



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
February 27, 2020

Department Administration

Director Approval Kelly Passauer

AGENDA ITEM Consider recommendations from the Planning Commission regarding the following:

1. A request to rezone a tract of land located at 517 S. 4th Street from R-3, low density multifamily dwelling district to R-5, high density multifamily district; and/or
2. A request for a conditional use permit for an “Orphanage” or other new additional use(s) at 517 S. 4th Street.

SUMMARY RECOMMENDATION Approve the recommendation.

BACKGROUND On February 4, 2020 the Planning Commission a public hearing and recommended the following action:

1. Accepting the recommendation of the Planning Commission to deny a request to rezone a tract of land located at 517 S. 4th Street from R-3, low density multifamily dwelling district to R-5, high density multifamily district; and
2. Accepting the recommendation of the Planning Commission to approve a conditional use permit for a “Children’s Home” At 517 S. 4th Street with the following conditions:
 - a. The facility shall be licensed by the state and shall meet all city, county and state requirements pertaining to operation, facilities, equipment and other features.
 - b. Off-street hard surfaced parking spaces shall be provided to accommodate one vehicle for each six beds. Any fraction shall be rounded up. Such parking shall meet the requirements of the Off-Street Parking and Loading Regulations.
 - c. A "hard surfaced" loading zone capable of accommodating one car for every ten occupants shall be provided in addition to the required parking spaces in order to provide for easy pickup and discharge of passengers.
 - d. Any visitors of the facility shall not block the alley or private drives.
 - e. The total number of residents cannot exceed five.
 - f. The maximum age of residents shall be 16.
 - g. The residents shall be from the local region serving Independence and classified as a child in need of care by the Kansas Department of Children and Family Services.

- h. No occupants may be criminal offenders, juvenile delinquents and/or going through law enforcement proceedings.
- i. The facility shall be operated in a manner that will not adversely affect other properties and uses in the area.
- j. The facility shall provide a visual screen along all property lines abutting any residential use, such screening shall be a 6' privacy fence on the north property line.
- k. Said facility shall be allowed one sign, not to exceed 18 inches by 36 inches in dimension, which shall be attached to the house.
- l. Outdoor storage of materials shall be permitted insofar as such materials or equipment are utilized as part of the facility operation.
- m. The conditional use permit is not transferable to another property owner or to another location.
- n. The applicants 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.
- o. Video surveillance is required outside and in common areas and will be made available to law enforcement upon request if there is no law that prohibits it.

BUDGET IMPACT N/A

SUGGESTED MOTION I move to accept the recommendations from the Planning Commission and adopt a resolution approving a conditional use permit for a "Children's Home" at 517 S. 4th Street with conditions.

SUPPORTING DOCUMENTS

- 1. Staff Report to the Planning Commission
- 2. Resolution for 517 S. 4th Street

- c. **Public hearing to consider a request to rezone a tract of land located at 517 S. 4th Street from R-3, low density multifamily dwelling district to R-5, high density multifamily district and/or a conditional use permit for an “Orphanage” or other new additional use(s).**

Rezoning

Summary:

The Planning and Zoning Commission received a request from property owner Brianne Ford to rezone a tract of land from R-3, low density multi-family residential district to R-5, high density multifamily district and/or a conditional use permit for an “orphanage” or other new additional use at 517 S. 4th Street.

The legal description is: Lot 3, Out lot 26, Wood Brothers Subdivision to the City of Independence, Montgomery County, Kansas.

Description of the Tract:

The area requested to be rezoned consists of a 14,000 square foot tract (.32 of an acre). This lot lies in the southeast portion of the City. The lot contains one residential home.

Zoning and Uses of Property Nearby:

The property directly north, east and west is zoned R-3, low density multi-family, while the property to the south is zoned R-2, single family.

Character of the Neighborhood:

The area generally consists of single and multifamily residential.

