

MCCOOK CITY COUNCIL

REGULAR MEETING

**Monday, July 12, 2021
5:15 PM - City Council Chambers**

Open Meetings Act Announcement.

Items

1. Approve the minutes of the April 12, 2021 regular Planning Commission meeting.
2. Public Hearings and Regular Agenda.
 - A. Public Hearing - Request for a special exception by Kris Flammang/Tri-Star Investments to allow a structure containing only residential uses in the Central Business (CB) District - property located at 109 East "C" Street.
 1. Adjourn the Public Hearing.
 - B. Recommend approval to the City Council a special exception from Kris Flammang/Tri-Star Investments (in care of Mark Wacker) to allow a structure containing only residential uses in the Central Business (CB) at property legally described as the East Forty Feet (E 40') of Lot Seven (7) and Eight (8), Block Fifteen (15), Original Town to the City of McCook, Red Willow County, Nebraska (a/k/a 109 East "C" Street); said special exception based upon special exception requirements A - I.
3. Select new officers for the term of April 2021 through March 2022 - Chair, Vice-Chair, and Secretary - pursuant to Chapter 35, Section 35.001 of the City of McCook Code of Ordinances.

Adjournment.

**CITY MANAGER'S REPORT
JULY 12, 2021 PLANNING COMMISSION MEETING**

ITEM: **1**

RECOMMENDATION:

Approve the minutes of the April 12, 2021 regular meeting.

BACKGROUND:

Receive and approve the minutes.

FISCAL

IMPACT: None.

APPROVALS:



Lea Ann Doak, City Clerk

July 6, 2021

McCook Planning Commission
Regular Meeting
April 12, 2021
5:15 PM Central

A MEETING OF THE PLANNING COMMISSION OF THE CITY OF MCCOOK, NEBRASKA convened in open, regular, and public session at 5:15 o'clock P.M. in the City Council Chambers.

Present: Chair Vosburg; Vice Chair Hilker; Commissioners Bradley, Davidson, Dueland, Friehe, Lyons, McDowell.

Absent: Commissioners Stevens, Graham.

City Officials present: City Manager Schneider, City Attorney Mustion, City Clerk Doak.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on April 8, 2021, the designated method of giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to all members of the Planning Commission. Availability of the agenda was communicated in the advance notice. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

Chair Vosburg announced that a copy of the Open Meetings Act was posted by the entrance to the Council Chambers and available for public review.

1. Approve the minutes of the December 14, 2020 regular Planning Commission meeting.

Motion to approve the minutes of the December 14, 2020 regular Planning Commission meeting. This motion, made by Vosburg and seconded by McDowell, passed.

Vosburg: YEA, Hilker: YEA, Bradley: YEA, Davidson: YEA, Dueland: YEA, Friehe: YEA, Graham: ABSENT, Lyons: YEA, McDowell: YEA, Stevens: ABSENT
YEA: 8, NAY: 0, ABSENT: 2

2. Public Hearings and Regular Agenda.

- 2.A. Public Hearing - Application regarding the Final Plat (for a minor subdivision) for proposed Bishop Acres Fourth Subdivision, Part of the SW 1/4 Section 24, T3N, R30W, of the 6th P.M., Red Willow County, Nebraska.

Motion to recess as a Planning Commission and convene a public hearing for the purpose of receiving public comment with respect to the application regarding the Final Plat (for a minor subdivision) for proposed Bishop Acres Fourth Subdivision, Part of the SW 1/4 Section 24, T3N, R30W, of the 6th P.M., Red Willow County, Nebraska, with the City Attorney to act as hearing officer. This motion, made by Vosburg and seconded by Lyons, passed.

Vosburg: YEA, Hilker: YEA, Bradley: YEA, Davidson: YEA, Dueland: YEA, Friehe: YEA,

Graham: ABSENT, Lyons: YEA, McDowell: YEA, Stevens: ABSENT
YEA: 8, NAY: 0, ABSENT: 2

Exhibit #1 - City Manager's Report prepared for the April 12, 2021 Planning Commission meeting (1 page), Exhibit #2 - Notice of Hearing published and posted (1 page); Exhibit #3 - ownership list for mailing of Notice of Hearing (1 page); Exhibit #4 - Land Use Action Request Form and attachments (13 pages); and Exhibit #5 - proposed Final Plat Bishop Acres Fourth Subdivision were offered an accepted into evidence by the City Attorney, comments were taken from City Staff before opening to the public for comment.

