



PLANNING COMMISSION

ZOOM MEETING

Tuesday, October 13, 2020

MEMBERS: Andrew Sutton (Chair), Frank Kutilek (Second), Alan Bess (Secretary), Jeff Campbell, Justin Lurk, John Tucker, Del Williams, Phillip Hogan, Brian McArthur (Council Liaison). **STAFF:** Robert Sweeney (City Attorney), David Bookless (Community Development Director), Sarah Turner (Planner).

REGULAR SESSION

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF MINUTES: *August 11, 2020*
4. PUBLIC HEARINGS
 - a. **PC-2020-17 ZONING ORDINANCE REORGANIZATION (TEXT AMENDMENT):** A City-initiated request to amend Chapter 405, Zoning, of the Code of Ordinances, to reorganize and renumber the articles and sections therein, and by adding explanatory sections providing intent and purpose for various existing provisions. (Planning Commission & Council)
 - b. **PC-2020-18 KFC MVOE (CUP):** A request to obtain a Conditional Use Permit to bring an existing motor-vehicle related establishment located at 1436 Jeffco Blvd. into conformance with the requirements of the Zoning Ordinance.
5. SITE PLANS, PLATS, OTHER BUSINESS:
6. ADJOURNMENT OF REGULAR SESSION

EXECUTIVE SESSION

7. NEW BUSINESS:
 - a. **PC-2020-17 ZONING ORDINANCE REORGANIZATION (TEXT AMENDMENT)** *The Planning Commission may vote on this item tonight.*
 - b. **PC-2020-18 KFC MVOE (CUP)** *The Planning Commission may vote on this item tonight.*
 - c. **PC-2020-19 743 LOUISA DR (FENCE APPEAL):** A request for approval of an appeal to the street-yard fence regulations in order to allow for a backyard fence constructed on a dual-frontage lot at 743 Louisa Dr. *The Planning Commission may vote on this item tonight.*
8. ADJOURNMENT OF EXECUTIVE SESSION

NOTE: *In response to the COVID-19 concerns, all members of the Planning Commission will be participating in the hearing remotely via Zoom as permitted by state statute and city resolution. If you have any questions regarding these requests, please contact the Community Development Department at 636-282-2378 and/or attend the public hearing by following the link and instructions below:*

Planning Commission Meeting

To join by computer, tablet, smartphone, etc. (video and/or audio): <https://zoom.us>

Meeting ID: 846 3958 8555 Passcode: 947440

To join by telephone (audio only): 1-312-626-6799

Meeting ID: 846 3958 8555 Passcode: 947440

During the hearing, your microphone will be muted. While you are not obligated to speak, attendees will be recognized and given the opportunity to do so. Please be advised that all speakers are expected to exhibit civility and decorum or risk being removed from the meeting.



PLANNING COMMISSION MEETING CONDUCTED VIRTUALLY AUGUST 11, 2020

MINUTES

Due to Federal, state, county, and municipal emergency orders related to the coronavirus (COVID-19) pandemic, this meeting was conducted virtually in compliance with applicable regulations.

REGULAR SESSION

1. **CALL TO ORDER:** The regular meeting of the Arnold Planning Commission was called to order by Chairman Andrew Sutton at 7:00 p.m.
2. **ROLL CALL OF COMMISSIONERS:** Steve Buss, Phillip Hogan, Justin Lurk, John Tucker (*not present*), Jeff Campbell, Frank Kutilek, Del Williams, Brian McArthur, Alan Bess, Andrew Sutton. All members were participating telephonically. **STAFF PRESENT:** David Bookless (Community Development Director) (*excused*), Sarah Turner (Planner), Christie Hull-Bettale (Engineer), Robert Sweeney (City Attorney). All Staff were participating telephonically.
3. **APPROVAL OF MINUTES:** Motion by Jeff Campbell to approve the minutes from the July 14, 2020 meeting. Second by Del Williams. *Voice vote:* Unanimously approved.
4. **SITE PLANS, PLATS, OTHER BUSINESS:**
 - a. **PC-2020-14 Lonedell Acres:** A request for approval of a variance from the requirements of the Tree Preservation Program for a 4-acre tract located on the south side of Lonedell Road approximately 1,200 feet northeast of Pomme Road.

Christie Hull-Bettale presented the Staff Report. Ms. Hull-Bettale concluded her presentation by recommending favorable consideration of the application subject to the following condition:

- 1) The builder or developer shall be required to provide at least one (1) planted tree in the front yard of each of the residential lots prior to the occupancy of each home.

Applicant David Staloch reiterated the Staff's discussion of trees in the easement and spoke in concurrence with the Staff's Report.

Carol Onest, from Govero Land Services, also concurred with Staff's Report. Ms. Onest added that many of the trees in the easements have been cut back in ways that make them unideal.

Mr. Campbell asked to consider one (1) tree in the front and one (1) tree in the back, to help stabilize the yard. Mr. Lurk commented in support of this idea.

Mr. Lurk and Mr. Hogan sought clarification about the purpose of this variance. Mr. Sweeney explained that the Tree Preservation Program requires a certified arborist to prepare the tree plan, and that the applicant is requesting a variance to that requirement. In that variance application, the applicant has provided information prepared by a non-arborist (Govero Land Services) which details where the existing, dead, and trees-to-remain are located. It is up to the Commission to determine if that information is satisfactory or if the services of an arborist are required.

5. **ADJOURNMENT OF REGULAR SESSION:** Adjourned by Mr. Sutton at 7:20 p.m.

EXECUTIVE SESSION

6. NEW BUSINESS:

- a. **PC-2020-14 Lonedell Acres:** Motion by Mr. Williams to approve *PC-2020-14 Lonedell Acres* with conditions contained in the Staff Report, but modified to require one (1) tree in the front and one (1) tree in the back. Second by Mr. Campbell.

Roll call vote: Steve Buss, yes; Phillip Hogan, no; Justin Lurk, yes; Jeff Campbell, yes; Frank Kutilek, yes; Del Williams, yes; Brian McArthur, yes; Alan Bess, yes; Andrew Sutton, yes. 8 yeas, 1 nays – Motion Approved.

7. **ADJOURNMENT:** Motion by Mr. Campbell to adjourn. Second by Mr. Williams. Voice Vote – Unanimously approved. Meeting adjourned at 7:28 p.m.

Respectfully Submitted,

Alan Bess
Planning Commission Secretary

DRAFT



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

APPLICATION #: PC-2020-17

APPLICATION NAME: Zoning Ordinance Reorganization (Text Amendment)

APPLICANT: City of Arnold

REQUEST: A City-initiated request to amend Chapter 405, Zoning, of the Code of Ordinances to reorganize and renumber the Articles and Sections therein, and by adding explanatory Sections providing intent and purpose for various existing provisions.

MEETING DATE: October 13, 2020

REPORT DATE: October 5, 2020

CASE MANAGER: David B. Bookless, AICP

ACTION REQUESTED **APPROVAL**



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

BACKGROUND

The City's Zoning Ordinance was adopted by the City Council on June 30, 1977. A number of amendments have been approved with the most recent being on March 5, 2020. Periodic revision is essential if the ordinances are to maintain a rational land use pattern. Changes should not be made in an arbitrary manner. Significant updates to the Zoning Ordinance are best undertaken following an update of the Comprehensive Plan. Nevertheless, clarification of information contained in the Zoning Ordinance may be appropriate at any time.

DISCUSSION/ANALYSIS

The analysis by Staff that follows is intended to allow the Planning Commission to reach the most informed decision possible and to facilitate discussion. Such discussion is important to identify and consider any potential unintended consequences of the proposed amendment.

The Arnold Zoning Ordinance is, for many users, convoluted and difficult to use. In particular, inter-related sections of the Code are not located in a logical or intuitive format for users that include not only design, engineering, and construction professionals, but the general public. Further, the index of sections (AKA the "table of contents") currently contains ninety (90) headings, which can make finding an applicable section overly complicated. Additionally, many heading titles are unclear as to their content rather than being descriptive.

Staff proposes reorganizing the Code reducing the number of headings to approximately (30). Some of the existing ninety (90) existing headings have simply been renamed for clarity, while a number of them have been nested below the headings. A number of reserved sections have been established for future amendments that are intended to allow additional re-organization at a future time to address such things as the consolidation of parking, lighting, and landscaping standards under their own section headings rather than their current format, which places them repetitively under each zoning district section. Staff has included some minor text additions or revisions for the clarification of the intent and purpose of various sections of the Code, as well as for simplification of terms. The last substantial change is the addition of two (2) appendices to the Code to be populated later. The appendices will contain each of the site-specific ordinances for the "C-4" Planned Commercial and the "M-3" Planned Industrial Districts. The reasoning behind this addition is that with properties located in any other zoning district, users can look up zoning requirements in the online Zoning Ordinance. However, for planned districts, users must contact staff, who then look up the particular ordinance, and provide details. While Staff will continue to provide clarifications of what the Code means, for reasons of greater transparency, this direct provision of information is good practice. On the following pages, you will find the existing headings and format, the proposed headings and format, and the limited new content being proposed to be added to the Code at this time.

