

**MILL CITY PLANNING COMMISSION**  
**Meeting of June 3, 2019**

Planning Commission members present: Chair Ann Carey, Dennis Chamberlin, Marge Henning, Woody Koenig, David Leach and Grant Peterson.

Staff in attendance: Planning Advisor David Kinney and City Recorder Stacie Cook.

City Council Representatives: None.

Agency Representatives: None.

Citizens: Lee Fleming and Vicki Fleming.

The meeting was called to order at 6:30 p.m. Chair Ann Carey led the pledge of allegiance.

**APPROVAL OF MINUTES:** Chair Carey said that minutes for April 16, 2019 were revised to include a conversation about the stove on page five, paragraph two.

*Grant Peterson moved, seconded by Dennis Chamberlin to approve the minutes of April 16, 2019, as amended. The motion carried, (6:0).*

*Marge Henning moved, seconded by Dave Leach to approve the minutes of May 21, 2019, as amended. The motion carried, (6:0).*

**PUBLIC COMMENT:** None.

**PUBLIC HEARING CONTINUATION:**

File No. 2019-06

Applicant: Lee & Vicki Fleming

Proposal: Variance to allow an Accessory Dwelling Unit addition as part of a single-family residence.

Location: 769 SW Ivy Street

Chair Carey opened the continuation of the public hearing at 6:35 p.m.

Mr. Kinney gave a brief update as to the status of this request. The hearing was held until this evening to allow the Planning Commission time to consider implementing an Accessory Dwelling Unit (ADU) code. The City Council asked the Planning Commission to take time and do due diligence to implement a code that will work well for the City.

The building permit for the addition has been issued. The Planning Commission must make a determination this evening on whether to approve a variance for a full kitchen, including a stove or to deny the application.

Mr. Kinney said that at this point there is nothing that would preclude rental of the second unit under the City's code. The Planning Commission reviewed possible code language for an ADU

code including minimum and maximum size as well as a requirement for owner occupancy in one of the units. The owner occupancy requirement would have to be recorded by deed.

The Planning Commission has a couple of options: approval with additional conditions of approval or denial of the variance.

Chair Carey asked at what point in time a stove could be installed if the variance is denied. Mr. Kinney said that it could be installed only after an ADU code were adopted.

**CLOSE OF HEARING:** Chair Carey closed the hearing at 6:46 p.m. and called for deliberation.

**PLANNING COMMISSION DELIBERATION:** Chair Carey said that she has really been looking at what to do with this request because there are a lot of people saying that this creates a duplex.

Discussion regarding the potential for implementation of an ADU code ensued.

Mr. Fleming asked what legally constitutes an unusual circumstance. Mr. Kinney said that it is a circumstance that is unusual to the property.

Grant Peterson said what makes this a more complicated decision is that there is no pass through within the home; it is only accessed from outside.

Mr. Leach said that his concern is that the home could be sold and used other than approved by new owners.

Chair Carey asked if the City has the ability to impose the deed covenant. Mr. Kinney said that if the conclusion is that caretaking is the unusual circumstance then the City does have the right to do so.

Woody Koenig said that covenants are incredibly hard to break and generally are in perpetuity with the property. Mr. Kinney said that the deed would need to have a clause stating that the City would have the ability to release the covenant.

Mr. Peterson asked if the covenant can require that one side must be owner occupied and the other by a relative.

Mrs. Cook asked how SDC's are handled if the variance is approved. Mr. Kinney said that as ADU's are addressed then SDC's need to be included. In this case, if the variance is approved and a deed covenant restricting inhabitants is required, then it does not technically increase the demand on the system and SDC's should not be required.

Mr. Peterson said that the more he hears about ADU's the less he likes the ideas of them. However, the idea of what the applicant is trying to do is positive and he would like to support this. The addition should not be given a separate address because it is, in effect, an extension of the existing home.

Chair Carey said that she finds it hard to approve with a deed covenant because she doesn't like putting that restriction on a family or future owners.

