenges in using the abovementioned traditional lending products for ADU financing. Two common challenges are not including the projected rental income in calculating the loan value and determining borrower's loan eligibility.

Accuracy in appraisals can create barriers to ADU financing, especially for ADUs permitted as long-term rentals with projected monthly rental income. Appraisals/lenders typically do not use the income approach to estimate the value of the proposed ADU development based on its projected rental income in calculating the LTV ratio. Appraising a proposed rental housing development typically includes looking at the fair market value and rental income of similar rentals located in the housing market. For example, if the homeowner has received a permit to construct a 600sq. ft. ADU on

their single-family zoned lot, which can be used as a long-term rental unit, the appraisal should include looking at the fair market value and rental income for a similar unit located in the same market, which could be anywhere between \$400 and \$1,800 or more per month, depending on the housing market. The appraiser should then include this projected rental income in the ADU appraisal process. If we assume that this 600sq. ft. ADU will generate nearly \$900/month, or nearly \$11,000/year, in rental income, then not including this estimated income in the appraisal process will result in calculating the LTV based on an under-appraised property value, which leads to the lender offering less capital based on the estimated property value. While lenders typically offer borrowers up to 80 percent of the projected development costs, receiving less capital based on undervalued appraisals typically results in needing additional gap financing resources or using additional equity for financing ADU development.

Incorporating the income approach in ADU appraisal requires some creativity and flexibility for a variety of reasons. Unlike other traditional types of residential construction, such as single-family homes, duplexes, triplexes and multifamily apartment buildings, there are challenges to accessing large, comprehensive data sets on ADUs' property values and their generated rental income. That can be largely explained by the fact that most markets have yet to witness a significant boom in long-term rental ADUs that would bring this type of residential units to scale. The significance of this challenge is likely to decrease in markets where ADU development has been rising and more ADUs are used as long-term rentals.

In addition, when lenders do not include the projected rental income from ADU development in the debt-to-income ratio (DTI), homeowners face additional burdens to securing ADU financing. The DTI is a ratio calculated by dividing the borrower's total debt over their monthly income and used to

measure borrowers' debt load and financial stress. Lenders see high DTIs (typically >40 percent) as an indication of high financial risk, and the exclusion of the projected rental income from ADU in the DTI calculation results in higher DTIs, which could result in higher loan denials for financing ADU development.

Despite those challenges, there are lending products that are tailored for ADU financing or offer gap financing that could support ADU development. One example is ADU loans for eligible single-family homeowners in Portland offered by Craft3¹⁵, a nonprofit Community Development Financial Institution (CDFI) based in the Pacific Northwest region. These fixed-interest, long-term (up to 240 months) loans finance the construction of detached or attached ADUs, allowing homeowners to borrow up to \$250,000 to cover ADU design, permitting and construction costs. This loan product offers reduced rates to households earning below 100 percent of the AMI. Another example is the city of Boston's ADU gap financing offered through its Additional Dwelling Unit Loan program.¹⁶ These interest-free loans offer gap financing to eligible homeowners who are interested in creating ADUs on their lots in the city of Boston. The program offers up to \$30,000 to owners of single- to three-family homes; the offered amount is based on the estimated cost of ADU development and can be used as gap funding. These loans do not require monthly payments and only become due when the owner sells, transfer of ownership or undertakes a cash-out refinance of the home. These loans do not attach any use or affordability requirements.

Offering subsidized financing to support deeper affordability levels

As mentioned earlier in this white paper, ADU development can add to the housing market rental units that are smaller in size and more affordable than single-family homes in neighborhoods that overall lack housing type diversity and rental housing. The creation of ADU is likely to create housing opportunities for lower- and moderate-income, renter households (possibly those earning 60–80 percent of the AMI) in single-family zoned areas that often have higher access to opportunity, such as access to jobs and necessary public and private services. That is, rental ADUs will be offered at a market-rate rent that is lower than the area's single-family homes' market-rate rents. If the desired affordability goal is deeper affordable housing targets (i.e. units that are affordable to households earning less than 50 percent of the AMI), then some form of subsidized financing will be needed to attain those deeper affordability targets.

In addition to offering subsidized funding for attaining deeper affordability targets, when homeowners become landlords of rental ADUs, they may need some form of financial and logistical assistance with handling operating and maintenance costs and responsibilities. This is especially true for lower- and moderate-income homeowners who would be operating those rental ADUs on thin margins. These homeowners will suddenly find themselves landlords who are responsible for operating and maintaining rental housing. Since lower- and moderate-income homeowners are more likely to be interested in creating and renting out ADUs, providing them with financial assistance and resources that would help them with financing the development phase, as well as with operating and maintaining those rental ADUs, is necessary to achieve desired affordability targets through ADU development.

That said, there are public and private efforts that provide financing and support to homeowners interested in pursuing ADU development on their lots, requiring that the developed ADUs are used as affordable rentals for a range of household incomes with specific affordability terms (and this often prohibits the use of ADUs as seasonal, short-term rentals). Here are three brief examples:

- **The West Denver Single Family Plus (WDSQ. FT. +) Accessory Dwelling Unit (ADU) Pilot Program, Denver, Colorado¹⁷**

This pilot aims to demonstrate the viability of ADU development as one strategy to build wealth for low- and moderate-income homeowners and new affordable rental units. It assists eligible low- and moderate-income homeowners with designing, financing and building ADUs on their residential property. The program provides income qualified homeowners — who live in the West Denver Renaissance Collaborative (WDRC) neighborhood and own a residential property in a zone where ADU development is permitted — with a range of resources, including predevelopment services, a selection of ADU design prototypes, construction management through a nonprofit partner, connections to custom ADU financing and certified housing counseling to guide homeowners through the process. This support also includes connection to affordable ADU development loans and consolidated mortgages that comprise refinancing the mortgage on primary residence and ADU construction loans.

The pilot is focused on enabling participating low- and moderate-income homeowners to rent an ADU to supplement their monthly income while expanding the neighborhood's affordability, as well as boosting their home equity by increasing the property value.

At the same time, the program requires that if the homeowner were to rent the developed ADU or the primary dwelling, it would be affordable to households earning up to 80 percent of the AMI for a 25-year term, while prohibiting the use of the ADU as short-term rental. In 2018, the pilot received an award from Fannie Mae's Sustainable Communities Innovation Challenge.¹⁸ And In 2019, the Denver City Council approved providing \$500,000 to the WDSQ. FT. + program¹⁹ to fund up to 20 \$25,000 forgivable loans during the pilot. The Strong, Prosperous, And Resilient Communities Challenge (SPARCC), an initiative of Enterprise Community Partners, the Low Income Investment Fund and the Natural Resources Defense Council, has also provided support²⁰ to the pilot, including \$250,000 additional capital grant placed as a revolving fund.

- **The Backyard Homes Project Pilot, Los Angeles, California²²**

This initiative is a collaborative effort between LA-Más, a community development nonprofit, and a group of nonprofit, private and public partners. This program incentivizes homeowners to build and rent out ADUs as affordable units by offering access to financing, design, permitting, construction and leasing support. In exchange for receiving support, the homeowners are required to commit to renting their ADUs to HUD's Housing Choice (Section 8) Vouchers holders for at least 5 years. This support includes optional access to financing in the form of a permanent mortgage product. It also requires participating homeowners to receive landlord training. While the program was launched open to all property owners in the city of Los Angeles, it has shifted toward assisting homeowners with non-hillside residential properties in Northeast Los Angeles.

- **Small Homes, Big Impact Program, Bay Area, California²²**

Housing Trust Silicon Valley, a nonprofit community loan fund, has launched an ADU financing product to assist Bay Area homeowners interested in creating ADUs with accessing construction loans. This program offers eligible homeowners access to a three-year construction loan with a fixed 5 percent interest rate, requiring that the borrower already has a first mortgage on their home. Eligible homeowners qualify for construction loans of up to \$200,000 to cover both soft and hard development costs, including design and planning fees and ADU construction or the purchase of prefabricated ADUs.