REPORT TO PLANNING COMMISSION

CITY OF ARNOLD



CHAPTER 405 ZONING — SECTION HEADINGS AS THEY READ TODAY

ARTICLE I GENERAL PROVISIONS

Section 405.010 Short Title.

Section 405.020 Establishment of Districts — Provisions for Official Zoning Map.

Section 405.030 Rules for Interpretation of District Boundaries.

Section 405.040 Application of District Regulations.

Section 405.050 Non-Conforming Lots, Non-Conforming Uses of Land, Non-Conforming Structures, Non-Conforming Uses of Structures and Land, and Non-Conforming Characteristics of Use.

Section 405.060 Definitions.

Section 405.070 through Section 405.090. (Reserved)

ARTICLE II DISTRICT AND USE REGULATIONS

Section 405.100 "FP" Floodplain.

Section 405.110 "PS" Park and Scenic.

Section 405.120 "AG" Agricultural.

Section 405.130 through Section 405.170. (Reserved)

Section 405.180 "PDA" Planned Development Area.

Section 405.190 through Section 405.230. (Reserved)

Section 405.240 "R-1" Residence District.

Section 405.250 "R-2" Residence District.

Section 405.260 "R-3" Residence District.

Section 405.270 "R-4" Residence District.

Section 405.280 "R-5" Residence District.

Section 405.290 "R-6" Residence District.

Section 405.300 "MHD" Mobile Home District.

Section 405.310 "C-1" Commercial District.

Section 405.320 "C-2" Commercial District.

Section 405.330 "C-3" Commercial District.

Section 405.340 "C-4" Planned Commercial District.

Section 405.350 "M-1" Industrial District.

Section 405.360 "M-2" Industrial District Regulations.

Section 405.370 "M-3" Planned Industrial District Regulations.

Section 405.380 Use Standards.

Section 405.390 through Section 405.470. (Reserved)

ARTICLE III DEVELOPMENT PROCEDURES

Section 405.480 DDP Density Development Procedures.

CONTINUED ON NEXT PAGE



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

CONTINUED FROM PREVIOUS PAGE

Section 405.490 Planned Residential Development Procedures.

Section 405.500 Site Plan Review.

Section 405.501 Site Plan Review — Intent.

Section 405.503 Site Plan; When Required.

Section 405.505 Site Plan Review Procedure.

Section 405.507 Site Plan Review — Application.

Section 405.509 Site Plan Review — Submission Requirements.

Section 405.511 Site Plan Review Criteria.

Section 405.513 Amended Site Plans.

Section 405.515 Procedure For Amended Site Plan Applications.

Section 405.517 Site Plan — Substantial Changes.

Section 405.519 Site Plan — Minor Changes.

Section 405.521 Site Plan Review — Definition Of Substantial Changes.

Section 405.523 Site Plan Review — Fees.

Section 405.530 (Reserved)

ARTICLE IV TREE PRESERVATION PROGRAM

Section 405.540 Purpose and Intent.

Section 405.545 Applicability.

Section 405.550 Definitions.

Section 405.555 Preservation Requirements.

Section 405.560 Tree Preservation Plan Required.

Section 405.565 Replacement Requirements.

Section 405.570 Credit.

Section 405.575 Marking of Trees.

Section 405.580 Protection Measures During Construction.

Section 405.585 Protection Measures After Construction.

Section 405.590 Tree Preservation Easement.

Section 405.595 Penalties and Appeals.

Section 405.600 Variances.

Section 405.610 through Section 405.640. (Reserved)

ARTICLE V HEIGHT REGULATIONS

Section 405.650 General Height Regulations.

Section 405.660 through Section 405.750. (Reserved)

ARTICLE VI SUPPLEMENTARY REGULATIONS

CONTINUED ON NEXT PAGE

REPORT TO PLANNING COMMISSION

CITY OF ARNOLD



CONTINUED FROM PREVIOUS PAGE

Section 405.760 Supplementary District Regulations.

Section 405.770 through Section 405.860. (Reserved)

ARTICLE VII CONDITIONAL USES

Section 405.870 Conditional Use Permits.

Section 405.880 through Section 405.970. (Reserved)

ARTICLE VIII ZONING PERFORMANCE STANDARD REGULATIONS

Section 405.980 Zoning Performance Standard Regulations.

Section 405.990 through Section 405.1080. (Reserved)

ARTICLE IX ADMINISTRATION

Section 405.1090 Administrative Enforcement, Violation and Penalties.

Section 405.1100 through Section 405.1190. (Reserved)

ARTICLE X BOARD OF ADJUSTMENT

Section 405.1200 Board of Adjustment — Establishment and Procedure.

Section 405.1210 Appeals from the Board of Adjustment.

Section 405.1220 through Section 405.1310. (Reserved)

ARTICLE XI FEES

Section 405.1320 Schedule of Fees.

Section 405.1330 through Section 405.1420. (Reserved)

ARTICLE XII AMENDMENTS

Section 405.1430 Amendments to the Zoning Ordinance.

Section 405.1440 Provisions of Ordinance Declared to Be Minimum.

Section 405.1450 Separability Clause.

Section 405.1460 through Section 405.1550. (Reserved)

END



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

CHAPTER 405 ZONING — SECTION HEADINGS *PROPOSED*

- Section 405.010 Title.
- Section 405.020 Intent and Purpose.
- Section 405.030 Rules and Definitions.
- Section 405.040 Use Districts.
- Section 405.050 General Provisions.
- Section 405.060 (reserved)
- Section 405.070 Non-Conformities.
- Section 405.080 Conditional Uses.
- Section 405.090 Planned Developments.
- Section 405.100 (reserved)
- Section 405.110 Residential Districts.
- Section 405.120 Commercial Districts.
- Section 405.130 Industrial Districts.
- Section 405.140 Special Districts.
- Section 405.150 Use and Zoning Performance Standards.
- Section 405.160 (reserved)
- Section 405.170 (reserved)
- Section 405.180 (reserved)
- Section 405.190 Site Plan Review.
- Section 405.200 Tree Preservation.
- Section 405.210 (reserved)
- Section 405.220 (reserved)
- Section 405.230 Administrative Enforcement, Violation, and Penalties.
- Section 405.240 Board of Adjustment.
- Section 405.250 Appeals.
- Section 405.260 Zoning Changes and Amendments.
- Section 405.270 (reserved)
- Section 405.280 Fees.
- Section 405.290 Validity .
- Section 405.300 (reserved)
- Zoning Appendix I “C-4” Planned Commercial Districts.
- Zoning Appendix II “M-3” Planned Industrial Districts.

END

REPORT TO PLANNING COMMISSION

CITY OF ARNOLD



NEW CONTENT

“Section 405.020 Intent and Purpose.

A. This Zoning Ordinance is adopted for the following purposes:

1. To promote the public health, safety, comfort, morals, convenience and general public welfare;
2. To protect the character and the stability of the residential, commercial, and industrial areas within the City of Arnold and to promote the orderly and beneficial development of such areas;
3. To provide adequate light, air, privacy and convenience of access to property;
4. To regulate the intensity of use of land and lot areas and to determine the area of open spaces surrounding buildings necessary to provide adequate light and air and to protect the public health;
5. To lessen or avoid congestion in the public streets;
6. To provide for the needs of industry, business, and residents in future growth;
7. To promote healthful surroundings for family life in residential areas;
8. To fix reasonable standards to which buildings or structures shall conform;
9. To prohibit uses, buildings or structures which are incompatible with the character of development or the uses allowed within specified zoning districts;
10. To prevent such additions to, or alteration or remodeling of, existing buildings or structures in such a way as to avoid the restrictions and limitations imposed hereunder;
11. To protect against fire, explosion, noxious fumes and other hazards in the interest of the public health, safety, comfort and general welfare;
12. To prevent the overcrowding of land and undue concentration of structures, so far as is possible and appropriate in each district, by regulating the use and bulk of buildings in relation to the land surrounding them;
13. To conserve the value of land and buildings throughout the City of Arnold;
14. To provide for the gradual elimination of non-conforming uses of land, buildings and structures which are adversely affecting the value of desirable development in each district;
15. And to define and limit the powers and duties of the administrative officers and bodies as provided herein.”