City Manager Schneider reviewed the following information presented in Exhibit #1: "In July of 2020, the McCook Planning Commission and the McCook City Council approved a preliminary plat for a major subdivision known as Bishop Acres Third Subdivision. The approval paved the way for a developer to potentially develop the A.M. Bishop Family Trust property located southeast of the intersection of Drive 716 and Road 383. The Planning Commission and City Council requested the owner to develop a preliminary plat after Bishop Acres Second Subdivision was developed. The Planning Commission and City Council both expressed a desire to see a more concrete plan developed so subdivision projects weren't done in a piecemeal fashion. That was the impetus behind the preliminary plat's approval in July of 2020."

"The current application does not address developing Bishop Acres Third Subdivision as was expected at the time of the passage of the preliminary plat. The application requests that the northwest corner of the Bishop Acres Third Subdivision be subdivided from the current lot. Unfortunately, the application fails to tie the proposed fourth subdivision into the overarching preliminary plat concept. For that reason, staff is recommending that the application be denied."

"As a side note, in preparation of this Planning Commission meeting, Staff discovered the preliminary plat mylar for Bishop Acres Third Subdivision was not filed as was required. Miller & Associates will be working on completing the mylar for the City of McCook's records."

Scott Clifford of Miller & Associates, representing Mr. Bishop, was present to answer questions from the Commission. He presented copies of the Bishop Acres Third Preliminary Plat.

Discussion included paving requirements of the City's Subdivision Regulations, could they be amended to allow for gravel/rock streets instead of paved; what lots are impacted by the creation of an improvement district; and the requirements necessary to properly develop Bishop Acres Subdivision per the Preliminary Plat adopted on July 20, 2020.

With no one else present to comment, motion to adjourn the public hearing and to reconvene as a Planning Commission. This motion, made by Friehe and seconded by McDowell, passed.
Vosburg: YEA, Hilker: YEA, Bradley: YEA, Davidson: YEA, Dueland: YEA, Friehe: YEA,
Graham: ABSENT, Lyons: YEA, McDowell: YEA, Stevens: ABSENT
YEA: 8, NAY: 0, ABSENT: 2

2.B. Recommend to the McCook City Council denial of the Final Plat (for a minor subdivision)

for proposed Bishop Acres Fourth Subdivision, Part of the SW 1/4 Section 24, T3N, R30W, of the 6th P.M., Red Willow County, Nebraska.

Motion to postpone consideration of the Final Plat (for a minor subdivision) for proposed Bishop Acres Fourth Subdivision to a definite time, that date being May 10, 2021 at 5:15 P.M. This motion, made by Vosburg and seconded by McDowell, passed.

Vosburg: YEA, Hilker: YEA, Bradley: YEA, Davidson: YEA, Dueland: YEA, Friehe: YEA, Graham: ABSENT, Lyons: YEA, McDowell: YEA, Stevens: ABSENT
YEA: 8, NAY: 0, ABSENT: 2

Adjournment.

With no further business, Chair Vosburg declared the Planning Commission meeting adjourned at 6:12 P.M.

Lea Ann Doak, Recording Secretary

**CITY MANAGER'S REPORT
JULY 12, 2021 MCCOOK PLANNING COMMISSION MEETING**

ITEM: 2.A. Public Hearing - Request for a special exception by to allow a structure containing only residential uses in the Central Business District (CB).

ITEM: 2.B. Approve the application for a special exception by Kris Flammang/Tri-Star Investments (in care of Mark Wacker) for a structure containing only residential uses in the Central Business District (CB) at property legally described as the East 40 feet of Lot 7 and 8, Block 15, Original Addition to the City of McCook (a/k/a 109 East C Street), said special exception based upon special exception requirements A - I.

BACKGROUND:

An application for a special exception has been submitted by Kris Flammang/Mark Wacker requesting a special exception for the allowance of a structure containing only residential uses in the CB District. The property is located at 109 East C Street. Specifically, Mr. Flammang would like to utilize the property for a four-plex apartment. The building that sits on the property is a two-story building. The first floor has been used for commercial purposes. The second floor has been used for residential purposes. Mr. Flammang would like to convert the first floor to residential units. Each proposed apartment would contain one bedroom.

Staff has reviewed the request in conjunction with the special exception criteria found in Article 24 of the McCook Zoning Ordinance. Staff had few concerns with the project as it relates to the special exception criteria, with the exception of accommodating off-street parking. During its research, staff discovered a provision in the McCook Zoning Ordinance that addresses potential off-street parking concerns. Section 2111 of the McCook Zoning Ordinance states, "if minimum off-street parking and loading space cannot be reasonably provided on the same lot on which the principal structure or use is conducted in the opinion of the Board of Zoning Adjustment, the Board of Zoning Adjustment may permit such space to be provided on other off-street property, provided, that such space lies within four hundred (400) feet of the entrance to each principal structure or use." Mr. Flammang submitted an application to the Board of Zoning Adjustment, requesting that the parking lot located at the southwest intersection of East 1st and East D Streets be considered for off-street parking purposes. Per Section 2111, minimum off-street parking and loading requirements are not applicable to the CB District. According to Mr. Flammang, only 4 parking stalls will be necessary. The Board of Zoning Adjustment approved Mr. Flammang's application, finding that the request would not negatively impact the public parking lot.