The program requires that participating homeowners rent out their ADUs as rentals affordable to households earning up to 120 percent of the AMI for at least two years. The loan amount is based on the offered rent and will be calculated using the Combined Loan-to-Value approach. That is, the first loan would cover up to 80 percent of the primary and secondary dwelling's (total property) value and the ADU construction loan would cover up to 17 percent of the remaining total property value. The borrower is only required to pay interest payments for the first year and then principal and interest payments for the remaining two years. And once the construction loan expires, it gets transformed into a permanent loan.



Photo Credit: BuildingAnADU.com

Our research highlights that bringing ADU development to scale requires addressing land use, regulatory and financial barriers to developing this housing production strategy. Addressing those barriers will require eliminating and/or easing municipal requirements and restrictions that constrain ADU development, as well as offering public and private lending products that are tailored for ADU development. In addition, this white paper emphasizes that attaining deeper affordability levels through ADU development requires offering some form of subsidized financing, in exchange for accomplishing the desired affordability levels.

- ADU development is the low end of the gentle density spectrum. Permitting ADU development in single-family zoned areas is the first step toward supporting gentle density
- Bringing ADU development to scale requires easing and/or eliminating municipal regulations and requirements that tend to create regulatory barriers to ADU development, including but not limited to:
 - Discretionary review processes
 - Owner-occupancy requirements
 - Off-street parking requirements
 - Minimum lot size requirements and large setbacks
 - Restrictive size and height caps
 - Prescriptive design standards
 - Impact fees and utility connections cost burdens

- There are persisting barriers to financing ADU development, especially for lower- and moderate-income homeowners. Public and private lending agencies can support ADU development by advancing ADU financing:
 - Federal agencies that back mortgages, such as Freddie Mac, Fannie Mae and the Federal Housing Administration (FHA), as well as private lenders can explore creating lending products tailored for ADU development. These products would:
 - Enable low- and moderate-homeowners interested in pursuing ADU development to finance and develop ADUs on their lots
 - Offer favorable loan terms and interest rates to help mitigate homeowners' risk in lending to finance ADU development
 - Include the projected rental income from the ADU in calculating the DTI and appraised value to avoid offering risk of facing higher loan denials and/or being offered lower capital due to undervalued appraised property value
 - Provide for a loan underwriting process that is tailored for the population in need of ADU financing and the use of lending products for ADU development
 - Federal, state and local agencies, as well as private and philanthropic partners can also support ADU development through offering financial support to low- and moderate-income homeowners. This includes forgivable loans or grants that could be used to cover pre-development costs, such as design and permitting costs, gap financing and/or down payments for homeowners who lack access to sufficient home equity and/or capital. This is particularly important for low- and moderate-income homeowners who are interested in using their developed ADUs as rental ADUs, as they could build wealth from additional income while boosting the supply of rental housing and affordability in their market.

REFERENCES

¹ Missing Middle Housing, “Missing Middle Housing - The Types,” Missing Middle Housing, accessed June 13, 2020, <https://missingmiddlehousing.com/types/>.

² American Planning Association, “Accessory Dwelling Units,” Planning.Org, accessed May 10, 2020, <https://www.planning.org/knowledgebase/accessorydwellings/>.

³ Ahmad Abu-Khalaf, “Overcoming Barriers to Bringing Off-Site Construction to Scale,” Enterprise Community Partners, accessed June 13, 2020, <https://www.enterprisecommunity.org/resources/overcoming-barriers-bringing-site-construction-scale-8845>.

⁴ Emily Badger and Quoc Trung Bui, “Cities Start to Question an American Ideal: A House With a Yard on Every Lot,” The New York Times, June 18, 2019, sec. The Upshot, <https://www.nytimes.com/interactive/2019/06/18/upshot/cities-across-america-question-single-family-zoning.html>, <https://www.nytimes.com/interactive/2019/06/18/upshot/cities-across-america-question-single-family-zoning.html>.

⁵ Elizabeth Kneebone and Mark Trainer, “How Housing Supply Shapes Access to Opportunity for Renters” (Turner Center for Housing Innovation at UC Berkeley, November 2019), http://turnercenter.berkeley.edu/uploads/How_Housing_Supply_Shapes_Access_to_Opportunity_for_Renters_2019.pdf.

⁶ Philip Rojc, “In Appreciation of Gentle Density,” Planetizen - Urban Planning News, Jobs, and Education, March 12, 2017, <https://www.planetizen.com/node/91658/appreciation-gentle-density>.

⁷ Zion Campbell and Jacob Share, “People Are Talking About Up-Zoning: Here’s What You Should Know,” Enterprise Community Partners, August 2, 2019, <https://www.enterprisecommunity.org/blog/2019/08/people-are-talking-about-up-zoning-here-is-what-you-should-know>.

⁸ Kalena Thomhave, “Cities, States Use ‘Upzoning’ to Spur Affordable Housing Growth - Spotlight on Poverty and Opportunity,” September 4, 2019, <https://spotlightonpoverty.org/spotlight-exclusives/cities-states-use-upzoning-to-spur-affordable-housing-growth/>.

⁹ “Minneapolis 2040,” accessed June 14, 2020, <https://minneapolis2040.com/>.

¹⁰ Daniel Beekman, “Seattle Upzones 27 Neighborhood Hubs, Passes Affordable-Housing Requirements | The Seattle Times,” accessed June 14, 2020, <https://www.seattletimes.com/seattle-news/politics/seattle-upzones-27-neighborhood-hubs-passes-affordable-housing-requirements/>.

¹¹ Enterprise Community Partners, “Undesign the Redline,” Enterprise Community Partners, accessed June 14, 2020, <https://www.enterprisecommunity.org/news-and-events/undesign-the-redline>.

¹² “City Council Extends the SDC Waiver for ADUs, with Conditions | News & Events | The City of Portland, Oregon,” June 27, 2018, <https://www.portlandoregon.gov/bds/article/689356>.

¹³ Zachary Olmstead, “Local Agency Accessory Dwelling Units” (Department of Housing and Community Development – Division of Housing Policy Development, January 10, 2020), https://www.hcd.ca.gov/community-development/housing-element/docs/ADU_TA_Memo_Final_01-10-20.pdf.

¹⁴ Kol Peterson, Backdoor Revolution- The Definitive Book on ADU Development (Accessort Dwelling Strategies, LLC, 2018), <https://www.buildinganadu.com/backdoor-revolution>.

¹⁵ “Loans for Accessory Dwelling Units (ADUs) | Craft3,” accessed June 15, 2020, <https://www.craft3.org/Borrow/adu-loans>.

¹⁶ City of Boston, “How to Apply for an Additional Dwelling Unit Loan,” Boston.gov, April 9, 2018, <https://www.boston.gov/how-apply-additional-dwelling-unit-loan>.

¹⁷ Search Results Web Result with Site Links The West Denver Renaissance Collaborative, “WDSF+ ADU Pilot Program,” West Denver Renaissance Collaborative, accessed June 15, 2020, <https://www.mywdrc.org/adu-pilot-program>.

¹⁸ Fannie Mae, “Sustainable Communities Innovation Challenge - Fannie Mae,” accessed June 15, 2020, <https://www.fanniemae.com/thechallenge/>.

¹⁹ City and County of Denver, “Denver City Council Approves Accessory Dwelling Unit Loan Program,” accessed June 15, 2020, <https://www.denvergov.org/content/denvergov/en/denver-office-of-economic-development/newsroom/2019/ADU-Program.html>.

²⁰ Hannah Taylor, “A Backyard Solution for Displacement in Denver - SPARCC,” January 28, 2020, <https://www.sparcchub.org/2020/01/28/a-backyard-solution-for-displacement-in-denver/>.