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

NEW CONTENT

“Section 405.040 Use Districts.

- A. In order to carry out the purposes and provisions of this Chapter, the City of Arnold, Missouri, is hereby divided into the following districts:

Residential Districts

- “R-1” Residence District
- “R-2” Residence District
- “R-3” Residence District
- “R-4” Residence District
- “R-5” Residence District
- “R-6” Residence District

Commercial Districts

- “C-1” Commercial District
- “C-2” Commercial District
- “C-3” Commercial District

Industrial Districts

- “M-1” Industrial District
- “M-2” Industrial District

Special Districts

- “FP” Floodplain District
- “PS” Park and Scenic District
- “MHD” Manufactured Home District
- “C-4” Planned Commercial District
- “M-3” Planned Industrial District”

REPORT TO PLANNING COMMISSION

CITY OF ARNOLD



NEW CONTENT

“Section 405.090 Planned Developments.

A. Authorization.

1. The City Council may by ordinance grant a special permit for a planned residential development authorized by this Section on such terms and conditions and with such restrictions as the Council may determine, subject to the provisions of this Section.
 2. The City Council may establish a planned commercial or industrial district by ordinance in the same manner that other mapped districts are established where the City Council determines that any particular tracts or areas should be developed for commercial or industrial use, but because of potential conflicts with adjoining uses, existing or potential, a greater degree of control of the manner of development is necessary to protect the general welfare than is possible under the regulations of the other "C" Commercial or "M" Industrial Districts.
 3. The City Council may establish a manufactured home district by ordinance in the same manner that other mapped districts are established where the City Council determines that any particular tracts or areas should be developed for manufactured home park, but because of natural topography, hydrology, existing or planned developments, and arrangements and location of existing or planned community facilities, and social needs of the community, a greater degree of control of the manner of development is necessary to protect the general welfare than is possible under the regulations of the other districts.”
-



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

FINDINGS AND RECOMMENDATION

SUCH AMENDMENT IS REQUIRED BY PUBLIC NECESSITY AND CONVENIENCE AND GENERAL WELFARE

The Community Development Director finds that the text amendments contained within application number 2019-17 are warranted by the public necessity and convenience to provide clarification in the enforcement of the Zoning Ordinance.

The Community Development Director finds that the text amendments contained within application number 2019-17 are warranted by the need to promote and protect the general welfare by protecting the economic and tax base of the City, preserving and enhancing the values of property owners and users, promoting the orderly and harmonious development and redevelopment of the City, preserving and promoting the character and stability of the City and its various residential and commercial neighborhoods, improving the appearance of the City, and promoting the best use and development of commercial land in accordance with the Comprehensive Plan.

RECOMMENDATION

The Director of Community Development finds that the proposed text amendments meet or exceed review criteria and further advances the intent of Chapter 405. Based on this finding the Director of Community Development requests favorable consideration of the draft amendments.

A handwritten signature in black ink that reads "David B. Bookless". The signature is written in a cursive style and is positioned above a horizontal line.

David B. Bookless, AICP
Community Development Director



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

APPLICATION NUMBER: PC-2020-18

APPLICATION NAME: KFC MVOE

APPLICANT NAME: FQSR, LLC
c/o KBP Foods
Contact: Ashley Dowd, Carmody MacDonald P.C.
10950 Grandview Dr., Ste. 300
Overland Park KS 66210

PROPERTY OWNER NAME: Quick Service Realco, LLC
c/o KBP Foods
10950 Grandview Dr., Ste. 300
Overland Park KS 66210

APPLICANT'S REQUEST: The applicant is seeking a Conditional Use Permit bring an existing motor vehicle-oriented establishment (MVOE) into conformance.

STREET ADDRESS: 1436 Jeffco Blvd

SITE LOCATION: South of intersection of Jeffco Blvd. and Arnold Tenbrook Rd.,
between Arnold Tenbrook Rd. and Villa Dr.

ZONING DISTRCIT: "C-2" Commercial

PARCEL ID: 01-9.0-29.0-3-001-006

TOTAL SITE AREA: 1.11 acres

MEETING DATE: October 13, 2020

REPORT DATE: October 6, 2020

CASE MANAGER: Sarah Turner

RECOMMENDATION: **APPROVAL WITH CONDITIONS**



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

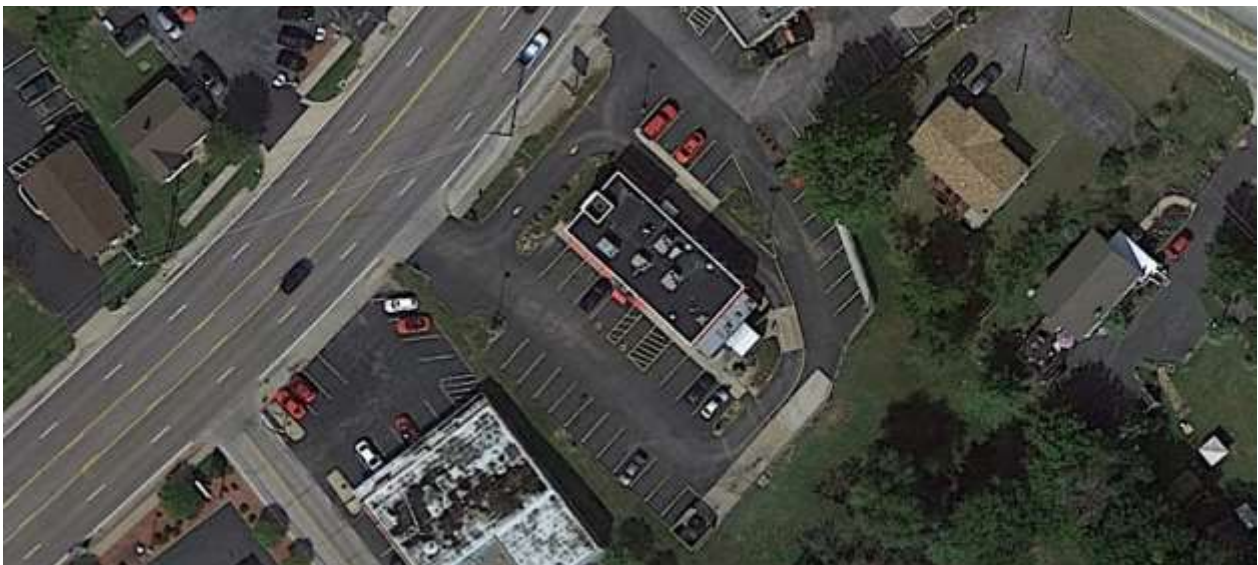
DESCRIPTION OF EXISTING SITE CONDITIONS

The 1.11 acre tract is located south of the intersection of Jeffco Blvd. and Arnold Tenbrook Rd. It is zoned "C-2" Commercial. The property is developed with a restaurant (KFC), paved parking and driving areas, and a storm water detention area in the rear of the property. The primary access to the property is via Jeffco Blvd, although there is a cross-access agreement with the neighboring property (1424 Jeffco Blvd, El Paisano's) with access available on Arnold Tenbrook Rd.

SITE HISTORY

The building in use as KFC at the subject property was constructed in 1999. The subject property (1436 Jeffco) and the adjacent property to the north (1424 Jeffco) were previously on one shared lot before project PC-2020-10 was approved in April 2020 and split the original lot into two lots.

ZONING MAP (TOP) & SATELLITE (BOTTOM)



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD



ZONING REQUEST/DEVELOPMENT PROPOSAL

A request to obtain a Conditional Use Permit to bring an existing motor vehicle-oriented establishment located at 1436 Jeffco Blvd. into conformance with the requirements of the Zoning Ordinance.

COMPREHENSIVE PLAN CONSISTENCY REVIEW

A consistency review of the goals, objectives, and policies of the Comprehensive Plan, as they relate to the current request, follows:

GOALS, OBJECTIVES, AND POLICIES:

LAND USE POLICY 9.1 APPLY COMPATIBLE USES: COMMERCIAL DEVELOPMENTS SHOULD BE COMPATIBLE WITH NEARBY DEVELOPMENT AND ADEQUATELY BUFFERED TO MITIGATE ADVERSE IMPACTS ON RESIDENTIAL NEIGHBORHOODS.

ECONOMIC DEVELOPMENT POLICY 3: STRENGTHEN AND REINVEST IN EXISTING COMMERCIAL AND INDUSTRIAL AREAS IN ORDER TO CREATE GREATER VITALITY.