All other special exception criteria can be met by Mr. Flammang. Staff does not believe ingress and egress would be negatively impacted by the grant of a special exception. Staff also noted that the McCook Comprehensive Plan stresses the importance of creating additional residential space, specifically citing the need to develop residential units in McCook's downtown district.

EXHIBIT #1

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APPROVALS:

Lea Ann Doak
Lea Ann Doak, City Clerk

July 6, 2021

prepared by:
Nathan A. Schneider, City Manager

July 6, 2021

**NOTICE OF HEARING
REQUEST FOR
SPECIAL EXCEPTION**

NOTICE IS HEREBY GIVEN that a public hearing will be held on a request for a special exception to allow a structure containing only residential uses in the Central Business (CB) District.

ADDRESS: 109 East "C" Street

LEGAL DESCRIPTION: The East Forty Feet (E 40') of Lots Seven (7) and Eight (8), Block Fifteen (15), Original Town of the City of McCook, Red Willow County, Nebraska

PROJECT SPONSOR/
DEVELOPER/FUTURE
LAND OWNER: Flammang Family Trust

LAND OWNER: Tri-Star Investments

Public Hearings will be held on the dates, times, and at the places listed below:

JULY 12, 2021 - 5:15 P.M.
MCCOOK PLANNING COMMISSION
CITY COUNCIL CHAMBERS
505 WEST "C" STREET

JULY 19, 2021 - 5:30 P.M.
MCCOOK CITY COUNCIL
CITY COUNCIL CHAMBERS
505 WEST "C" STREET

ANY AND ALL PERSONS desiring to comment on the above-described request will be given an opportunity to be heard. Please direct all inquiries to Nate Schneider, City Manager, at 308-345-2022 ext. 225.

-s- Lea Ann Doak
City Clerk

Publish: July 2, 2021
Post: July 2, 2021
Mail: July 2, 2021

EXHIBIT #2

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OWNERSHIP LIST FOR MAILING:

Tom Bredvick, President
McCook Public Schools
600 West 7th Street
McCook NE 69001

Red Willow County
%Tami Teel
502 Norris Avenue
McCook NE 69001

Masonic Temple Craft
PO Box 962
McCook, NE 69001

Leslie Longnecker
314 Norris Ave
McCook, NE 69001

Michael and Laura Ford
315 Norris Ave
McCook, NE 69001

Law 101, LLC
101 West C St.
McCook, NE 69001

Muehlenkamp Design, LLC
210 Norris Ave
McCook, NE 69001

Kim and Jay Schilling
37957 Rd 713
McCook, NE 69001

Lucinda & Norman Fries-Hughes
PO Box 202
McCook, NE 69001

Betty Jo Kenner
311 E 5
McCook, NE 69001

Lincoln Federal Savings and Loan
PO Box 80038
Lincoln, NE 68501

Classic Hair Properties, LLC
72877 Ave 373
Culbertson, NE 69024

Red Willow Co. School Dist. #17
700 West 7th Street
McCook NE 69001

Red Willow County Planning Commission
502 Norris Avenue
McCook NE 69001

John Hanson
PO Box 338
McCook, NE 69001

Mo Dough, LLC
312 Norris Ave
McCook, NE 69001

Barbara & Gary Wiemers
304 Norris Ave
McCook, NE 69001

MNB
PO Box 1208
McCook, NE 69001

Sports Shoppe, Inc
208 Norris Ave
McCook, NE 69001

Randy and Kimberly Bauer
PO Box 91
McCook, NE 69001

Rafael Ayala
311 Norris Ave
McCook, NE 69001

Chad Graff
Joann Falkenburg
492 Staten Ave, Apt 503
Oakland, CA 94610-4906

Technology House, LLC
Srinivas Ready Kandi
6688 Excelsior Place
Frisco, TX 75035

Catherine Kenny
310 Park
McCook, NE 69001

EXHIBIT #3

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David & Ye Wilson
1105 W 6
McCook, NE 69001