²¹ “The Backyard Homes Project: An Affordable Housing Initiative,” LA Más, accessed June 15, 2020, <https://www.mas.la/affordable-adus>.

²² Housing Trust Silicon Valley, “Small Homes, Big Impact,” Housing Trust Silicon Valley, accessed June 15, 2020, <https://housingtrustsv.org/programs/homeowner-programs/accessory-dwelling-unit-program/>.



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202.842.9190

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**REQUEST FOR PLANNING COMMISSION ACTION
CONDITIONAL USE
CITY OF INDEPENDENCE
DECEMBER 6, 2022**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public hearing to receive comments on a request for a conditional use permit for "Antiques - Retail" in a C-1 neighborhood business district at 504-506 South 10th Street.

SUMMARY RECOMMENDATION Recommend approval of the conditional use permit for "Antiques-Retail" in a C-1 neighborhood business district at 504-506 South 10th Street with conditions.

BACKGROUND Billie Jo Quigly wants to open an antique shop at 504-506 South 10th Street. This address served as an antique shop previously. Opening an antique store in a C-1 neighborhood business district requires a conditional use permit which cannot be transferred.

		Permitted Zoning District												
Land Use Category	Code	A-1	R-1	R-2	R-3	R-4	R-5	O/P	C-1	C-2	C-3	C-4	M-1	M-2
Antiques—retail	5931								C	P	P	P		

Policy Explanation 901.1. Purpose: Conditional uses are those types of uses which are considered by the city to be essentially desirable, necessary, or convenient to the community but which by their nature or operation have (1) a tendency to generate excessive traffic, (2) a potential for attracting a large number of persons to the area of the use, thus creating noise or other pollutants, (3) a detrimental effect upon the value of or potential development of other properties in the neighborhood, or (4) an extraordinary potential for accidents or danger to the public health or safety.

Such conditional uses cannot be allowed to locate as a "right" on any parcel of land within certain districts without consideration of existing conditions at the proposed location and of properties neighboring upon the specific site considered, nor without adequate and sufficient safeguards, when necessary, to lessen the impact of adverse factors.

901.2. Authority to grant permits: The governing body shall have the authority to grant conditional use permits, subject to such conditions of design and operation safeguards and time limitations as it may determine for all conditional uses specified in appendix "A" of this ordinance and for all permitted uses for which the planning and zoning commission has found that by their nature or in their operation have characteristics listed in clauses (1), (2), (3) and (4) of section 901.1 of this article, provided, however, that said conditional use permits for permitted uses shall not establish standards or conditions that are less restrictive than those set out in the district regulations for the district in which said use is located.

Action by the Planning Commission Upon receiving the application for conditional use permit from the zoning administrator, the planning commission shall publish notice and hold public hearing on the proposal. Procedures for public hearings shall be handled the same as a zoning amendment as described in section 1603.0 of the zoning code. If the planning commission determines that additional information should be provided to it before making a decision, the planning commission may adjourn the public hearing to a new date

and require the applicant to provide such additional information. The decision of the planning commission to recommend approval or denial of the proposed conditional use shall be based on any or all of the following criteria which the planning commission determines to be relevant:

- a. The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitation.
- b. The proposed conditional use at the specified location will contribute to and promote the welfare or convenience of the public.
- c. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
- d. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate use of the neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
 1. The location, nature and height of buildings, structures, walls and fences on the site, and
 2. The nature and extent of landscaping and screening on the site.
- e. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations (article VII).
- f. Adequate utility, drainage, and other such necessary facilities have been or will be provided.
- g. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.

902.3. Additional requirements: In consideration of requests for any conditional use permits the planning commission shall recommend to the governing body such conditions of use as it deems necessary to protect the best interests of the city, and the surrounding property and to achieve the objectives of this ordinance. These additional requirements shall include, but not be limited to, those special provisions applying the miscellaneous conditional uses, specified in article X.

A violation of a requirement, condition, or safeguard shall be considered a violation of this ordinance, and grounds for the zoning administrator to terminate and cancel such conditional use permit.

STAFF RECOMMENDATION Staff recommends approving a conditional use permit to sell antiques at 504-506 South 10th Street. Billie Jo is a new owner of the business and needs her own conditional use permit. Conditional use permits are not transferrable.

SUGGESTED MOTION I move to approve a conditional use permit for "Antiques-Retail" in a C-1 neighborhood business district at 504-506 South 10th Street with the following conditions:

1. The conditional use permit is not transferable to another property owner or to another location.
2. The applicant must be in compliance with all City codes and must continue to be in compliance with all City codes. This would include the requirement to acquire a City occupation license which must be renewed annually.
3. The exterior of the property must be cleaned up and kept clean to meet City code.

SUPPORTING DOCUMENTS

1. 504-506 S 10th Public Hearing Notice and 200' Notification Map
2. CUP 504-506 S 10th Antiques Retail Application and Receipt

City of Independence, Kansas

NOTICE TO THE PUBLIC

The Independence, Kansas, Planning Commission will conduct a public hearing on:

Tuesday, December 6, 2022, at 5:30 p.m.

To receive comments on a request for a conditional use permit for “Antiques – Retail” in a C-1, neighborhood business district at 504-506 South 10th Street.

Legal Description:

N 26.2', Lot 11; S 23.8' Lot 11, Owners Subdivision to the City of Independence, Montgomery County, Kansas.

Common Address:

504-506 South 10th Street

Applicant/Owners:

Billie Jo Quigley

Case Number:

2022/CUP/08

The hearing will be conducted in the Civic Center, Memorial Hall, Penn/Locust, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend, and they will be heard. You may also participate via conference call: [+1 785-289-4727](tel:+1785-289-4727) Conference ID: 652 632 373# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
811 W Laurel Street
Independence, KS 67301
(620) 332-2506

Information regarding this application is available in the Zoning Administrator's office. If special accommodation is required, please inform the Zoning Administrator.

Kelly Passauer, Zoning Administrator

200' Notification



APPLICATION FOR CONDITIONAL USE PERMIT
PLANNING AND ZONING COMMISSION

DATE FILED 10-13-22
\$200 FEE PAID _____

NAME AND ADDRESS OF PERSON MAKING APPLICATION:

Billie So Quigley 1405 Irving Independence St

LEGAL DESCRIPTION OF LAND INVOLVED:

N 26.2 S 23.8 Lot 11 OWNERS SUB

COMMON ADDRESS OF SAID LAND:

504-506 S 10th

PRESENT ZONING CLASSIFICATION: COMMERCIAL Antique Fle Market C-1 COMMERCIAL SERVICES DIST

STATEMENT OF INTENDED USE OF PROPERTY:

Same RESALE ANTIQUES

DESCRIPTION OF ARCHITECTURE & EXTERIOR MATERIAL TO BE USED:

No Changes

On the reverse side, please provide the following information: (1) Site Plan, drawn at appropriate scale, showing existing and proposed building location, parking areas, interior drives, and location and type of outdoor lighting; (2) Existing and proposed topography, drawn at appropriate contour intervals as specified by the Zoning Administrator; (3) Location of, and proposed connections to, existing water supply and sanitary sewage system; (4) North point, scale and date; (5) Names of landowner, developer and firm preparing the plan.

10-13-22
Date

Billie So Quigley
Signature of Applicant

I hereby certify that I have personally verified the dimensions as shown on the attached drawing and find them to be a correct representation of the conditions.

Date

Signature of Building Inspector

Action of Planning and Zoning Commission:

(Approved, Denied --- Date)

Comments:

Chairman

Vice Chairman

Secretary

CITY OF INDEPENDENCE

REC#: 01203636 10/13/2022 11:31 AM
OPER: JESS TERM: 001
REF#:

TRAN: 1.9000 VARIANCE
BILLIE QUIGLEY 504-506 S 10TH
CONDITIONAL USE PERMIT
MISC FEES 200.00CR

TENDERED: 200.00 CHECK
APPLIED: 200.00-

CHANGE: 0.00



**REQUEST FOR PLANNING COMMISSION ACTION
REZONING
CITY OF INDEPENDENCE
DECEMBER 6, 2022**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public hearing to receive comments to consider rezoning three tracts of land at 600, 606 and 610 West Main Street from R-3, low density multifamily dwelling district to C-2, commercial services district.