CITY PLANNER'S COMMENTS

Policies LU-9.1 and ED-3 are substantially satisfied as follows:

Substantially Satisfied: The proposed Conditional Use Permit would bring an existing and currently-operational MVOE into conformance. This location is along the commercial Jeffco Blvd corridor and the use is compatible with other restaurants and MVOE's in the area. The character of the area would be unchanged.

FUTURE LAND USE MAP:



Satisfied: The proposed conditional use aligns with the FLUM designation for the property as a commercial area.



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

BACKGROUND

The subject property is the location of a restaurant with a drive-thru facility (KFC). The property is zoned "C-2" Commercial, which permits restaurants by right, but only allows for motor vehicle-oriented establishments (MVOE's) on a conditional basis. KFC has been in continuous operation at this location since 1999. The use as a MVOE is classified as a pre-existing non-conforming use since it does not have a Conditional Use Permit.

KFC can continue business as a non-conforming use until non-conforming status is lost. The denial of this Conditional Use Permit application would not constitute a loss of non-conforming status. There are two ways in which non-conforming status can be lost:

- Section 405.050(D)(3): If the use ceases for more than 60 days
- Section 405.050(D)(8): If the structure, land, or combination of land or structure in use by the non-conforming use is destroyed by any means by more than 50% of its replacement cost at the time of destruction

If non-conforming status were to be lost, a Conditional Use Permit to allow for the MVOE would need to be obtained before the use could resume. **This current application for a Conditional Use Permit is not necessary for the continued operation of KFC and is a voluntary move towards compliance with the Zoning Ordinance.**

PLANNING AND ZONING ANALYSIS

When reviewing applications for Conditional Use Permits, or amendments thereto, the Planning Commission is required to hold a hearing, review, and make recommendations and report to the City Council.

CONSISTENT WITH GOOD PLANNING PRACTICE

Consistency with good planning practice is dependent on adherence to current codes and keeping in mind the goals, objectives, and policies of current and future plans. The application at hand would bring an existing restaurant with drive-thru facilities (an MVOE) into compliance with the Zoning Ordinance. As detailed later in this report, there are non-conformities with the expected Use Standards for MVOE's and their site design. Should the Planning Commission vote to approve this Conditional Use Permit, Staff recommends a condition of use that clarifies that should the site be destroyed, any future development would need to follow Code.

In the Future Land Use Map from Arnold's Comprehensive Plan, this area is designated as a commercial area just outside of the major commercial node of Walmart/Water Tower/ Michigan Ave. It is consistent with the intent of the Comprehensive Plan's policies to allow for restaurants and motor-vehicle oriented establishments along a busy corridor like Jeffco Blvd.

REPORT TO PLANNING COMMISSION

CITY OF ARNOLD



PLANNING AND ZONING ANALYSIS - CONTINUED

As such, the goals, objectives, and policies of the Zoning Code Ordinance and Comprehensive Plan are substantially met with this proposal, subject to the above conditions.

DETRIMENT TO PERMITTED DEVELOPMENT AND USES WITHIN THE DISTRICT

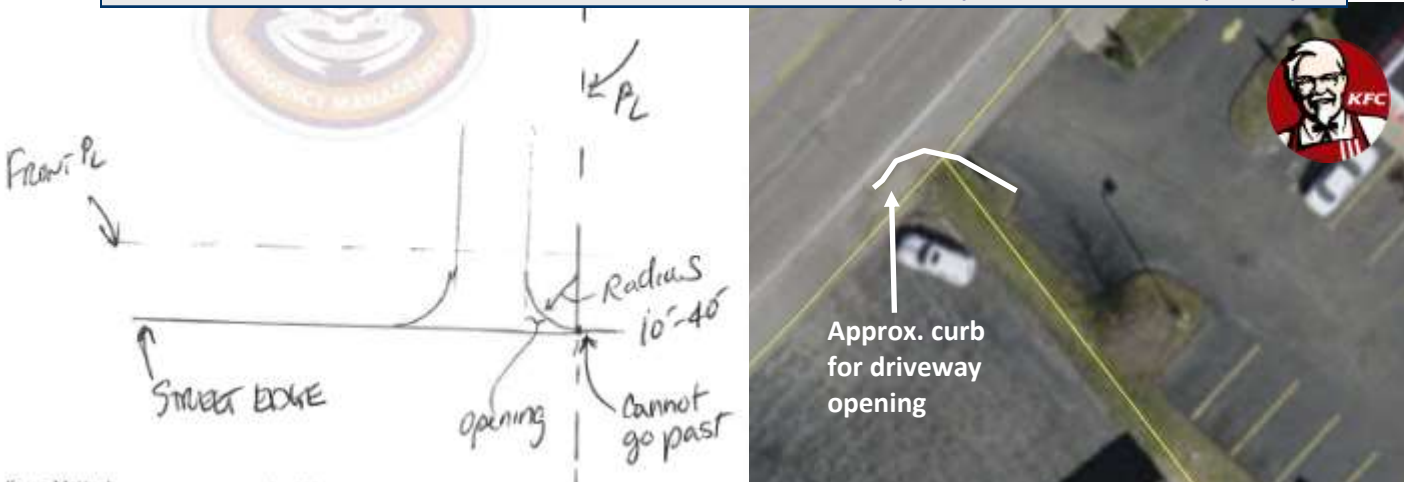
Motor vehicle-oriented establishments are a conditional use in all “C” Commercial Districts, unless specifically called out in a planned district. The reason for which is that there are a number of site design and operational standards that can impact how the site is used as well as the surrounding properties. Contained within the Zoning Ordinance are Use Standards for MVOE’s (Section 405.380(D)). As this is an existing property with its current drive-thru facilities constructed in 1999, it is understandable that it would not meet all of the most-recent standards. The applicant submitted a document (See Attachments, Exhibit D) which goes through every requirement of the MVOE Use Standards and explains how the standard is either met, not met, or not applicable at the subject site. In the pursuit of a Conditional Use Permit, these standards that are not met must be addressed in some fashion. The following is excerpts from the applicant’s supplement speaking to the Use Standards (Exhibit D), specifically the standards that are **not met**:

- 405.380(D)(1)(b) *The radius used to increase the driveway opening at the curb or pavement edge shall not be less than ten (10) feet nor more than forty (40) feet. The edges of the opening shall not project beyond the side property line extended normal to the pavement.*

Applicant: “This is an existing property. The driveways project beyond the side property line extended normal to the pavement.”

Staff Analysis: This standard states that the radius of the circular cut of the curb may not extend beyond the property line, as shown on the left in Figure 1. On the right in that same figure is a satellite image of the subject site with the property lines in yellow. The radius of the curb at the circled driveway opening extends beyond the property lines. In Staff’s opinion, this

FIGURE 1: STAFF SKETCH EXPLAINING RADIUS REQUIREMENT (LEFT), SITE DEFICIENCY (RIGHT)





REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

PLANNING AND ZONING ANALYSIS - CONTINUED

is a minor issue considering the overall use and function of the existing site.

- 405.380(D)(1)(c) *The number of commercial entrances for each property or site shall be restricted on the basis of traffic requirements as determined by the City. The maximum number of driveway openings shall be limited to one (1) drive per two hundred (200) feet of lot frontage. On a corner lot, one (1) entrance from each street shall be permitted and located as far as possible from the street intersection corner.*

Applicant: “This is an existing property. According to the survey, the lot frontage is approximately 154.3 feet. The southern commercial entrance is used exclusively by KFC. The northern commercial entrance is subject to a cross-access agreement between KFC and the adjacent business which is located on a corner lot.”

Staff Analysis: The standard states that a site such as KFC, with only 154.3 feet of frontage, may only have one (1) driveway opening. As the applicant pointed out, there is one exclusive opening (A in Figure 2) and one opening that is shared with El Paisano’s (B in Figure 2). This is a non-conforming driveway orientation based on the standards. There are arrow markings on the pavement that direct drive-thru traffic to use the KFC-exclusive southern opening. Staff recommends a condition of use to require that these arrows be required markings, and to consider other measures such as a dashed lane line (See Figure 2) to ensure that users of the site are directed towards the southern opening.

FIGURE 2: DRIVEWAY OPENINGS AND LANE MARKINGS



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD



PLANNING AND ZONING ANALYSIS - CONTINUED

- 405.380(D)(2)(c) *Lane Width. Drive-through lanes must be a minimum of twelve (12) feet in width, except that a ten-foot wide lane will be permitted within the pickup/service area to guide motorists adjacent to the drive-up facility.*

Applicant: “According to the survey, the majority of the drive-through lane appears to be at least twelve (12) feet in width, though the entrance to the drive-through appears to be narrower at approximately ten (10) feet.”