Darrel Messersmith
1106 W 2
McCook, NE 69001

Benjamin Lloyd
PO Box 995
McCook, NE 69001

W Design Associates, Inc.
PO Box 99
McCook, NE 69001

Serena Dawn Knight
309 ½ East 1st
McCook, NE 69001

Vicki Knight and Milton Tidyman
307 E 1
McCook, NE 69001

John & Karen Mondero
c/o Paul and Ashley Donovan
501 E 4
McCook, NE 69001

Lilia and Ismael Dimas
308 Seminole Drive
McCook, NE 69001

McCook Art Guild
209 Norris Ave
McCook, NE 69001

Thomas & Rebecca Wiemers
1203 W 6
McCook, NE 69001

Sharon Blackwell
PO Box 426
McCook, NE 69001

McCook Community Development
402 Norris Ave
McCook, NE 69001

ESU #15
PO Box 398
Trenton, NE 69044

Wagner Chevrolet
PO Box 710
McCook, NE 69001

July 12th
5:15

CITY OF McCOOK

LAND USE ACTION REQUEST FORM

This request is for a:
(Check all that apply)

- Zone Change
- Special Exception
- Administrative Permit (Personal Wireless Facility)
- Special Exception (Personal Wireless Facility)
- Minor Subdivision
- Major Subdivision
- Planned Development (Includes Zone Change)

Name of Project: Residential Apts in Central Bus District
 Description of Project: At Address 109 East C requesting a special exception to allow for structure to be used for residential purposes. Currently, 1st floor is commercial & 2nd floor residential.

Project sponsor or developer: future owner
 Name: Flammang Family Trust
 Address: 14514 17th Ave E Bradenton FL 34212
 Phone number: 941 266-1842
 Fax number: N/A
 E-mail Address: kflammangcjq@gmail.com

current Land owner or owners:
 Name: Tin Star, Investment Co Mark Wacker
 Address: #16 Wedgewood Drive
 Phone number: 308 340 9493
 Fax number: N/A
 E-Mail Address: mwacker@gwmccook.com
mWacker@mnbbank

Authorization of the land use action by land owner:

I hereby certify that I own and/or control the following land where the land use action is being requested. (Attach evidence of ownership or control. e.g. power of attorney, deed, or purchase agreement)

Kris Flammang TEE
Printed Name:

[Signature]
Signature:

Date:

Mark Wacker
Printed Name:

[Signature]
Signature:

Address and physical location of the Proposed Land Use Action: 109 East C
McCook NE

Property Description (Of the parent parcel for subdivisions): East 40' of lot 7 & 8, block 15, original McCook

Required Information:

See Attached sheets for required information for:

- Subdivisions
- Zone Changes and special exceptions
- Planned developments

FEE PAID: \$ 75 (See attached schedule of fees)

Fee, complete application, and required attachments accepted by:

Printed name

Signature

Date

REQUIRED ATTACHMENTS:

For ~~Zone Changes~~ and Special Exceptions:

(For Zone Changes or Amendments see Article 27 of the Zoning Ordinance; for Special Exceptions see Article 24 Special Exceptions)

N/A

Include a description of the reason for the request for a change of zone:

N/A

✓ Include a description of any special exception requested including the section of the zoning ordinance under which it is requested: (Example: Special exception to construct multi-family dwellings in (RM) Residential Medium Density area comprised of single family dwellings.)

Special exception Section 1204, to allow for A commercial/residential building to also be used AS residential.

✓ Include a site plan (minimum 17" X 11") and a letter of explanation showing and explaining the following special exception requirements:

picture of outside of Attach 8 1/2 x 11

(A) ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;

(B) off-street parking and loading areas where required, with particular attention to the items in (A) above, the economic, noise, glare or odor effects of the special exception or change of zone on adjoining properties and the properties generally in the district or the area;

(C) the location of refuse and service areas, with particular reference to the items in (A) and (B) above;

trash can dumpster in alley which is currently used by tenants

(D) utilities, with reference to locations, availability, and compatibility;

each unit has its own meter, any utility additions will comply w/ building codes.

(E) screening and buffering with reference to type, dimensions, and character;

none needed

(F) signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

signs will comply with sign ordinance

- (G) required yards and other open space; N/A central business has zero foot setback
- (H) general compatibility with adjacent properties and other properties in the district; currently residential properties in close vicinity & 2nd floor of some existing business
- (I) compatibility with existing and future land use plan in the McCook Comprehensive Plan.