SUMMARY RECOMMENDATION Approve rezoning three tracts of land at 600, 606 and 610 West Main Street from R-3, low density multifamily dwelling district to C-2, commercial services district.

BACKGROUND Pete's Corporation wishes to construct an automatic car wash on land they recently purchased at 600, 606 and 610 West Main Street. A portion of this property contained the former Jiffy Mart. Although this was a commercial business, it was located in a residential zone as it pre-existed prior to the zoning code being adopted and was a nonconforming use.

510.0. - C-2, commercial services district.

510.1. Intent: District C-2 is intended primarily for general trades and commercial services located at specific points on major thoroughfares outside of central or neighborhood business districts. This district is particularly appropriate adjoining a major highway. Such an area draws highway trade uses such as restaurants, service stations, and motels which are not totally compatible with shopping center developments but which may be grouped together quite advantageously as highway service centers.

510.2. Permitted uses: The listing of permitted uses is set out in appendix "A" of these regulations.

510.3. Conditional uses: The listing of conditional uses is set out in appendix "A" of these regulations.

510.4. Intensity of use regulations:

a. Maximum lot coverage: 50 percent.

510.5. Height regulations:

a. Maximum structure height: 35 feet or 2½ stories (whichever is smaller).

510.6. Yard regulations:

a. Minimum front yard: 35 feet measured from property line.

b. Minimum side yard: None.

Exception: Ten feet where abutting a side street; 15 feet where abutting a C-1 or O&P zone; 25 feet where abutting a residential zone.

c. Minimum rear yard: Ten feet.

Exception: 25 feet where abutting a residential zone.

510.7. Parking and loading regulations: See article VII.

510.8. Use limitations:

a. Gasoline pumps, air and water service and other fixtures used in connection with automobile service stations may be located within the front yard but not less than 12 feet from the front lot line.

b. No structure shall be used for residential purposes except by the owner, owner's agent or the operator of the business located on the premises, except that accommodations may be offered to transient public by motels and hotels.

c. Exterior lighting fixtures shall be shaded where necessary to avoid casting direct light on any property located in a residential district.

(Ord. No. 3824, 5-12-00; Ord. No. 3845, § 1, 11-27-00)

Automobile Wash Services are permitted in a C-2, commercial services district.

		Permitted Zoning District												
Land Use Category	Code	A-1	R-1	R-2	R-3	R-4	R-5	O/P	C-1	C-2	C-3	C-4	M-1	M-2
Automobile wash services	6412								C	P	P	P	P	P

POLICY EXPLANATION Acceptance of a rezoning request must be based on the following factors: A) Character of the neighborhood, B) Zoning and uses of properties nearby, C) Suitability of the subject property for the uses to which it has been restricted, D) Extent to which the proposed use will detrimentally affect nearby property, E) Length of time the subject property has remained vacant as zoned, F) Public gain versus private hardship, G) Economic impact on the owner of the subject property and the economic impact on the surrounding properties, H) Recommendation of City's permanent staff, I) Conformance with the comprehensive plan, J) Availability and adequacy of required utilities and services to serve the proposed use, K) Impact on streets and parking, L) Environmental impacts, M) Ability to meet requirements of applicable codes.

LEGAL ADDRESS E 7.5' Lot 10; Lots 11-18 Block 37, Original Plat to the City of Independence, Montgomery County, Kansas.

DESCRIPTION OF TRACT(S) 600 West Main commercial business, 606 West Main vacant lot, 610 West Main residence.

ZONING AND USES OF PROPERTY NEARBY North: R-3, low density multifamily dwelling district; South: C-2, commercial services district; East: R-3, low density multifamily dwelling district; and West: R-3, low density multifamily dwelling district.

CHARACTER OF THE NEIGHBORHOOD Residential and commercial.

SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED According to the City's records, 600 West Main was Jiffy Mart from at least February 1990 to February 2022 when it closed. It is believed that this business was a convenience store prior to 1990 as well. It operated as a business in an R-3 residential area as a nonconforming use. Since it has been sold, the zoning will have to be changed before a new business can operate there.

LENGTH OF TIME THE PROPERTY HAS REMAINED VACANT AS ZONED 600 West Main - 8 months; 606 West Main - 8 years; 610 W Main - rental property sold to Pete's Corporation within the last month.

EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY 606 is an empty lot and Jiffy Mart had operated as a business for 32 years. There are other commercial businesses in the area. It should not detrimentally affect nearby property.

RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE PETITIONER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNERS The destruction of the property would leave three empty lots on West Main Street. Adding a carwash would add a business to the neighborhood.

CONFORMANCE WITH THE COMPREHENSIVE PLAN

OBJECTIVE C2 Provide areas away from downtown for clustered and coordinated commercial development to serve businesses with acreage requirements that cannot be accommodated in downtown.

OBJECTIVE C4 Limit strip commercial development along the major streets to business directly serving the motoring public.

POLICY C41 Strip commercial development, single commercial uses stringing out along a street, shall be limited to those uses directly serving the motoring public such as motels, service stations and fast-food restaurants.

POLICY C42 Strip commercial development shall be limited to major highway entrances to the City and shall be permitted only limited access to Major streets via frontage roads. Generally, commercial use shall be confined to the west side of Pennsylvania between Oak and Mulberry, west on U. S. 75 as far as 1/2 mile west of Peter Pan Road.

STAFF RECOMMENDATION City staff recommends approving the rezoning application for three tracts of land at 600, 606 and 610 West Main Street from R-3, low density multifamily dwelling district to C-2, commercial services district.

SUGGESTED MOTION I move to recommend approving the rezoning application for three tracts of land at 600, 606 and 610 West Main Street from R-3, low density multifamily dwelling district to C-2, commercial services district.

SUPPORTING DOCUMENTS

1. Public Hearing Notice Rezoning 600, 606, 610 E Main Street
2. 600, 606, 610 W Main Notification
3. West Main Rezoning Carwash App and Pmt

City of Independence, Kansas

NOTICE TO THE PUBLIC

The Independence, Kansas, Planning Commission will conduct a public hearing on:

Tuesday, December 6, 2022, at 5:30 p.m.

To receive comments to consider rezoning three tracts of land at 600, 606 and 610 West Main Street from R-3, low density multifamily dwelling district to C-2, commercial services district.

Legal Description:

E 7.5' Lot 10; Lots 11-18 Block 37, Original Plat to the City of Independence, Montgomery County, Kansas.

Common Address:

600, 606 and 610 West Main Street

Applicant/Owners:

Pete's Corporation

Case Number:

2022/ZA/07

The hearing will be conducted in the Civic Center, Memorial Hall, Penn/Locust, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend, and they will be heard. You may also participate via conference call: [+1 785-289-4727](tel:+1785-289-4727) Conference ID: 652 632 373# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
811 W Laurel Street
Independence, KS 67301
(620) 332-2506

Information regarding this application is available in the Zoning Administrator's office. If special accommodation is required, please inform the Zoning Administrator.