Suitability of the Subject Property for the Uses to which it has been Restricted:

The property under consideration is currently zoned for low density multi-family residential. The property is suitable for the present residential use classification.

Length of Time the Property has Remained vacant as Zoned:

The property is not a vacant lot as it contains a two-story 2,722 square foot residential structure.

Extent to which Removal of Restrictions will Detrimentially affect Nearby Property:

Efforts should be taken to minimize any negative impacts on adjoining residential properties.

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:

Denial of the proposed rezoning will impact the proposed owner’s use of the property as it will not allow them to open a facility to care for foster children.

Conformance with the Comprehensive Plan:

Housing Goal – To provide decent and affordable housing for present and future populations of Independence while preserving and improving existing residential areas.

Objective H1 – Maintain or upgrade the condition and particular residential character of existing neighborhoods and residential areas.

Objective H3 – To provide adequate amounts of multiple family housing in suitable locations.

Policy H12 – Rehabilitation and upgrading of houses shall be encouraged in older areas of the City.

Rezoning to R-5, high density multifamily would not be consistent with Objective H3 regarding a suitable location for high density multifamily. However, the actual use as proposed would be consistent with the above housing goal, objectives and policy of the comprehensive plan. The 1982 general development plan map recommends this area be developed as residential.

Staff Recommendation

Rezoning this lot to R-5 would not fit the character of the neighborhood and would create a spot zone. Also, the intended use of the property by the applicant for up to five children does not match the intent of the R-5 high density multi-family district. Staff’s recommendation is to deny the rezoning to R-5.

Suggested Motion:

I move to recommend denying a request to rezone a tract of land located at 517 S. 4th Street from R-3, low density multifamily dwelling district to R-5, high density multifamily district.

Conditional Use Permit

The zoning ordinance in section 901.1 (page 87) describes the purpose of a conditional use as:

“...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 in their 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 on the value of 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 locations and of properties neighboring the specific site considered, nor without adequate and sufficient safeguards, when necessary, to lessen the impact of adverse effects."

Staff Report

The Planning Commission has the authority to place additional conditions on the site that they deem necessary to protect the best interests of the City, the surrounding property and to achieve the objectives of the ordinance.

In considering those types of uses which may be desirable, necessary or convenient to the community, the Commission should review and make recommendations based in part on 901.1.

Additionally, the decision of the Planning Commission to recommend approval or denial of the proposed conditional use shall be based on the following criteria (902.2):

- 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.

Action by the Planning Commission

Any recommendations regarding a conditional use permit for the subject properties shall be based on Section 902.2 previously outlined in this report. After considering

any public comments the Planning Commission may either approve or deny the requests. If the requests are approved the applicants must be required to meet the conditions the Planning Commission wishes to require in order to operate the facility.

Following your action, the application and your recommendation will be forwarded to the City Commission at which time they will have 30 days to adopt, modify or deny the Planning Commission's recommendation.

Staff Recommendation

If the text amendment in the previous agenda item is recommended, an alternative to rezoning would be to grant a conditional use permit for a "Children's Home" at 517 S. 4th Street with the following conditions:

1. The facility shall be licensed by the state and shall meet all city, county and state requirements pertaining to operation, facilities, equipment and other features.
2. Off-street hard surfaced parking spaces shall be provided to accommodate one vehicle for each six beds. Any fraction shall be rounded up. Such parking shall meet the requirements of the Off-Street Parking and Loading Regulations.
3. A "hard surfaced" loading zone capable of accommodating one car for every ten occupants shall be provided in addition to the required parking spaces in order to provide for easy pickup and discharge of passengers.
4. Any visitors of the facility shall not block the alley or private drives.
5. The total occupant load shall be no greater than ten persons, including staff.
6. The maximum age of residents shall be 18.
7. The residents shall be from the local region serving Independence and classified as a child in need of care by the Kansas Department of Children and Family Services.
8. No occupants may be criminal offenders, juvenile delinquents and/or going through law enforcement proceedings.
9. The facility shall be operated in a manner that will not adversely affect other properties and uses in the area.
10. The facility shall provide a visual screen along all property lines abutting any residential use.
11. Said facility shall be allowed one sign, not to exceed 18 inches by 36 inches in dimension, which shall be attached to the house.
12. Outdoor storage of materials shall be permitted insofar as such materials or equipment are utilized as part of the facility operation.
13. The conditional use permit is not transferable to another property owner or to another location.
14. The applicants 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.