Explain how the project complies with the Comprehensive Plan: 2012 housing study called for a need of more rental units (132) by 2023 as a housing initiative - this project would add to the number available

FINDINGS AND DETERMINATIONS OF MCCOOK CITY COUNCIL

CASE NO. _____

SIGNED: _____
Mayor

DATE _____

ATTEST: _____
City Clerk

SPECIAL EXCEPTION CONSIDERATIONS:

YES NO

1. The proposed special exception use would satisfactorily provide for:

- a) ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
- b) off street parking and loading areas where required, with particular attention to the items in a) above, and the economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;
- c) refuse and service areas, with particular attention to the items in a) and b) above;
- d) utilities, with reference to locations, availability and compatibility;
- e) screening and buffering with reference to type, dimensions and character;
- f) signs, if any, and proposed exterior lighting with reference to glare, traffic safety and economic effect and comparability and harmony with properties in the district;
- g) required yard and other open space;
- h) general compatibility with adjacent properties and other property in the district.
- i) Compatibility with existing and future land use plan in the McCook Comprehensive Plan.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

2. The specific rules governing special exceptions have been complied with.

CITY COUNCIL FINDINGS AND DECISION:

The McCook City Council hereby determines that the special exception will _____, will not _____ adversely affect the public interest. The special exception herein requested is _____, is not _____ hereby granted subject to the stipulations noted below, if any.

THIS _____ DAY OF _____, 2018.

**CITY MANAGER'S REPORT
JUNE 28, 2021 BOARD OF ZONING ADJUSTMENT MEETING**

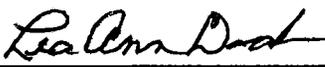
- 2** Item A Consider a request for a variance of the off-street parking requirements for the property located at 109 ~~West~~ ^{East} C Street, allowing for off-street parking on a space that lies within 400 feet of the entrance of the principal structure.

BACKGROUND:

Tri-Star Investment owns property located at 109 West C Street. Tri-Star has entered into an agreement with Kris Flammang for the purchase of the property. The property is currently home to a multi-use building: the first floor is commercial space while the second floor is residential space. Mr. Flammang would like to convert the entire building into a residential structure. The building is located downtown, within the Central Business (CB) District. There are no off-street parking stalls located on the property.

Per Article 21, Section 2111 of the City of McCook's Zoning Ordinance, "if minimum off-street parking and loading space cannot be reasonably provided on the same lot on which the principal structure or use is conducted in the opinion of the Board of Zoning Adjustment, the Board may permit such space to be provided on other off-street property, provided, that such space lies within four hundred (400) feet of the entrance to each principal structure or use." Staff identified the parking lot located on the southwest side of the intersection of East 1st and East D as a parking space that would suit the needs associated with residential parking at 109 East C. There are more than enough spaces available to accommodate the proposed use. Section 2111 also makes it clear that minimum off-street parking requirements do not apply to the Central Business District, meaning that McCook's minimum off-street parking and loading requirements are not material to this request.

APPROVALS:



Lea Ann Doak, City Clerk

June 23, 2021



Nathan A. Schneider, City Manager

June 23, 2021

EXHIBIT #6

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NOTICE OF HEARING

**REQUEST FOR
VARIANCE**

NOTICE IS HEREBY GIVEN that a public hearing will be held on a request for a variance of the minimum off-street parking requirements in the Central Business (CB) District; the Board may permit such space to be provided on other off-street parking property, provided, that such space lies within four hundred (400) feet of the entrance to each principal structure.

LEGAL: The East Forty Feet (E 40') of Lots Seven (7) and Eight (8), Block Fifteen (15), Original Town of the City of McCook, Red Willow County, Nebraska.

APPLICANT: Tri-Star Investments and Kris Flammang

ADDRESS: 109 East "C" Street, McCook

A Public Hearing will be held on the Date, Time, and at the Place listed below:

June 28, 2021 - 5:30 P.M.
Board of Zoning Adjustment
City Council Chambers
505 West "C" Street

ANY AND ALL PERSONS desiring to comment on the above-described request will be given an opportunity to be heard. Please direct all inquiries to Nate Schneider, McCook City Manager at 308-345-2022 ext. 225.

-s- Lea Ann Doak
City Clerk

Publish: June 25, 2021.