Kelly Passauer, Zoning Administrator

200' Notification Area



**INDEPENDENCE
PLANNING & ZONING
COMMISSION**

**APPLICATION
FOR
REZONING**

1. Case #: _____
 2. Date Filed: _____
 3. Fee Paid: _____
 4. Hearing: _____
 5. Published: _____

To be filled out by applicant

1. Applicant's name: Pete's Coporation
2. Applicant's address: 1712 Broadway Parsons Kansas Phone: 620-778-0915
3. Address of property proposed for rezoning: 600,606, 610 West Main Independence Kansas 67301
4. Present owner's name: Pete's Corporation
5. Present zoning: Vacant / Residential Proposed zoning: Commercial ~~Res~~ C-2
6. Legal description of property proposed for rezoning (if more space is required, use back of form):
ORIG PLAT, S36, T32, R15, BLOCK 37, Lot 14 & 15; Lot Width: 046.0 Lot Depth: 140.0 (VACANT LOT)
ORIG PLAT, S36, T32, R15, E 7.5' LOT 10; LOTS 11-13 BLK 37; Lot Width: 076.5 Lot Depth: 140.0 (RESIDENTIAL)
ORIG PLAT, S36, T32, R15, BLOCK 37, Lot 16 -18; Lot Width: 070.0 Lot Depth: 140.0 (Jiffy Mart)
7. Present use of property (check one of the following): 606 West Main Vacant. 610 West Main House Owned
 (a) Vacant ☒ (b) Residential ☒ (c) Commercial ☐ (d) Industrial ☐
8. Desired use of property: Requesting commercial property to build new automatic touch less and car wash.
9. Use and zoning of adjacent property:
- | | |
|-------------------------------|-------------------|
| North: Use <u>Residential</u> | Zoning <u>R-3</u> |
| South: Use <u>Commercial</u> | Zoning <u>C-2</u> |
| East: Use <u>Residential</u> | Zoning <u>R-3</u> |
| West: Use <u>Residential</u> | Zoning <u>R-3</u> |
10. List reasons for this request:
Pete's Corporation owns the Jiffy Mart Building, Lot Adjacent at 606 West Main, Lots and house located at 610 West Main. Rezoning would allow the developement of a Automatic Car Wash to be built on the location.
New Business will serve the commnuity, bring additional tax revenue to the City of Independence

Date: 10/20/22Signature: [Signature]

Planning Commission Action – do not write in this space

1. Facts found: _____
2. Determination: _____

CITY OF INDEPENDENCE

REC#: 01205253 10/26/2022 9:37 AM
OPER: JESS TERM: 001
REF#:

ACCT #: XXXX-XXXX-XXXX-4091
AUTH #: 09035G
TRAN #: 000003361385
TYPE: PURCHASE
ENTRY MODE: MANUAL

TRAN: 1.9000 VARIANCE
600-606-610 W MAIN
RE ZONING
MISC FEES

200.00CR

TENDERED: 200.00 CREDIT CARD
APPLIED: 200.00-

CHANGE: 0.00



**REQUEST FOR PLANNING COMMISSION ACTION
HEARING FOR A TEXT AMENDMENT TO THE
ZONING CODE RELATING TO TEMPORARY SIGNS.
CITY OF INDEPENDENCE
DECEMBER 6, 2022**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public hearing to consider a text amendment to the zoning code relating to temporary signs.

SUMMARY RECOMMENDATION

BACKGROUND The City Commission initiated a public hearing before the Planning and Zoning Commission to consider a text amendment to the zoning code relating to political signs in order to comply with State statutes.

Current City Code states: 803.3. Temporary signs: All political signs, real estate signs, garage sale signs, or other signs of a temporary nature for a personal gain shall conform with the following requirements: a. No temporary signs of any nature shall be attached to any public utility pole or shall be installed within the right-of-way of a public road or street. b. It shall be the responsibility of the owner of the property on which the temporary sign is located to see that the sign is removed after the event occurs to which it pertains. c. Temporary signs shall not exceed eight square feet in face area. d. Temporary signs shall be located at least ten feet from any property line.

Proposed text amendment to be in compliance with K.S.A. 25-2711: “K.S.A. 25-2711. Placement of political signs during election period. No city or county shall regulate or prohibit the placement of or the number of political signs on private property or the unpaved right-of-way for city streets or county roads on private property during the 45-day period prior to any election and the two-day period following any such election. Cities and counties may regulate the size and a set-back distance for the placement of signs so as not to impede sight lines or sight distance for safety reasons.”

Section 803.3 Temporary signs: all political signs, real estate signs, garage sale signs, or other signs of a temporary nature for a personal gain shall conform with the following requirements: a. No temporary signs of any nature shall be attached to any public utility pole or shall be installed within the right-of-way of a public road or street, provided however, this subsection shall not apply to the placement of political signs during the 45 day period prior to any election and the 2 day period following any such election. b. This ordinance shall take effect upon its publication in the official city newspaper.

POLICY EXPLANATION When a proposed amendment would result in a change in the text of these regulations but would not result in a change of zoning classification of any specific property, the recommendation of the planning commission shall contain a statement as to the nature and effect of such proposed amendment and determinations as to the following items: a. Whether such change is consistent with the intent and purpose of these regulations; b. The areas which are most likely to be directly affected by such change and in what way they

will be affected; and c. Whether the proposed amendment is made necessary because of changed or changing social values, new planning concepts or other social economic conditions in the areas and zoning districts affected

STAFF RECOMMENDATION City Staff recommends approving the text amendment to be in compliance with K.S.A. 25-2711.

SUGGESTED MOTION I move to approve a text amendment to Section 803.3 Temporary signs: all political signs, real estate signs, garage sale signs, or other signs of a temporary nature for a personal gain shall conform with the following requirements: a. No temporary signs of any nature shall be attached to any public utility pole or shall be installed within the right-of-way of a public road or street, provided however, this subsection shall not apply to the placement of political signs during the 45 day period prior to any election and the 2 day period following any such election. b. This ordinance shall take effect upon its publication in the official city newspaper. The nature and effect of this amendment is to be in compliance with State law.

SUPPORTING DOCUMENTS

1. 10262022 - RCA -- Initiate Political Sign Text Amendment
2. Proposed Ordinance - Regulating Political Signs



**REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
October 26, 2022**

Department Admin

Director Approval Kelly Passauer

AGENDA ITEM Consider initiating a public hearing before the Planning Commission to consider a text amendment to the zoning code regarding temporary signs.

SUMMARY RECOMMENDATION Recommend initiating a public hearing on December 6, 2022 at 5:30 PM before the Planning Commission.

BACKGROUND It has come to the attention of City staff that the City code needs to be updated to be in compliance with K.S.A. 25-2711 which states:

“K.S.A. 25-2711. Placement of political signs during election period. No city or county shall regulate or prohibit the placement of or the number of political signs on private property or the unpaved right-of-way for city streets or county roads on private property during the 45-day period prior to any election and the two-day period following any such election. Cities and counties may regulate the size and a set-back distance for the placement of signs so as not to impede sight lines or sight distance for safety reasons.”

The City Attorney has reviewed our City code and recommends the modifications as included in the attached draft ordinance. Since this code change is found in the zoning code, it will require a public hearing to consider a text amendment before the Planning Commission.

FINANCIAL INFORMATION N/A

SUGGESTED MOTION I move to initiate a public hearing on December 6, 2022 at 5:30 PM before the Planning Commission to consider a text amendment to the zoning code relating to temporary signs.

SUPPORTING DOCUMENTS

1. Ordinance ____ - Regulating Political Signs

ORDINANCE NO. _____

An Ordinance Regulating Political Signs

BE IT ORDAINED by the Governing Body of the City of Independence, Kansas:

Section 1. Section 803.3(a) is amended as follows to read in its entirety:

Section 803.3 Temporary signs: all political signs, real estate signs, garage sale signs, or other signs of a temporary nature for a personal gain shall conform with the following requirements:

- a. No temporary signs of any nature shall be attached to any public utility pole or shall be installed within the right-of-way of a public road or street, provided however, this subsection shall not apply to the placement of political signs during the 45 day period prior to any election and the 2 day period following any such election.
- b. This ordinance shall take effect upon its publication in the official city newspaper.

Adopted by the Governing Body of the City of Independence, Kansas, on the 22nd day of December, 2022.