If any of the above conditions are not met the conditional use permit will no longer be valid.

The basis of staff's recommendation is that granting the conditional use permit is consistent with criteria "a through g" of Section 902.2 of the zoning code.

Suggested Motion:

I move to recommend approving a conditional use permit for a Children's Home at 517 S. 4th Street with the conditions as recommended by City Staff.

City of Independence, Kansas

NOTICE TO THE PUBLIC

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

Tuesday, February 4, 2020, at 5:30 p.m.

to receive comments on a request to rezone a tract of land from R-3, low density multifamily dwelling district to R-5, high density multifamily district and/or a conditional use permit for an “Orphanage” or other new additional use(s).

The hearing pertains to the following locations:

Legal Description:

Lot 3, Out lot 26, Wood Brothers Subdivision to the City of Independence, Montgomery County, Kansas.

Common Address:

517 South 4th Street

Applicant(s):

Brianne Ford

Property Owner(s):

Brianne and Trenton Ford

Case Numbers:

2020/ZA/02 and 2020/CUP/02

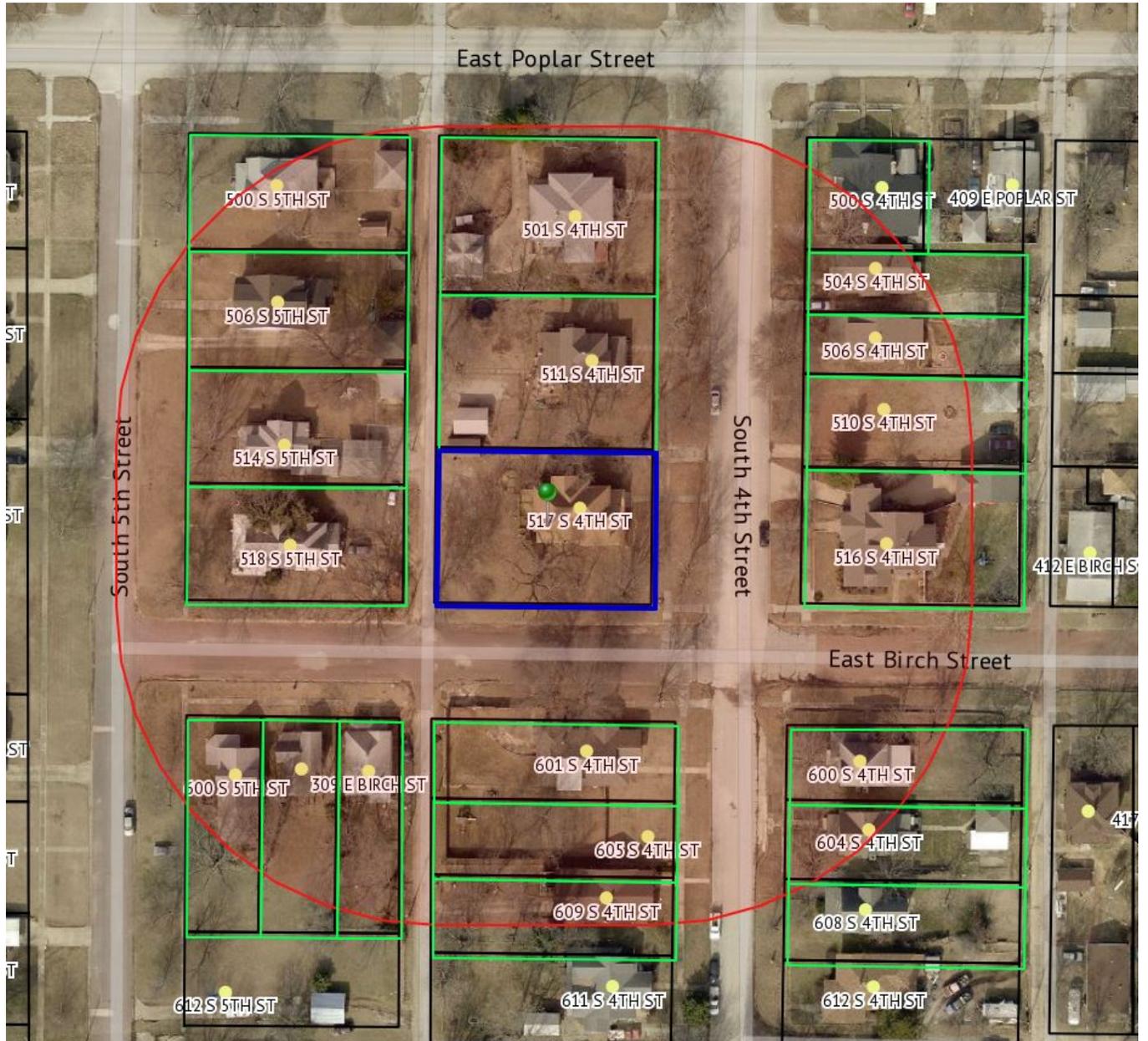
The hearings will be conducted in the Veterans Room, Memorial Hall, Penn/Locust, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend, and they will be heard. Persons wishing to comment, but who cannot attend these hearings, should provide their written comments to:

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

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

Kelly Passauer
Zoning Administrator

200 Foot Notification Area





E Walnut St

E Walnut St

E Walnut St

S 6th St

S 5th St

S 4th St

S 2nd St

E Poplar St

E Poplar St

E Poplar St

S Pennsylvania Ave

S 6th St

S 5th St

S 4th St

S 2nd St

E Birch St

E Birch St

S Pennsylvania Ave

E Edison St

E Edison St

E Edison St

S Park Blvd

S Park Blvd

S 2nd St

R-3

517 S 4TH ST, 67301

Zoom to

R-2

R-4

500ft

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: Brianne Ford
- 2. Applicant's address: 8514 Ann Avenue, Kansas City, ks Phone: 785-640-6075
- 3. Address of property proposed for rezoning: 517 South 4th street, Independence, ks
- 4. Present owner's name: Trenton & BRIANNE Ford
- 5. Present zoning: R-3 Proposed zoning: R-5
- 6. Legal description of property proposed for rezoning (if more space is required, use back of form):
Lot 3, Wood Brothers Subdivision of Outlot 26, City of Independence, and outlots 2 and 3, Stephenson'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: Youth Residential Care Center (group home)
- 9. Use and zoning of adjacent property:
North: Use Residential Zoning R-3
South: Use Residential Zoning R-3
East: Use Residential Zoning R-3
West: Use Residential Zoning R-3
- 10. List reasons for this request:
Zoning department stated we needed to Rezone to R-5

Date: 1/5/2020 Signature: [Signature]

Planning Commission Action – do not write in this space

- 1. Facts found: _____
- 2. Determination: _____

APPLICATION FOR CONDITIONAL USE PERMIT
PLANNING AND ZONING COMMISSION

DATE FILED _____
\$200 FEE PAID _____

NAME AND ADDRESS OF PERSON MAKING APPLICATION:

BRIANNE Ford - 517 South 4th Street, Independence, Kansas 67301
8514 ANN AVE, KANSAS CITY, KS (mailing Address)

LEGAL DESCRIPTION OF LAND INVOLVED:

Lot 3, Wilson Brothers subdivision of lot 26, City of Independence,
and lots 2 and 3, Stephenson's Addition to the city of Independence,
Montgomery County, Kansas.