EXHIBIT #2

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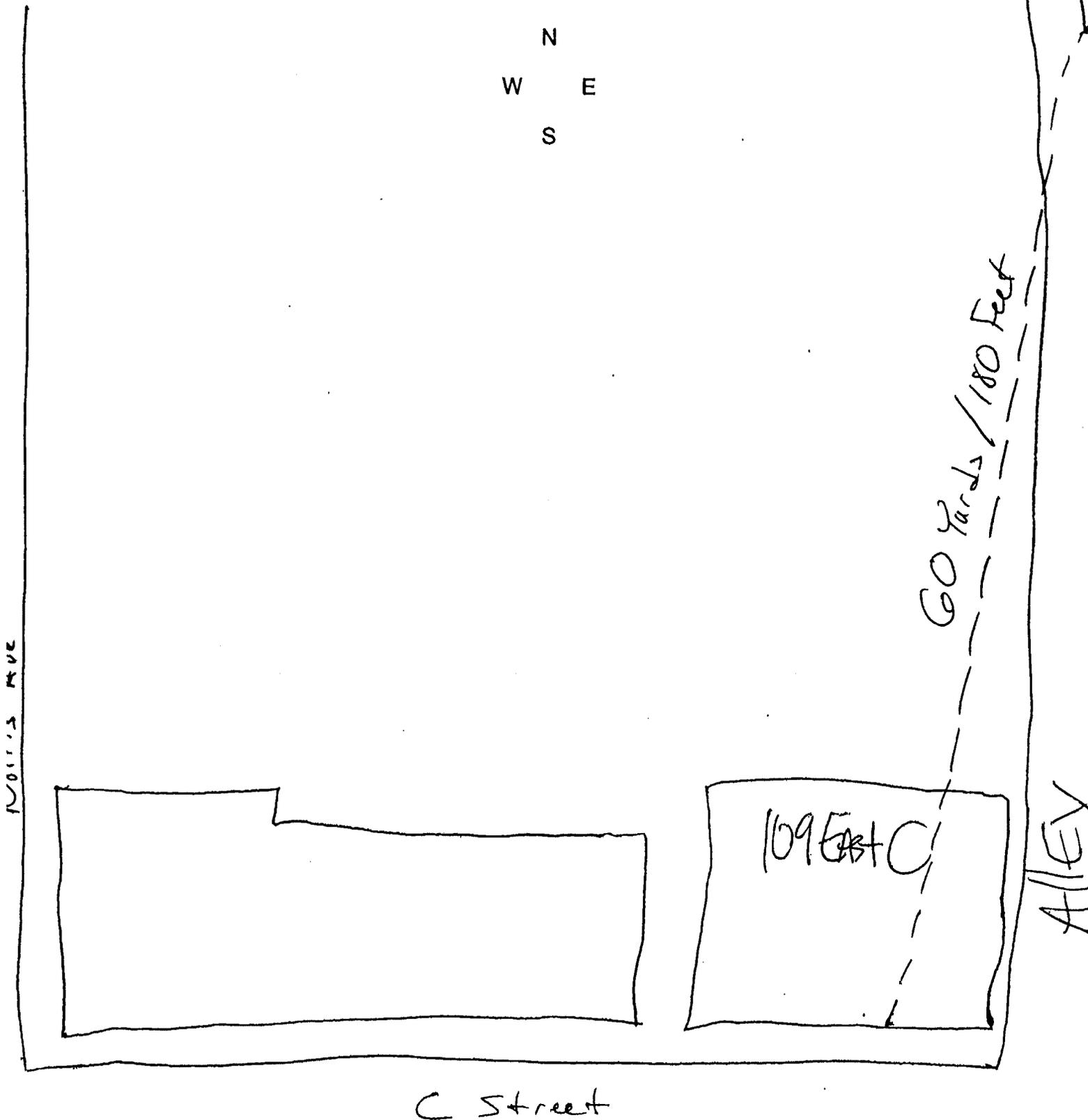
VARIANCE APPLICATION

APPLICATION NO. _____ DATE: _____
FEE ATTACHED: _____
APPLICATION COMPLETE: _____ SIGNED: [Signature]
KRIS Applicant MARK WACKER

1. Applicant's Name: TIN STAR Investments of Mark Wacker & Kris Flammanig
2. Applicant's Address: MARK: #16 Wedgewood Drive McCook
KRIS: 14514 17th Ave E Bradenton FL Phone: 941 266-1842
Email Address: MARK: mwacker@gwmccook.com 34212
KRIS: kflammanigje@gmail.com
3. Address of Property Affected: 109 East C McCook
4. Legal Description of Property: East 40' of lot 7 & 8, block 15, original McCook
5. Zoning Central business Corner Lot? Yes No _____
6. Applicant's interest in the Property (i.e. owner, tenant), attached proof of ownership: purchase agreement
developer/owner
7. Description of variance requested: (Example: Variance of side lot set back requirement from 5 feet to 3 feet). section 2011 - off street parking VARIANCE
8. Sections of Zoning Ordinance No. 2016-2929 which are affected (to be completed by staff)
ARTICLE: 21
SECTION: 2111

9. Draw the general area of your property and structure (existing and proposed) and adjacent properties and structures. (Not to scale).