DEAN A. HAYSE, Mayor

ATTEST:

DAVID W. SCHWENKER, City Clerk



**REQUEST FOR PLANNING COMMISSION ACTION
INITIATE REZONING
CITY OF INDEPENDENCE
DECEMBER 6, 2022**

Department Admin

Prepared By Kelly Passauer

AGENDA ITEM Consider initiating the rezoning of a tract of land at 800 N. 21st Street to M-1, light industrial district.

SUMMARY RECOMMENDATION I move to initiate the rezoning of a tract of land located at 800 N. 21st Street to M-1, light industrial district.

BACKGROUND On July 29, 2004 the City Commission adopted the attached ordinance annexing the former SMP property (currently EarthCare at 800 North 21st Street). City staff has been unable to locate any documentation that initiated the rezoning of this property after it was annexed.

In order to correct this it is recommended to initiate rezoning of this parcel to M-1, light industrial district. If approved, a public hearing would be scheduled for your January 3, 2023 agenda.

SUPPORTING DOCUMENTS

1. Proposed Public Hearing Notice ZA 1 Rezoning Mears Addition
2. 800 N 21st Aerial
3. 3923, ANNEXATION, SMP

City of Independence, Kansas

NOTICE TO THE PUBLIC

The Independence, Kansas, Planning Commission will conduct a public hearing on:

Tuesday, January 3, 2023, at 5:30 p.m.

To receive comments to consider rezoning a tract of land at 800 N 21st Street to M-1, light industrial district.

Legal Description:

Lot 11, Block 3, Mears Addition to the City of Independence, Montgomery County, Kansas;

All of blocks 1 and 2, Reserve “A”, and all of Reserve “B” lying North of a line beginning at a point on the East line of said Reserve “B”, 109 feet north of the Southeast corner thereof, and running West to the West line thereof, all in Mears Addition to the City of Independence, including the vacated alley along the North and East side of said Block1;

A strip of land 12 ½ feet in width along the Southwest side of Lot 11 on an arc formed by an abandoned rail spur running from the Northwest to the Southeast. Also a strip of land 12 ½ feet in width along a northerly line of Reserve B of Mears Addition to the City of Independence formed by an arc of an abandoned rail spur running from the Northwest to the Southeast, all in the W/2 of Section 25, Township 32 South, Range 15 East, Montgomery County, Kansas, excluding any area currently in the City of Independence.

Common Address:

800 N. 21st Street

Applicant/Owners:

Earth Care Products Inc.

Case Number:

2023/ZA/01

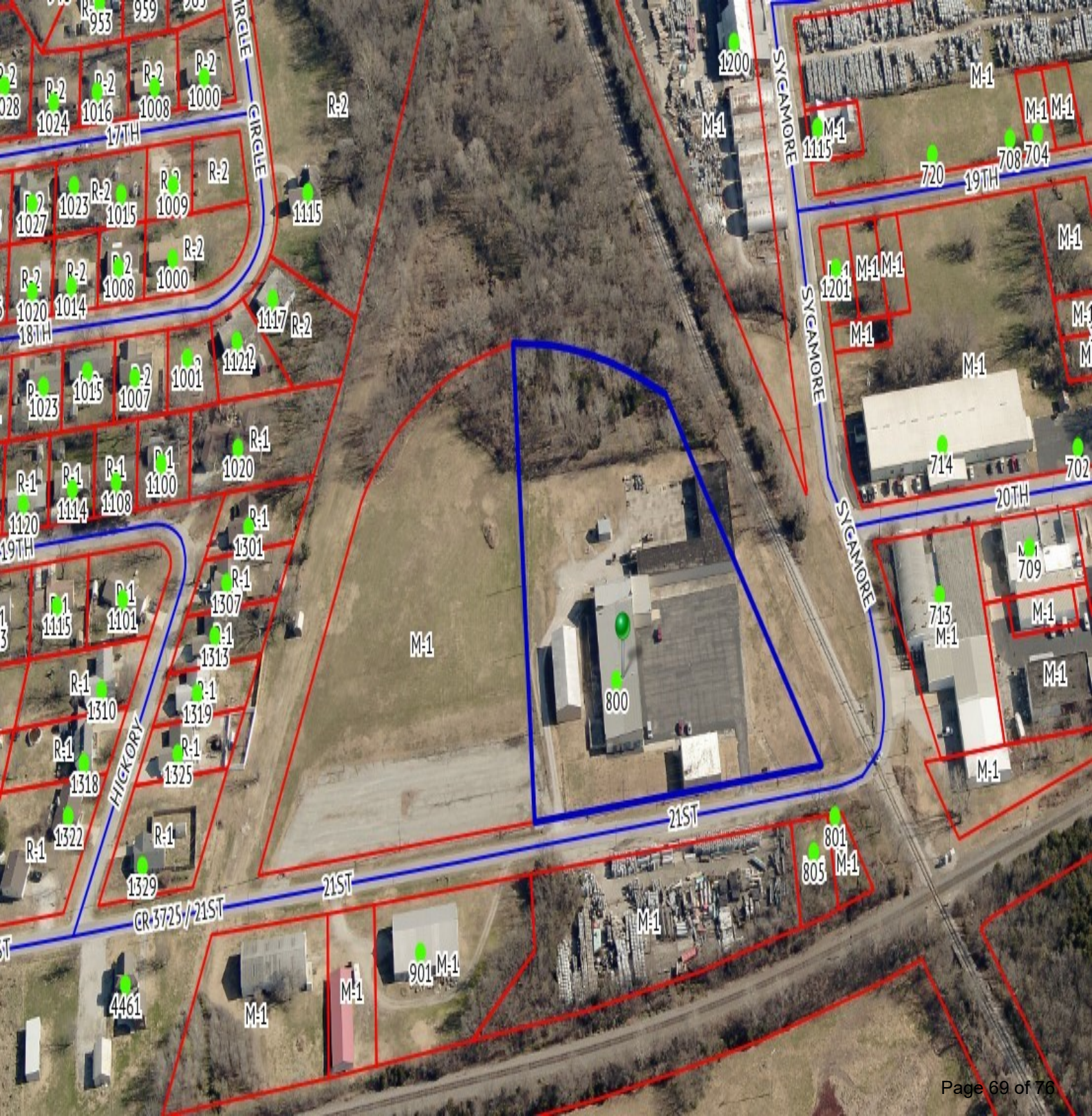
The hearing will be conducted in the Civic Center, Memorial Hall, Penn/Locust, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend, and they will be heard. You may also participate via conference call: [+1 785-289-4727](tel:+1785-289-4727) Conference ID: 652 632 373#

Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
811 W Laurel Street
Independence, KS 67301
(620) 332-2506

Information regarding this application is available in the Zoning Administrator’s office. If special accommodation is required, please inform the Zoning Administrator.

Kelly Passauer, Zoning Administrator



Affidavit of Publication

STATE OF KANSAS,

Montgomery County,

SS:

Herbert A. Meyer III

, being first duly sworn,

deposes and says: That he is the Publisher

of the

Independence Daily Reporter

a daily newspaper printed in the state of Kansas, and published in and of general circulation in Montgomery County, Kansas, with a general paid circulation on a daily basis in Montgomery County, Kansas, and that said newspaper is not a trade, religious or fraternal publication.

Said newspaper is a daily published at least weekly 50 times a year; has been so published continuously and uninterruptedly in said county and state for a period of more than five years prior to the first publication of said notice; and has been admitted at the post office of Independence in said County as second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for 1 consecutive day, the first publication thereof being made as afore-said on the 15th day of August, 2004, with subsequent publications being made on the following dates:

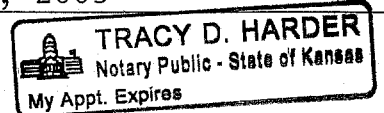
Subscribed and sworn to before me this 15th day of August, 2004

Tracy D. Harder
Notary Public

My commission expires: August 9, 2005

Printer's fee \$ 24.45

Additional Copies \$ _____



(First published in the Independence Daily Reporter August 13, 2004)

ORDINANCE NO. 3923

AN ORDINANCE ANNEXING LAND TO THE CITY OF INDEPENDENCE, KANSAS.