Staff Analysis: The standard requires 12-foot lane width in drive-through lanes, which is not being met at the entrance to the drive-through according to the applicant. According to the survey, there is approximately 26 feet between the landscaping island and the curb to the rear (Figure 3, left), which is adequate to allow for the minimum 12-foot drive-through lane and an approximately 14-foot one-way pass-by lane. Staff recommends that the applicant restripe the drive-through lane so that this standard can be met, and that the pass-by lane be appropriately marked as a one-way.

- 405.380(D)(2)(i) *Restaurants shall meet the following standards: (1) Storage Length. All drive-through facilities shall contain stacking capacity for vehicles from the menu board to the stacking lane entrance [For 1 Drive-Through Lane With 1 Window: 10 vehicles (220 ft.)]*

Applicant: “This is an existing property. According to the survey, the stacking lane entrance to the menu board is approximately 60 feet.”

FIGURE 3: DRIVE-THRU WIDTH (LEFT) AND STACKING (RIGHT), EXISTING





REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

PLANNING AND ZONING ANALYSIS - CONTINUED

Staff Analysis: The standard states that on a site such as KFC a stacking capacity of 10 vehicles (or 220 feet) is required for a single drive-through lane with a single window. According to the applicant's calculations, 60 feet is provided. A rough look at the City's online mapping tools shows this distance as approximately 67 feet (Figure 3 on Page 8, right). This standard is not met, and Staff do not have a recommended condition of use to rectify this deficiency. Staff checked with City records and online reviews of the business and did not find any complaints speaking to the drive-thru stacking, or even general complains about the flow or design of the site. The existing site meets current demands, although the first condition in Exhibit A will ensure that future site plans will meet stacking requirements.

DETRIMENT TO PERMITTED DEVELOPMENT AND USES WITHIN THE DISTRICT—CONCLUSION

Use Standards included in Exhibit D and in Section 405.380(D), Use Standards for Motor Vehicle-Oriented Establishments, not quoted above are considered satisfactory by Staff and in compliance with the requirements of MVOE. Other aspects of the site not mentioned, such as the regulations of the "C-2" Commercial District, were addressed during a recent Property Maintenance Inspection. The inspection was conducted on March 4, 2020 due to the sale of the property, and included interior and exterior inspections. A number of deficiencies were noted at that time, including missing signs for ADA parking spaces, missing landscaping, damaged fencing, and dumpsters without trash enclosures. All of these items were rectified to the satisfaction of the Community Development Department as of September 15, 2020. As such, with the March inspection and the above analysis, all Code requirements are met or mitigated to the satisfaction of Staff.

As proposed, Staff finds that the MVOE satisfies the requirement that it can be operated in a manner that is not detrimental to permitted developments and uses in the district, subject to the conditions as detailed above.

FIGURE 4: GOOGLE STREETVIEW OF SITE (AUG. 2019), FACING SOUTH



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD



PLANNING AND ZONING ANALYSIS - CONTINUED

VISUAL COMPATIBILITY WITH PERMITTED DEVELOPMENT AND USES IN SURROUNDING AREA

To this review criteria, the applicant states in their narrative (See Attachments, Exhibit C): “The aesthetic impact of the restaurant is comparable to that of the surrounding businesses. As this is an existing property currently operating as a fast food restaurant and drive-thru, there will be no change to the current surroundings or visual aesthetics of the site.” Staff is of a similar opinion and finds that the MVOE meets the requirement for the use to remain visually compatible with permitted development and uses in the surrounding area.

ESSENTIALNESS OR DESIRABILITY TO THE CITY

This Conditional Use Permit would bring the existing motor vehicle-oriented establishment (KFC, a restaurant with drive-thru facilities) into compliance with the Zoning Code. In response to this review criteria, the applicant’s narrative (Exhibit C) explains that “the current operation of the restaurant and drive-thru on the property offers employment opportunities, provides tax revenue, and supports the community with convenient food and beverage products.” Staff finds that popular and affordable food options substantially meets the review requirement to be an essential and desired addition to the City to promote public health, safety, and general welfare to the City.

FIGURE 5: SURVEY OF EXISTING SITE (SITE PLAN)





REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

FINDINGS AND RECOMMENDATION

CONSISTENT WITH GOOD PLANNING PRACTICE

Staff finds that the proposed use as a motor vehicle-oriented establishment (MVOE) is deemed consistent with good planning practice, subject to conditions contained in Exhibit A.

DETRIMENT TO PERMITTED DEVELOPMENT AND USES WITHIN THE DISTRICT

Staff finds that the proposed use can be developed or operated in a manner that is not detrimental to the permitted developments or uses within the district, subject to conditions contained in Exhibit A.

COMPATIBLE WITH PERMITTED DEVELOPMENT AND USES IN SURROUNDING AREA

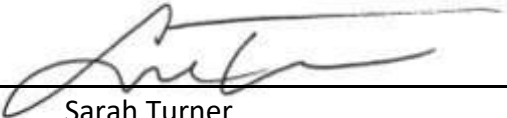
Staff finds that the proposed use can be developed or operated in a manner that is visually compatible with the permitted development and uses in the surrounding area, subject to conditions contained in Exhibit A.

ESSENTIALNESS OR DESIRABILITY TO THE CITY

Staff finds that the proposed use is deemed essential or desirable to preserve and promote the public health, safety, and general welfare to the City of Arnold.

RECOMMENDATION

Staff finds that the proposed Conditional Use Permit meets the review criteria and is in compliance with the Zoning Ordinance and Comprehensive Plan. Based on this finding, Staff requests favorable consideration of the application.



Sarah Turner
Community Development Planner



ATTACHMENTS

EXHIBIT A: CONDITIONS OF USE

EXHIBIT B: SITE PLAN

EXHIBIT C: APPLICANT NARRATIVE

EXHIBIT D: SUPPLEMENT - USE STANDARDS



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

CONDITIONS

1. The granting of this Conditional Use Permit is to allow for the conformance of the MVOE that currently exists at this site. Should the structure or any portion of structure be destroyed by any means to an extent that more than fifty percent (50%) of the structure's replacement cost at the time of destruction, it shall not be reconstructed except in full compliance with all provisions of the Code of Ordinances, including all MVOE Use Standards.
2. Pavement markings (i.e., arrows) and/or additional lane markings shall direct drive-through traffic to the southern driveway opening.
3. Re-stripe the drive-through lane to satisfy the 12-foot minimum width required by Section 405.380(D)(2)(c).
4. Mark the drive-thru pass-by lane as a one-way.

EXHIBIT A: STAFF RECOMMENDED CONDITIONS OF USE

KFC MVOE



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

Narrative for Conditional Use Permit Application

1434-1436 Jeffco Blvd., Arnold, MO 63010
(Jefferson County Parcel No. 01-9.0-29.0-3-001-006)

September 2, 2020

The property located at 1434-1436 Jeffco Blvd., Arnold, Missouri, 63010 is a quick service, or fast food restaurant, with off-street parking facilities and a drive-thru, for the sale and consumption of food and beverage products both on or off the premises. The restaurant is currently operating as a Kentucky Fried Chicken.

The use of the property is consistent with good planning practice and can be operated in a manner that is not detrimental to the permitted developments and uses in the district. A KFC, or a similarly situated fast food restaurant with drive-thru service, has been located on the property for approximately twenty years. It is surrounded on two sides by property zoned as C-2 Commercial District, and is located along a commercial corridor. The surrounding properties contain various businesses, including the operation of another restaurant, which is a permitted use under the C-2 zoning district. There is adequate space and vegetation providing screening between the site and the residential property to the southeast.

The property was developed and operates in a manner that is visually compatible with the permitted uses in the surrounding area. The aesthetic impact of the restaurant is comparable to that of the surrounding businesses. As this is an existing property currently operating as a fast food restaurant and drive-thru, there will be no change to the current surroundings or visual aesthetics of the site.

The property is also used in a way that is essential or desirable to preserve and to promote the public health, safety, and general welfare of the City. The current operation of the restaurant and drive-thru on the property offers employment opportunities, provides tax revenue, and supports the community with convenient food and beverage products.

{17990/00094/2934675.DOCX.2}

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{17990/00094/2934675.DOCX.2}

EXHIBIT C: APPLICANT NARRATIVE

REPORT TO PLANNING COMMISSION

CITY OF ARNOLD



Supplement to Conditional Use Permit Application
Project No. PC 2020-18

Community Development Department
City of Arnold
2101 Jeffco Blvd.
Arnold, MO 63010

Applicant: FQSR, LLC
Owner: Quick Service Realco, LLC
Property Address: 1434-1436 Jeffco Blvd., Arnold, MO 63010

RE: Motor Vehicle-Oriented Establishments: Conditions and Restrictions

This memorandum is a supplement to the above-referenced Conditional Use Permit Application to address the conditions and restrictions for Motor Vehicle-Oriented Establishments (MVOE) adopted by the City.