N
W E
S



This request is an A-typical variance request. The variance is specifically allowed in Article 21 - section 2111 of McCook ordinances 2016-2929: RES PARKING

The Applicant must provide proof that the following criteria are met regarding the parcel of property for which the variance is being requested:

1. Referring to the specific parcel of property,
 - a) the parcel of property is exceptionally narrow;
 - b) the parcel of property is exceptionally shallow; or
 - c) the shape of the parcel of property is exceptional.

OR

 - d) the parcel of property has exceptional topographic conditions; or
 - e) the parcel of property has other exceptional or extraordinary conditions.
2. Strict application of the zoning ordinance would result in:
 - a. peculiar and exceptional practicable difficulties to the owner; OR
 - b. exceptional and undue hardships on the owner of such property.
3. Such relief may be granted without:
 - a. substantial detriment to the public good; AND
 - b. without substantially impairing the intent and purpose of the ordinance.
4. No variance shall be authorized unless the Board finds:
 - a. strict application of the zoning ordinance would produce undue hardship;
 - b. such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
 - c. authorization of such variance will not be a substantial detriment to adjacent property and the character of the district will not be changed by granting the variance;
 - d. granting the variance is based upon reason of demonstrable and exceptional hardship as distinguished from variation for purposes of convenience, profit, or caprice.
5. No variance shall be authorized if request is:
 - a. of a general and recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

Please provide documentation of the above, such as maps, photographs, or other evidence to substantiate your application.

THE BOARD MUST FIND THAT ALL OF THE ABOVE REQUIREMENTS ARE MET BY THE APPLICANT BY A CONCURRING VOTE OF FOUR MEMBERS OF THE BOARD.

APPLICANT DECLARATIONS

N/A 1.

The following special conditions or circumstances exist on the land which pose an undue hardship on the applicant: (Describe conditions and circumstances.)

2. Please state the minimum variance necessary to permit the proposed construction

3. Without the granting of this variance the applicant would suffer a hardship not suffered by other properties located in the same zoning district and same vicinity.

Yes No

4. The granting of the variance will not adversely affect the rights of the adjacent property owners or residents nor will it confer upon the applicant any special privilege denied by the Zoning Ordinance. Yes No

(Attach approval certifications from adjacent property owners.)

5. The variance will not adversely affect the public health, safety, morals, order, convenience or welfare. Yes No

ADJACENT PROPERTY OWNER CERTIFICATION

*N/A
Central business district*

I, _____, own the property adjacent to that for which this variance is requested. I hereby certify that I do not have any objection to or reservations about the granting of the variance requested.

SIGNED: _____

ADDRESS: _____

ADJACENT PROPERTY OWNER CERTIFICATION

I, _____, own the property adjacent to that for which this variance is requested. I hereby certify that I do not have any objection to or reservations about the granting of the variance requested.

SIGNED: _____

ADDRESS: _____

ADJACENT PROPERTY OWNER CERTIFICATION

I, _____, own the property adjacent to that for which this variance is requested. I hereby certify that I do not have any objection to or reservations about the granting of the variance requested.

SIGNED: _____

ADDRESS: _____

Board of Zoning Adjustment
June 28, 2021
5:30 PM Central

A MEETING OF THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF MCCOOK, NEBRASKA convened in open, regular, and public session at 5:30 o'clock P.M. in the City Council Chambers.

Present: Chair Reitz; Vice Chair Hilker; Board members Haney, Moore.

Absent: Board members Larson, Chipman.

City Officials present: City Manager Schneider, City Attorney Mustion, City Clerk Doak.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on June 25, 2021, the designated method of giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to all members of the Board of Zoning Adjustment. Availability of the agenda was communicated in the advance notice. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

Chair Reitz announced that a copy of the Open Meetings Act was posted by the entrance to the Council Chambers and available for public review.

1. Approve the minutes of the March 22, 2021, regular Board of Zoning Adjustment meeting.

Motion to approve the minutes of the March 22, 2021, regular Board of Zoning Adjustment meeting. This motion, made by Reitz and seconded by Hilker, passed.

Reitz: YEA, Hilker: YEA, Haney: YEA, Larson: ABSENT, Moore: YEA, Chipman: ABSENT
YEA: 4, NAY: 0, ABSENT: 2

2. Public Hearings and Regular Agenda.

2.A. Public Hearing - request for a variance of the off-street parking requirements for the property located at 109 East C Street, allowing for off-street parking on a space that lies within 400 feet of the entrance of the principal structure.

Motion to recess as a Board of Zoning Adjustment and convene a public hearing for the purpose of receiving public comment on a request for a variance of the off-street parking requirements in the Central Business (DB) District, for the property located at 109 East C Street, allowing for off-street parking on a space that lies within 400 feet of the entrance of the principal structure, with the City Attorney to act as hearing officer. This motion, made by Reitz and seconded by Moore, passed.