WHEREAS, the following described land is located in Montgomery County, Kansas;

WHEREAS, the following described land meets one or more of the conditions prescribed by K.S.A. 12-520(a)(1)-(6); and WHEREAS, the governing body of the City of Independence, Kansas, finds it advisable to annex such land;

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF INDEPENDENCE, KANSAS:

Section 1. That the following described land, meeting the conditions for annexation prescribed in K.S.A. 12-520, is hereby annexed and made a part of the City of

Independence, Kansas:

Lot 11, Block 3, Mears Addition to the City of Independence, Montgomery County, Kansas;

All of blocks 1 and 2, Reserve "A", and all of Reserve "B" lying North of a line beginning at a point on the East line of said Reserve "B", 109 feet north of the Southeast corner thereof, and running West to the West line thereof, all in Mears Addition to the City of Independence, including the vacated alley along the North and East side of said Block 1.

A strip of land 12 1/2 feet in width along the Southwest side of Lot 11 on an arc formed by an abandoned rail spur running from the Northwest to the Southeast. Also a strip of land 12 1/2 feet in width along a northerly line of Reserve B of Mears Addition to the City of Independence formed by an arc of abandoned rail spur running from the Northwest to the Southeast, all in the W/2 of Section 25, Township 32 South, Range 15 East, Montgomery County, Kansas, excluding any area currently in the City of Independence.

Section 2. This ordinance shall be effective after its publication in the official city newspaper.

PASSED AND APPROVED by the Governing Body of the City of Independence, Kansas this 29th day of July 2004.

s. Phillip Chappuis

ATTEST:

s. Anthony D. Royse

Director of Finance/City Clerk

(SEAL)

August 15, 2004

ORDINANCE NO. 3923

AN ORDINANCE ANNEXING LAND TO THE CITY OF INDEPENDENCE, KANSAS.

WHEREAS, the following described land is located in Montgomery County, Kansas;

WHEREAS, the following described land meets one or more of the conditions prescribed by K.S.A. 12-520(a)(1)-(6); and

WHEREAS, the governing body of the City of Independence, Kansas, finds it advisable to annex such land.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF INDEPENDENCE, KANSAS:

Section 1. That the following described land, meeting the conditions for annexation prescribed in K.S.A. 12-520, is hereby annexed and made a part of the City of Independence, Kansas:

Lot 11, Block 3, Mears Addition to the City of Independence, Montgomery County, Kansas;

All of blocks 1 and 2, Reserve "A", and all of Reserve "B" lying North of a line beginning at a point on the East line of said Reserve "B", 109 feet north of the Southeast corner thereof, and running West to the West line thereof, all in Mears Addition to the City of Independence, including the vacated alley along the North and East side of said Block 1;

A strip of land 12 ½ feet in width along the Southwest side of Lot 11 on an arc formed by an abandoned rail spur running from the Northwest to the Southeast. Also a strip of land 12 ½ feet in width along a northerly line of Reserve B of Mears Addition to the City of Independence formed by an arc of an abandoned rail spur running from the Northwest to the Southeast, all in the W/2 of Section 25, Township 32 South, Range 15 East, Montgomery County, Kansas, excluding any area currently in the City of Independence.

Section 2. This ordinance shall be effective after its publication in the official city newspaper.

PASSED AND APPROVED by the Governing Body of the City of Independence, Kansas this 29th day of July 2004.

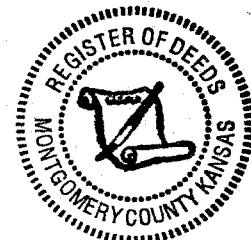
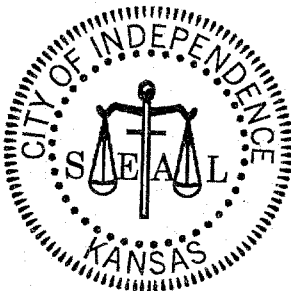
Mayor

STATE OF KANSAS MONTGOMERY COUNTY
FILED FOR RECORD
MARILYN CALHOUN, REGISTER OF DEEDS
1:54:43 PM, 8/11/2004 Receipt No.: 10024
ORDINANCE \$0.00

BOOK: 542 PAGE: 229

ATTEST:

Anthony D. Royse
Anthony D. Royse
Director of Finance / City Clerk



ORDINANCE NO. 3923

AN ORDINANCE ANNEXING LAND TO THE CITY OF INDEPENDENCE, KANSAS.

WHEREAS, the following described land is located in Montgomery County, Kansas;

WHEREAS, the following described land meets one or more of the conditions prescribed by K.S.A. 12-520(a)(1)-(6); and

WHEREAS, the governing body of the City of Independence, Kansas, finds it advisable to annex such land.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF INDEPENDENCE, KANSAS:

Section 1. That the following described land, meeting the conditions for annexation prescribed in K.S.A. 12-520, is hereby annexed and made a part of the City of Independence, Kansas:

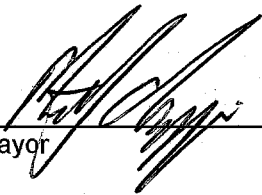
Lot 11, Block 3, Mears Addition to the City of Independence, Montgomery County, Kansas;

All of blocks 1 and 2, Reserve "A", and all of Reserve "B" lying North of a line beginning at a point on the East line of said Reserve "B", 109 feet north of the Southeast corner thereof, and running West to the West line thereof, all in Mears Addition to the City of Independence, including the vacated alley along the North and East side of said Block 1;

A strip of land 12 ½ feet in width along the Southwest side of Lot 11 on an arc formed by an abandoned rail spur running from the Northwest to the Southeast. Also a strip of land 12 ½ feet in width along a northerly line of Reserve B of Mears Addition to the City of Independence formed by an arc of an abandoned rail spur running from the Northwest to the Southeast, all in the W/2 of Section 25, Township 32 South, Range 15 East, Montgomery County, Kansas, excluding any area currently in the City of Independence.

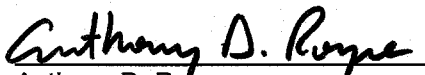
Section 2. This ordinance shall be effective after its publication in the official city newspaper.

PASSED AND APPROVED by the Governing Body of the City of Independence, Kansas this 29th day of July 2004.



Mayor

ATTEST:



Anthony D. Royse
Director of Finance / City Clerk



PLAT

Showing legal survey of Reserves A and B of Mear's Addition lying in the west half of Section 25 Township 32S. Range 15E. in Montgomery County, Kansas. Reserve B lies within the limits of the City of Independence, Kansas.

