

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

City of Bel Aire

STAFF REPORT

DATE: 12/02/2022

TO: Bel Aire Planning Commission

FROM: Keith Price

RE: Agenda

SUMMARY:

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

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

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

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

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

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

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

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

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

1. The character of the neighborhood;

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

2. The zoning and uses of properties nearby;

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

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

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

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

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

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

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

6. Recommendations of permanent staff;

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

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

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

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

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

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