***Grant Peterson moved, Dennis Chamberlin seconded by to approve File No. 2019-06, granting a variance to Lee and Vickie Fleming, subject to the modified conditions of approval, including installation of a connecting walkway from the rear door of the two units, and the recording of a restrictive deed covenant certifying the owner will occupy one dwelling unit and a member of the immediate family will occupy the second unit, and to adopt the findings of fact and conclusions in the staff report. The motion carried, (6:0).***

Mr. Kinney said that a notice of decision will be issued along with a draft of a deed covenant that can be worked out with staff.

**PRESENTATIONS:** None.

**OLD BUSINESS:**

2018-04; SKATE – Skatepark Site Review: Mr. Kinney said that the site plan was not complete and asked if this should be sent to Brian Bainnson for landscape work. Mr. Peterson said that he feels the name of the landscape architect should be forwarded to SKATE and they can make a decision about whether to request additional design work. Consensus to provide contact for Mr. Bainnson to SKATE.

2019-02; Baughman – 230/272 SW Ivy Street Site Review: Mr. Baughman indicated that he would be submitting a request for continuance last Friday. The Planning Commission should make a motion to deny the application for lack of submittal of required documents if a request for continuance is not submitted by Friday, June 14, 2019 at 4: 00 p.m.

***Ann Carey moved, seconded by Woody Koenig to deny File No 2019-02, Baughman – 230/272 SW Ivy Street Site Review if a request for extension is not received in writing by Friday, June 14, 2019 at 4:00 p.m. The motion carried, (6:0).***

2019-08; Zoning Amendment – Accessory Dwelling Units: Mr. Kinney said that the question of how SDC's are addressed was raised. The clean way to address this is to state that SDC's are required.

Section C; Accessory Dwelling Permit is new and includes requirement of application for an "Accessory Dwelling Permit" which must include approval by the Linn County Building Department, if there is an existing structure to be converted, that it satisfies residential building code requirements and allows for an appeal of a denial to the Planning Commission.

Owner occupancy requirement has been included under Section D. This would require that a deed covenant be filed against the property.

Mrs. Cook said that there are two items she feels need to be included in the code:

1. Addressing parcels large enough to divide by not allowing division of the property with the

ADU because a non-conforming use is then created.

2. Clearly outlining that if a garage or carport is to be converted then a permit for a new garage or carport must be applied for concurrently, as the current code requires, depending on the zone, that a garage or carport be in constant existence.

Mr. Kinney said that the draft code has language that Brownsville has implemented. In the Brownsville code it is required that all items related to the kitchen, including the cabinets, appliances, plumbing, etc, must be removed. This seems excessive. Mrs. Cook said that the only thing that Mill City should require is removal of the stove and proof of connection of the electrical connection (220) if the ADU will be gotten rid of. Mrs. Cook said that she feels a permit should be required to do this work and provide evidence that the ADU use is gone. Mr. Kinney said that removal of the ADU would then allow removal of the deed covenant. Mrs. Cook said that it needs to be clear that the filing of the document removing the deed covenant would be solely the cost of the homeowner to cover.

Mr. Kinney asked if there should be a minimum lot size for an ADU to be allowed. This was decided at the last meeting to require at least 7000 sq. ft.

One additional off-street parking space has been included in the code.

If an ADU is constructed in the R-2 zone and the owner wants to convert to a duplex does a site plan review process have to be applied for? Mr. Kinney said that he believes that the site plan review process would need to be followed.

Mrs. Cook said that another item to discuss is how to handle parcels that are joined for tax purposes that could be easily re-divided without a partition process, creating a non-conforming use.

Mr. Kinney said that we had a request from the applicant for the Freeman Subdivision for a joint hearing with the Council. Staff's preference would be that the Planning Commission review the application solely and not hold a joint hearing.

**NEW BUSINESS:** None.

**INFORMATIONAL ITEMS:**

**BUSINESS FROM THE PLANNING COMMISSION:** None.

**OTHER BUSINESS:** None.

The meeting was adjourned at 8:18 p.m.

Prepared by:

Stacie Cook, MMC City Recorder

Minutes approved by the Planning Commission on the 2<sup>nd</sup> day of April, 2019