1. Ingress and Egress.

- a. The minimum width of driveways at the right-of-way line shall be twenty-four (24) feet, and shall not exceed forty (40) feet.
 - According to the survey submitted with the application, the southern driveway complies with the ordinance and is approximately 28 feet. The entrance point of the northern access driveway is connected to the access point of the neighboring property to the north (Mexican restaurant). The northern entrance is utilized by the two locations, and the total width appears to be just over 30 feet but less than 35 feet according to the survey.
- b. The radius used to increase the driveway opening at the curb or pavement edge shall not be less than ten (10) feet nor more than forty (40) feet. The edges of the opening shall not project beyond the side property line extended normal to the pavement.
 - This is an existing property. The driveways project beyond the side property line extended normal to the pavement.
- c. The number of commercial entrances for each property or site shall be restricted on the basis of traffic requirements as determined by the City. The maximum number of driveway openings shall be limited to one (1) drive per two hundred (200) feet of lot frontage. On a corner lot, one (1) entrance from each street shall be permitted and located as far as possible from the street intersection corner.

(17990/00094/2945112.DOCX.3)

EXHIBIT D: SUPPLEMENT - USE STANDARDS, PG. 1

PC-2020-18 CONDITIONAL USE PERMIT



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

- This is an existing property. According to the survey, the lot frontage is approximately 154.3 feet. The southern commercial entrance is used exclusively by the KFC. The northern commercial entrance is subject to a cross-access easement between KFC and the adjacent business which is located on a corner lot.

d. The angle and location of driveway intersection with the street shall be based upon reasonable criteria for safe traffic movements and subject to the review and approval of the City Engineer.

- The attached survey shows the existing intersection of the driveway and the street.

e. MVOEs integrated in a shopping center or cluster of commercial facilities shall use the common access with other business establishments in that center.

- This site is not located in a shopping center and is not applicable.

f. Exceptions to the width and/or radius may be required, or allowed with special approval by the City, to insure adequate provisions for large vehicles and/or high traffic volumes.

- No exceptions are necessary at this time.

2. Drive-Through Lanes Standards. Except as further regulated elsewhere in this Section, all drive-through facilities shall be designed to meet the minimum requirements indicated:

a. **Storage Length.** If not specifically specified herein, storage length will be determined by the Community Development Director with the input of the City's engineering staff based upon available data for like uses and the volume of adjacent street traffic. The City may approve reductions in required storage lengths if the applicant submits a traffic study prepared by a professional traffic engineer, which provides verifiable evidence to allow such reduction.

- Applicant is an existing property with drive-through facilities.

b. **Exclusive Use.** Drive-through lanes shall be used exclusively for drive-through vehicles commencing at a point not less than sixty-six (66) feet back from the service point of the facility.

- According to the survey, the drive-through lane complies and commences at approximately 120 feet back from the service point of the facility.

{17990/00094/2945112.DOCX.3}

EXHIBIT D: SUPPLEMENT - USE STANDARDS, PG. 2

REPORT TO PLANNING COMMISSION

CITY OF ARNOLD



c. Lane Width. Drive-through lanes must be a minimum of twelve (12) feet in width, except that a ten-foot wide lane will be permitted within the pickup/service area to guide motorists adjacent to the drive-up facility.

- According to the survey, the majority of the drive-through lane appears to be at least twelve (12) feet in width, though the entrance to the drive-through appears to be narrower at approximately ten (10) feet.

d. Pass-By Lane Provision. Each drive-through aisle shall be separated from the circulation routes necessary for ingress or egress from the property, or access to a parking space.

- According to the survey, there is a pass-by lane adjacent to the drive-through aisle that allows for circulation routes on the property.

e. Minimum Distance From A Public Roadway. When the drive-through lane is oriented parallel to a public roadway, there must be a minimum distance of fifty (50) feet measured between the public road curb or edge of pavement and the nearest curb or edge of the drive-through lane.

- This is not applicable because the drive-through lane is not oriented parallel to a public roadway.

f. Pedestrian Access and Crossings. Pedestrian access shall be provided from each abutting street to the primary entrance with a continuous sidewalk or delineated walkway satisfying the minimum requirements of the Americans with Disabilities Act (ADA). Pedestrian walkways should not intersect the drive-through drive aisles, but where they do the walkways shall have clear visibility and shall be delineated requirements of the ADA.

- A continuous sidewalk is located parallel to the abutting public right of way and opens to the paved parking lot and entrance of the restaurant. A concrete walkway surrounds the southern side of the restaurant building with access to the parking lot and two ADA parking spaces. No pedestrian walkways intersect the drive-through drive aisle.

g. Automated car washes - Not Applicable.

h. Financial institutions - Not Applicable.

i. Restaurants shall meet the following standards:

(1) Storage Length. All drive-through facilities shall contain stacking capacity for vehicles from the menu board to the stacking lane entrance in accordance with Table 380.2, stacking

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REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

for drive-through lanes. Stacking for Drive-Thru Lanes For 1 Drive-Through Lane with 1 window: 10 vehicles (220 ft.)

- **This is an existing property. According to the survey, the stacking lane entrance to the menu board is approximately 60 feet.**

(2) Exclusive Use. The drive-through lane shall be used exclusively for drive-through vehicles from the order board to the pick-up window. The distance between the order board and the pick-up window should be sufficient to store four (4) cars.

- **According to the survey, the drive-through lane appears to comply as the distance between the order board and the pick-up window should be sufficient to store at least four (4) cars.**

(3) Delayed Pick-Up Area Provision. A pick-up area sufficient to store a minimum of one (1) car shall be provided for each pick-up window.

- **There is an area after the pick-up window that is sufficient to store a minimum of one (1) car, and there are also four parking spaces located immediately adjacent to the pick-up window.**

3. Site Design.

a. Off-street parking:

(1) All MVOEs shall provide for off-street parking for the underlying use in accordance with the requirements of this Chapter, unless otherwise noted.

- **According to the survey, 30 regular and 2 handicap parking spaces exist on the property.**

(2) No internal parking stall, cross drive aisle, or loading space shall be located closer to the street right-of-way than twenty (20) feet or within any required side yard setback.

- **There are no parking stalls, cross drive aisles, or loading spaces located closer than twenty (20) feet to the street right-of-way or any side yard setback**

b. Vehicular areas:

(1) When the rental of equipment, automobiles, trucks, and trailers is to be conducted on an MVOE site, additional land area and paved area shall be provided in addition to the driveway, parking area, and landscape areas required by this Section. An additional one thousand (1,000) square feet of site area shall be provided for each five (5) rental units. No parking of rental units shall be permitted on landscaped areas, public or private roadways, including adjacent shoulders. All rental storage areas shall be paved and landscaped as approved by the City. Such rental equipment shall be stored in rear yard or as approved by the Planning Commission, except when being picked up by customers.

{17990/00094/2945112.DOCX.3}

REPORT TO PLANNING COMMISSION

CITY OF ARNOLD



- This section on rental equipment is not applicable.

c. Performance standards:

(1) Outdoor Sales and Display.

(a) Outdoor display and sales of merchandise may be permitted along the storefront. All other outdoor storage of materials and displays are specifically prohibited.

- This is not applicable as there are no outdoor displays or sales.

(b) Area. Said outdoor display shall be limited to twenty-five percent (25%) of total store frontage with a maximum of one hundred (100) square feet (inclusive of vending machines).

- **The outdoor display restrictions are not applicable. The building signage is limited to KFC lettering along the building and promotional signage in the windows.**

(c) Height and Other Dimensions. The height of any outdoor display may not exceed five (5) feet with the exception of vending machines (and their surrounds) which shall not exceed eight (8) feet in height, three (3) feet in depth, or six (6) feet in width.

- **The outdoor display restrictions are not applicable.**

(d) Location.

(i) The placement of said display along the storefront shall be in compliance clear width requirements with the Americans with Disabilities Act and shall not obstruct pedestrian access to the building.

- **The outdoor display restrictions are not applicable. There is promotional signage in the windows that does not obstruct access to the building.**

(ii) Vending machines shall not be located within three (3) feet of a fire department connection.

- **This is not applicable as there are no vending machines on site.**

(iii) Price signs shall be permitted on outdoor displays. Said price signage shall not exceed two (2) square feet and shall be placed upon the merchandise which it advertises.

- **There is promotional signage in the windows, a portion of which may have pricing.**

(e) Parking. One (1) parking space, in addition to the number of spaces required for the convenience store, shall be provided for video rental, propane gas, and similar vending machines subject to the review and approval of the City.