Reitz: YEA, Hilker: YEA, Haney: YEA, Larson: ABSENT, Moore: YEA, Chipman: ABSENT
YEA: 4, NAY: 0, ABSENT: 2

EXHIBIT #7

PAGE(S) - 3

The City Attorney offered and received into evidence Exhibit #1 - City Manager's Report prepared for the June 28, 2021 Board of Zoning Adjustment meeting (1 page); Exhibit #2 - Notice of Public Hearing (1 page); Exhibit #3 - Variance Application and attachments (6 pages); and Exhibit #4 - copy of Section 2111 - Off-Street Parking, of Article 21, of the McCook Zoning Ordinance (2 pages).

City Manager Schneider reviewed the following information presented in Exhibit #1: "Tri-Star Investment owns property located at 109 East "C" Street. Tri-Star has entered into an agreement with Kris Flammang for the purchase of the property. The property is currently home to a multi-use building: the first floor is commercial space while the second floor is residential space. Mr. Flammang would like to convert the entire building into a residential structure. The building is located downtown, within the Central Business (CB) District. There are no off-street parking stalls located on the property."

"Per Article 21, Section 2111 of the City of McCook's Zoning Ordinance, "if minimum off-street parking and loading space cannot be reasonably provided on the same lot on which the principal structure or use is conducted in the opinion of the Board of Zoning Adjustment, the Board may permit such space to be provided on other off-street property, provided, that such space lies within four hundred (400) feet of the entrance to each principal structure or use." Staff identified the parking lot located on the southwest side of the intersection of East 1st and East "D" as a parking space that would suit the needs associated with residential parking at 109 East "C". There are more than enough spaces available to accommodate the proposed use. Section 2111 also makes it clear that minimum off-street parking requirements do not apply to the Central Business District, meaning that McCook's minimum off-street parking and loading requirements are not material to this request."

Mr. Flammang, applicant, noted that currently a portion of the upstairs is being used by Narcotics Anonymous, the parking located at the intersection of East 1st and "D" Streets is approximately 180' from the entrance of the structure, and the current proposal is for two residential, one bedroom units upstairs and two residential, one bedroom units downstairs.

Discussion was held by the board.

Motion to adjourn the public hearing and to reconvene as the Board of Zoning Adjustment. This motion, made by Reitz and seconded by Hilker, passed.

Reitz: YEA, Hilker: YEA, Haney: YEA, Larson: ABSENT, Moore: YEA, Chipman: ABSENT
YEA: 4, NAY: 0, ABSENT: 2

2.B. Consider request for a variance of the off-street parking requirements in the Central Business District for the property located at 109 East C Street, allowing for off-street parking on a space that lies within 400 feet of the entrance of the principal structure; applicants: Tri-Star Investments and Kris Flammang.

Motion to approve the request for a variance of the off-street parking requirements in the Central Business District for the property located at 109 East "C" Street, per Article 21, Section 2111 of the

City of McCook's Zoning Ordinance allowing for off-street parking on a space that lies within 400 feet of the entrance of the principal structure, said space being the parking lot located at the intersection of East 1st and East "D" Streets; Tri- Star Investments, owner, and Kris Flammang. This motion, made by Reitz and seconded by Haney, passed.

Reitz: YEA, Hilker: YEA, Haney: YEA, Larson: ABSENT, Moore: YEA, Chipman: ABSENT
YEA: 4, NAY: 0, ABSENT: 2

Chair Reitz informed the applicant that there is a fifteen day period in which any decision of the Board of Adjustment may be appealed to the District Court. Building permits will not be issued before the end of the fifteen day period.

Adjournment.

There being no further business to come before the Board, Chair Reitz declared the meeting adjourned at 5:48 P.M.

Lea Ann Doak, City Clerk-Treasurer
Recording Secretary

**CITY MANAGER'S REPORT
JULY 12, 2021 PLANNING COMMISSION MEETING**

ITEM: 3

RECOMMENDATION:

Select new officers for the term of April 2021 through March 2022 - Chair, Vice-Chair, and Secretary - pursuant to Chapter 35, Section 35.001 of the City of McCook Code of Ordinances.

BACKGROUND:

Current officers are Kurt Vosburg, Chair; Tammie Hilker, Vice-Chair; and Chad Lyons, Secretary. They were elected at the May 11, 2020 meeting.

**FISCAL
IMPACT:** None.

APPROVALS:



Lea Ann Doak, City Clerk

July 6, 2021