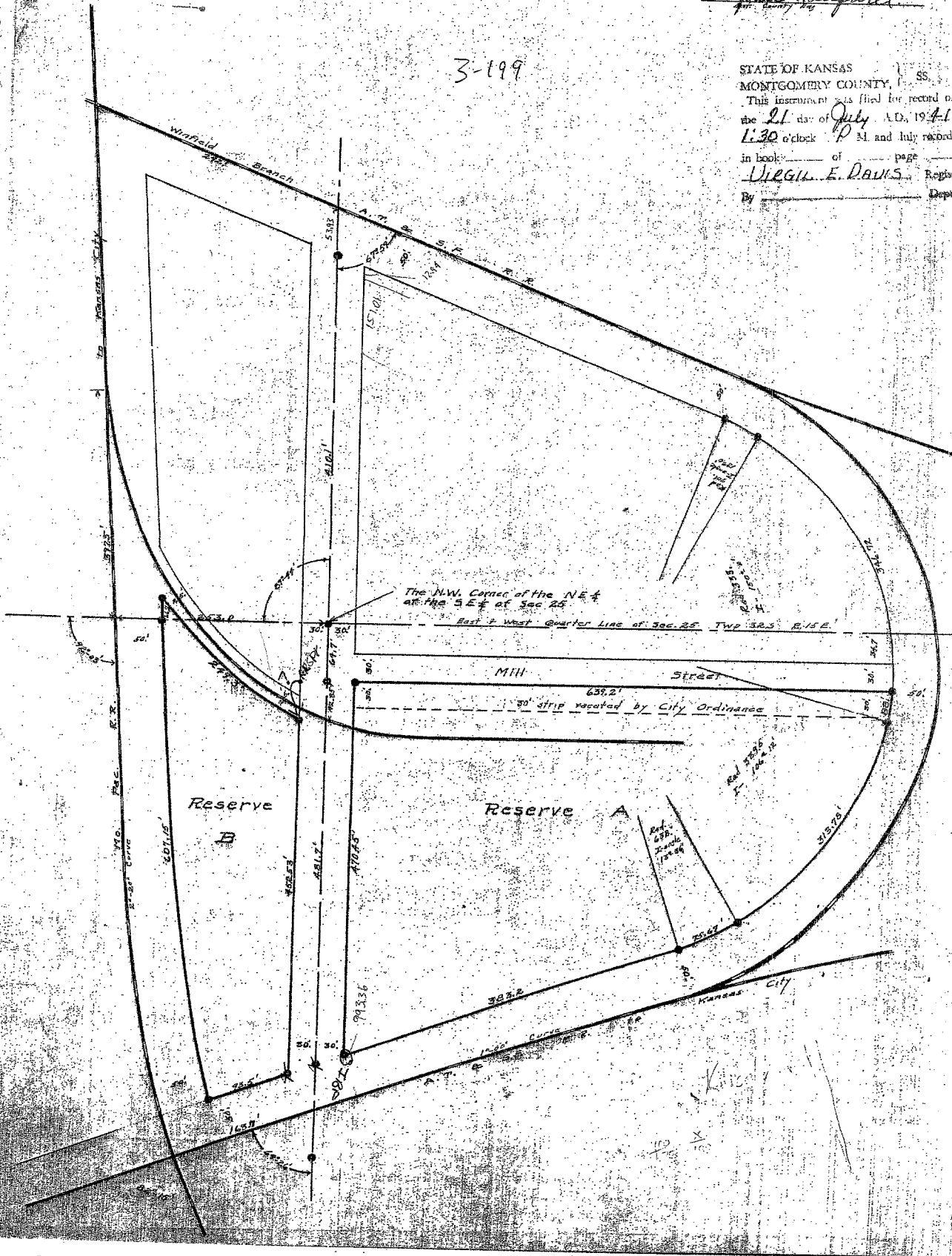
• Denotes Iron bar set

Recorded June 19 1941.

John Langwill
Att. County Clk.

3-199

STATE OF KANSAS
MONTGOMERY COUNTY, SS.
This instrument was filed for record on the 21 day of July A.D. 1941 at 1:30 o'clock P. M. and duly recorded in book _____ of _____ page _____
VIRGIL E. DAVIS Register
By _____ Deput



PETITION AND CONSENT TO ANNEXATION

The undersigned are record owners (hereafter Owners) of the following described property located in Montgomery County, Kansas:

Legal Description on attached Exhibit "A"

To the extent that the above described property has not been previously annexed by the City of Independence, Kansas, Owners hereby petition and give irrevocable consent to the annexation of the above property by the City of Independence, Kansas, without necessity of formal hearing requirements otherwise required by law and waive their right to maintain an action in District Court for the purpose of challenging the authority to the City of Independence, Kansas, to annex said property and the regularity of the proceedings.

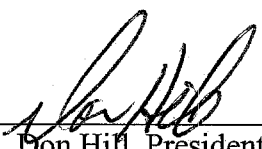
In the event the City of Independence, Kansas does not annex the property, or if the annexation is subsequently set aside for any reason, any rights extended to Owners because of annexation shall be subject to immediate withdrawal by the City of Independence, Kansas.

This agreement shall constitute a covenant running with the land and shall be binding upon owners' heirs, successors and assigns.

OWNERS

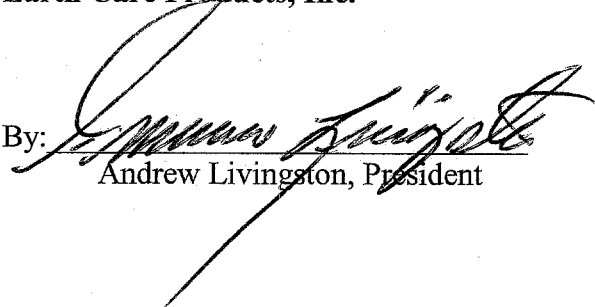
Independence Action Partnership, Inc.

By: _____


Don Hill, President

Earth Care Products, Inc.

By: _____

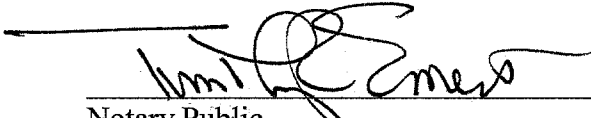

Andrew Livingston, President

ACKNOWLEDGMENTS

STATE OF KANSAS)
) ss:
MONTGOMERY COUNTY)

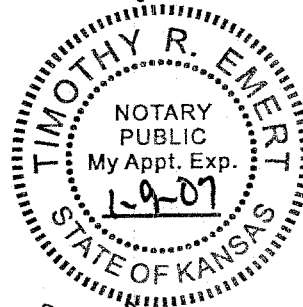
BE IT REMEMBERED that on the 22nd day of July, 2004, before me a Notary Public in and for the County and State aforesaid, came Don Hill, President of Independence Action Partnership, Inc., a corporation duly organized, incorporated and existing under and by virtue of the laws of the State of Kansas, who is personally known to me to be the same person who executed the above and foregoing instrument of writing on behalf of said corporation, and said person duly acknowledged the execution of the same to be the act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.



Notary Public

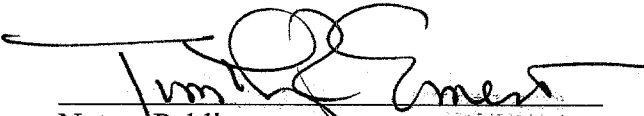
My commission expires: 1-9-07



STATE OF KANSAS)
) ss:
MONTGOMERY COUNTY)

BE IT REMEMBERED that on the 22nd day of July, 2004, before me a Notary Public in and for the County and State aforesaid, came Andrew Livingston, President of Earth Care Products, Inc., a corporation duly organized, incorporated and existing under and by virtue of the laws of the State of Kansas, who is personally known to me to be the same person who executed the above and foregoing instrument of writing on behalf of said corporation, and said person duly acknowledged the execution of the same to be the act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.



Notary Public

My commission expires: 1-9-07

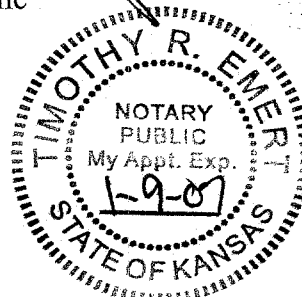


EXHIBIT A

Legal Description

Lot 11, Block 3, Mears Addition to the City of Independence, Montgomery County, Kansas.

All of blocks 1 and 2, Reserve "A", and all of Reserve "B" lying North of a line beginning at a point on the East line of said Reserve "B", 109 feet north of the Southeast corner thereof, and running West to the West line thereof, all in Mears Addition to the City of Independence, including the vacated alley along the North and East side of said Block 1;

A strip of land 12 ½ feet in width along the Southwest side of Lot 11 on an arc formed by an abandoned rail spur running from the Northwest to the Southeast. Also a strip of land 12 ½ feet in width along the northerly line of Reserve B of Mears Addition to the City of Independence formed by an arc of an abandoned rail spur running from the Northwest to the Southeast. All in the W/2 of Section 25, Township 32 South, Range 15 East, Montgomery County, Kansas.