- **Not Applicable.**

{17990/00094/2945112.DOCX.3}



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

APPLICATION NUMBER: PC-2020-19

APPLICATION NAME: 743 LOUISA DR

APPLICANT NAME: Sally Becnel
743 Louisa Dr.
Arnold MO 63010

PROPERTY OWNER NAME: Sally Becnel
743 Louisa Dr.
Arnold MO 63010

APPLICANT'S REQUEST: A request for approval of an appeal to the street-yard fence regulations in order to allow for a backyard fence to be constructed on a dual-frontage lot at 743 Louisa Dr.

STREET ADDRESS: 743 Louisa Dr

SITE LOCATION: North of Grace Freewill Baptist Church, off of Tenbrook Rd, third of a mile southeast of intersection of Tenbrook and Jeffco Blvd

ZONING DISTRICT: "R-5" Residential District

PARCEL ID: 01-4.0-20.0-4-004-028.01

TOTAL SITE AREA: ± 0.29 acres

MEETING DATE: October 13, 2020

REPORT DATE: October 6, 2020

CASE MANAGER: Sarah Turner

RECOMMENDATION: **APPROVE WITH CONDITIONS**

REPORT TO PLANNING COMMISSION

CITY OF ARNOLD



SITE HISTORY & CONDITIONS

The 0.29 acre parcel is located along Louisa Dr., which is off of Tenbrook Rd. The property is zoned "R-5" Residential. The property has 2 frontages: the primary frontage along Louisa Dr., and a portion of the rear is adjacent to Vera Dr. It is developed with a 1,420 square-foot single-family dwelling.

BACKGROUND

Sally Becnel is the applicant and property owner of 743 Louisa Dr. It is zoned "R-5" Residential. This lot was platted in 1965 but for many years was one of the remaining lots of the Emilou Subdivision that hadn't been built out for many years. In January 2020, the current house on the site was built.

In July 2020, the applicant had applied for a building permit to construct a 6-foot privacy fence in her backyard. Due to the proposed fence not meeting regulations on street-yard setbacks on multiple frontage lots, the permit was denied. In September 2020, the applicant put in this appeal to the fencing standards to be reviewed by the Planning Commission.

LAND USE AND ZONING CONTEXT MATRIX

DIRECTION	EXISTING LAND USE	ZONING DISTRICT	COMMENTS
North	Residential	R-3	Single-family dwellings
East	Residential	R-3	Single-family dwellings
South	Institutional; Residential	R-3	Church; Single-family dwellings
West	Residential; Light commercial	R-3	Single-family dwellings; Mottert's Repair

ZONING MAP





REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

REQUEST FOR APPEAL

A request for approval of an appeal to the street-yard fence regulations in order to allow for a backyard fence to be constructed 6-feet from a property line adjacent to a street on a dual-frontage lot at 743 Louisa Dr.

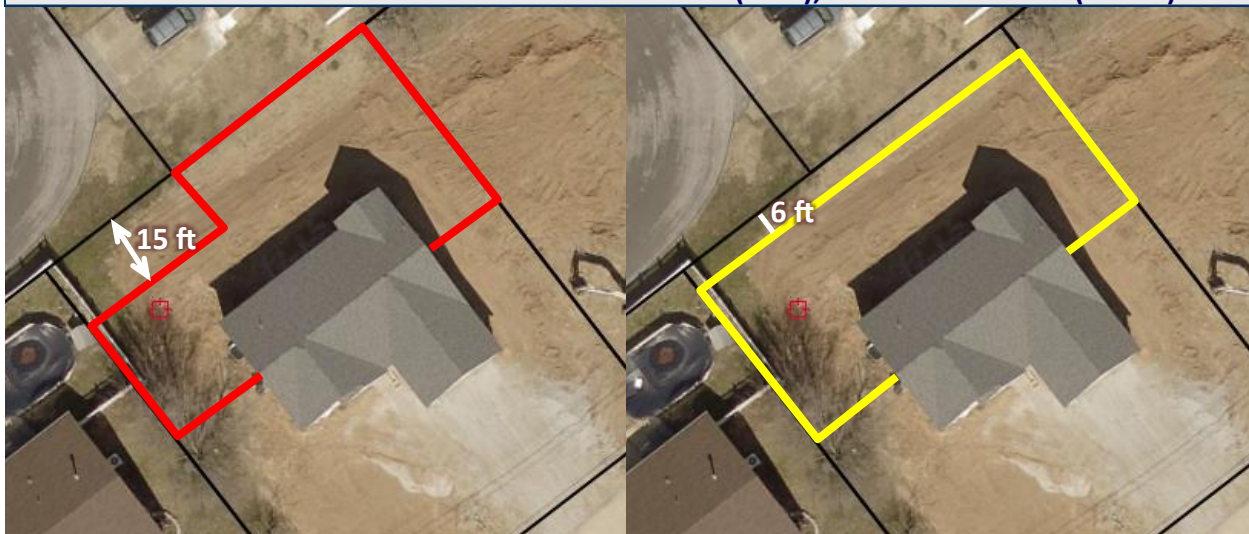
SUMMARY OF PLANNING AND ZONING ANALYSIS

The applicant's proposed fence (see Figure 1 below, on the right) is a 6-foot tall white vinyl privacy fence setback 6 feet from the property line. This property line is partially a street yard to Vera Drive. The proposed fence is primarily in conflict with regulations on fences in street yards, as a fence along a secondary front/street yard must be 15 feet from the property line. The applicant also needs approval to have a 6-foot fence in the front/street yard setback, as the maximum height is only 4 feet without Commission approval.

- The fence would be in character with surrounding fences and would not be visible from Tenbrook, reducing the chance of detriment to surrounding properties.
- Dual frontage lots or even through lots (where there is a street in the front and rear) are not un-common in the City of Arnold. However, this property has the unique condition of having only a segment of the "rear" property line adjacent to Vera Drive right-of-way.
- Due to the above unique condition, the Code would allow for an irregularly shaped fence with a "cut out" (see Figure 1 below, on the left).

As a result of the above, Staff recommends favorable consideration of the applicant's requests, subject to the condition that the fence setback not be further reduced below 6 feet. A more detailed analysis of the above is contained in this report from pages 4 through 8.

FIGURE 1: CODE-COMPLIANT FENCE WITH "CUT-OUT" (LEFT), PROPOSED FENCE (RIGHT)



743 Louisa Dr.

REPORT TO PLANNING COMMISSION

CITY OF ARNOLD



CODE REVIEW

Appeals to Section 405.760(S), Fencing Standards, of the Code of Ordinances, shall be made and reviewed by the Planning Commission.

ANALYSIS OF APPLICABLE ZONING REGULATIONS

The 0.29 acre lot and single-family dwelling located at 743 Louisa is zoned as "R-5" Residential.

Section 405.760(S)(3)(b) of the Zoning Ordinance states:

Location.

(1) Residential districts ("R-1", "R-2", "R-3", "R-4", "R-5" and "R-6").

b) Fences in the required front yard setback are prohibited except that on lots with more than one (1) street frontage, fences may project up to ten (10) feet into required street yards other than the required front yard.

The section of Code above regulates locations of fences in all of the "R" Residential districts. The subject property is a dual frontage lot, since it is adjacent to the right-of-ways of both Louisa Dr (primary front/street yard) and Vera Dr (secondary front/street yard). A fence is prohibited in the Louisa Dr. front yard, but may project up to ten (10) feet into the Vera Dr front yard. The front/street yard setback in the "R-5" Residential District is twenty-five (25) feet. Therefore, a fence must be setback fifteen (15) feet from the property line adjacent to Vera Dr right-of-way. (15-foot setback = the normal 25-foot setback minus the 10-foot projection allowed for by Section 405.760(S)(3)(b)(1)(b) above). The proposed fence would be constructed as shown on the site plan (Attachments, Exhibit A) which is only six (6) feet from the property line shared with Vera Dr. right-of-way.

Section 405.760(S)(3)(c) of the Zoning Ordinance states:

Maximum height for all fences. The maximum height of any fence or decorative post shall be six (6) feet six (6) inches within permitted locations and subject to the following exceptions:

(1) A maximum four (4) foot high fence may be permitted within a required front or street yard beyond the above limitations subject to approval by the Planning Commission.

The section of Code above regulates the height of fences. Allowable fences in front yards can be a maximum of four (4) feet in height, unless given approval by the Planning Commission for a taller fence. The proposed fence a privacy fence that is six (6) feet in height.