COMMON ADDRESS OF SAID LAND:

517 South 4th Street, Independence, KS 67301

PRESENT ZONING CLASSIFICATION: R-3

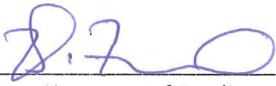
STATEMENT OF INTENDED USE OF PROPERTY:

Group Home (YRC II) for children ages 8-18

DESCRIPTION OF ARCHITECTURE & EXTERIOR MATERIAL TO BE USED:

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.

11/7/2020
Date


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#: 01076649 1/07/2020 4:51 PM
OPER: JESS TERM: 001
REF#:

ACCT #: XXXX-XXXX-XXXX-2326
AUTH #: 060702
TRAN #: 000000004486
TYPE: PURCHASE

TRAN: 1.9000 VARIANCE
 BRIANA FORD
 517 S 4TH
 MISC FEES

200.00CR

TENDERED: 200.00 CREDIT CARD
APPLIED: 200.00-

CHANGE:
 0.00

RESOLUTION NO. 2020-____

A RESOLUTION AUTHORIZING A CONDITIONAL USE PERMIT FOR A CHILDREN'S HOME AT 517 SOUTH 4TH STREET.

WHEREAS, at a public hearing conducted on February 4, 2020, the Independence Planning and Zoning Commission voted to approve a request for a conditional use permit for a children's home in an R-3 zoned district at 517 South 4th Street.

NOW THEREFORE, BE IT RESOLVED by the Governing Body of the City of Independence, Kansas:

The recommendation of the Independence Planning & Zoning Commission to issue a conditional use permit for a children's home in an R-3 zoned district at 517 South 4th Street, is approved as hereinafter modified.

The property in question has the following legal description:

Lot 3, Out lot 26, Wood Brothers Subdivision to the City of Independence, Montgomery County, Kansas.

The applicant must meet the following requirements:

1. The facility shall be licensed by the state and shall meet all city, county and state requirements pertaining to operation, facilities, equipment and other features.
2. Off-street hard surfaced parking spaces shall be provided to accommodate one vehicle for each six beds. Any fraction shall be rounded up. Such parking shall meet the requirements of the Off-Street Parking and Loading Regulations.
3. A "hard surfaced" loading zone capable of accommodating one car for every ten occupants shall be provided in addition to the required parking spaces in order to provide for easy pickup and discharge of passengers.
4. Any visitors of the facility shall not block the alley or private drives.
5. The total number of residents cannot exceed five (5).
6. The maximum age of residents shall be sixteen (16).
7. The residents shall be from the local region serving Independence and classified as a child in need of care by the Kansas Department of Children and Family Services.
8. No occupants may be criminal offenders, juvenile delinquents and/or going through law enforcement proceedings.

RESOLUTION NO. 2020-____

9. The facility shall be operated in a manner that will not adversely affect other properties and uses in the area.
10. The facility shall provide a visual screen along all property lines abutting any residential use, such screening shall be a 6' privacy fence on the north property line.
11. Said facility shall be allowed one sign, not to exceed 18 inches by 36 inches in dimension, which shall be attached to the house.
12. Outdoor storage of materials shall be permitted insofar as such materials or equipment are utilized as part of the facility operation.
13. The conditional use permit is not transferable to another property owner or to another location.
14. The applicants 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.
15. Video surveillance is required outside and in common areas and will be made available to law enforcement upon request if there is no law that prohibits it.

If any of the above conditions are not met the conditional use permit will no longer be valid.

Adopted and approved by the Governing Body of the City of Independence, Kansas, on this 27th day of February 2020.

(Attest)

Leonhard Caflisch, Mayor

City Clerk/City Treasurer