⇒ In summary, Staff finds that proposed fence is non-conforming with the location and height restrictions for front/street yard fences in "R" Residential districts. To bring the fence into compliance, the location and height must be modified or the applicant must obtain a variance to the sections of Code as listed above to allow for the construction of the proposed fence.



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

PLANNING AND ZONING ANALYSIS

REVIEW CRITERIA

The appeal/variance review criteria as provided in Section 405.760(S)(3)(i), Fencing Standards, of the Zoning Ordinance are listed below in *italics*. Full statements from the applicant’s narrative (Exhibit A) in response to how this request meets the criteria are quoted in **bold**.

Appeals to this Section must be made in writing to the Planning Commission outlining their reason for appeal that addresses the following criteria:

- 1. The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located.*

Applicant Response (1): **“The applicant is requesting a variance to the setback and height restrictions for a fence on a double frontage lot at 743 Louisa Dr. The purpose is to allow for a 6 foot privacy fence similar to adjacent properties 6 feet off the rear property line which is in a street yard to Vera Dr.**

Sally Becnel had a new home built at 743 Louisa Dr. on a vacant lot in Spring 2020. Sally is requesting approval for professional installation of a white vinyl fence that will run parallel to Vera Dr. for approximately 30 feet of her 99 foot rear fence line.

Being granted this variance, the fence will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located.”

Staff Response (1): This request for appeal, if approved, would grant a variance to allow the applicant to construct a six (6)-foot vinyl privacy fence approximately six (6) feet away from the property line adjacent to Vera Dr. right-of-way. This fence would be highly visible from Vera Dr (See Site Photos in the Attachments, Exhibit A), but not from Louisa Dr or Tenbrook

FIGURE 2: VIEW OF SUBJECT PROPERTY FROM TENBROOK RD, FACING EAST



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD



PLANNING AND ZONING ANALYSIS —CONTINUED

Rd. There are fences on surrounding properties that are similar to the proposed fence in style (white vinyl privacy) and proximity to Vera Dr right-of-way. This report will later speak in more detail about these other properties. City records do not indicate any complaints regarding these other fences. It is up to the Planning Commission's judgement whether or not the variance request meets this first criteria.

2. The conditions upon which the request for a variance is based are unique to the property to which the variance is sought, and are not applicable generally to other property.

Applicant Response (2): **"The conditions upon which the request for a variance is based are unique to the property to which the variance is sought, and are not applicable generally to other property. All neighbors along Vera Dr. currently have a fence installed similarly within several feet of the street frontage that were approved prior to currently requirements."**

Staff Response (2): In the excerpt above, the applicant is referring to their neighbor at 745 Louisa Dr. For the purposes of analyzing this variance request, a bit of background is required on the neighboring property:

The entirety of 745 Louisa Dr's rear line is shared with Vera Dr right-of-way. In 2001, a variance from the 25-foot front yard setback was granted to allow for the construction of a backyard pool (BA 01-05). Sometime between 2001 and 2018, a 6-foot privacy

FIGURE 3: 745 LOUISA DR (LEFT HOUSE), 743 LOUISA DR (SUBJECT PROPERTY, RIGHT HOUSE)





REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

PLANNING AND ZONING ANALYSIS —CONTINUED

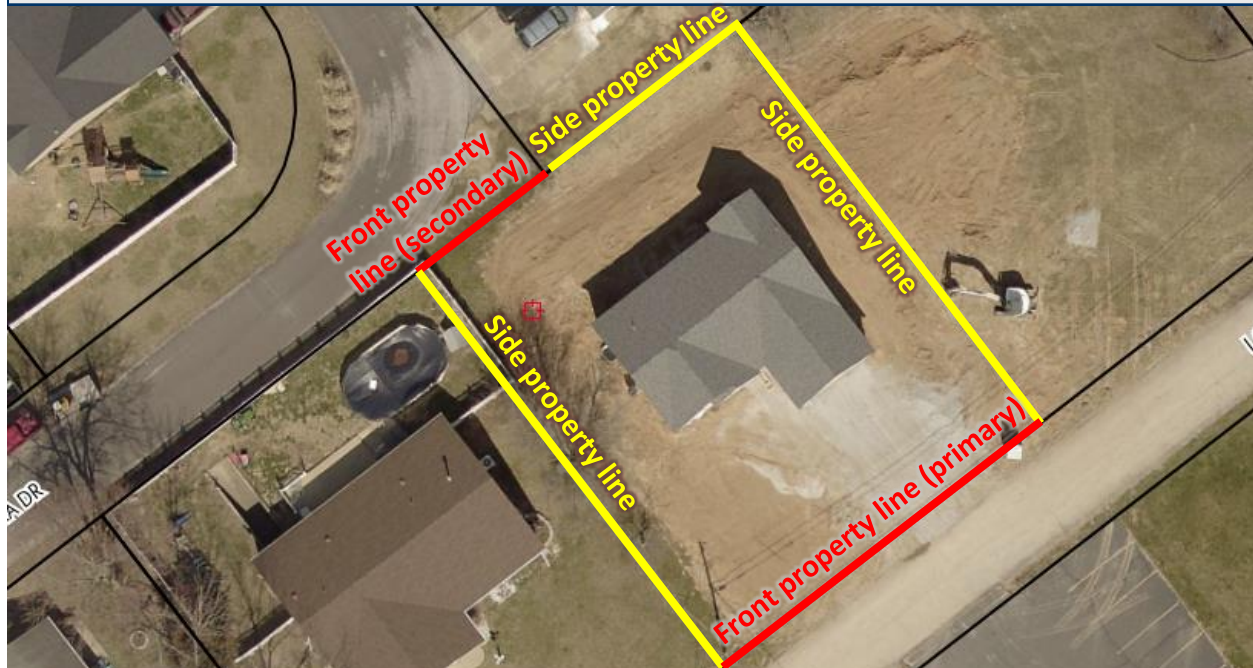
fence was constructed. The City had its same Fencing Standards at the time that the fence was constructed at 745 Louisa Dr, but there was little to no enforcement as fence permits were not required until April 2018.

Given the above background information, the fence at 745 Louisa Dr (the neighboring property that the applicant speaks of in the narrative) is a non-conforming fence. To quote Section 405.050(A)(5), of the Non-Conforming Code: *The existence of any present non-conformity anywhere in the City shall not itself be considered grounds for the issuance of a variance for other property.*

In other words: the existence of the neighbor’s privacy fence at 745 Louisa Dr which does not meet front-yard setbacks cannot be considered grounds for the issuance of this fence variance at 743 Louisa Dr. That being said, the existence of the surrounding fences cannot be the *grounds* of the request, but these non-conforming fences can be *considered*.

While dual frontage or through lots are not un-common in the City, Staff has found unique conditions separate from existing non-conformities that the applicant did not mention. A dual frontage lot where only a portion of the property line is adjacent to right-of-way is unique in the opinion of Staff (see Figure 4 below). This partial side/partial front yard creates a unique situation that, as will be further discussed, allows for irregular fence configurations but not uniform/rectangular ones. This condition may be considered by the Planning Commission to be a unique condition that is not generally applicable to other property.

FIGURE 4: BREAKDOWN OF PROPERTY LINES ON SUBJECT PROPERTY



743 Louisa Dr.

REPORT TO PLANNING COMMISSION

CITY OF ARNOLD



PLANNING AND ZONING ANALYSIS —CONTINUED

3. *Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the letter of these regulations are carried out.*

Applicant Response (3): **“Because of the physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the letter of these regulations are carried out. Being granted the hardship request, the fence would block visual view from Vera Dr. directly into the rear of the house, which includes the master bedroom and bathroom, kitchen, and living room. The fence would also match the neighbors existing fence along Vera Dr. The purpose of the fence is to insure privacy and safety of the homeowner.”**

Staff Response (3): The applicant’s hardship as stated appears to be: if they are not granted this fence variance, the homeowner will suffer a loss of privacy and safety due to the proximity of Vera Drive. Staff cannot speak to the privacy or safety of the homeowner in detail, as that is subjective. Staff will point out that Vera Dr has a low amount of traffic, typical for a residential street. There is approximately 36 feet between the home and the property line, and 49 feet between the home and the pavement edge of Vera Dr.

In addition to the applicant’s stated hardship of privacy and safety, Staff has identified a hardship based on the unique condition. Only a portion of the lot is a front/street yard to Vera Dr, while the rest of that line is a typical side property line. Due to this condition, the fence that would be allowed per Code would look something like Figure 5 with a “cut-out” area. It is up to the Planning Commission to determine whether the combination of privacy, safety, and the “cut out” are considered hardships for the purpose of this variance request.

FIGURE 5: CODE-COMPLIANT FENCE WITH “CUT-OUT” (LEFT), PROPOSED FENCE (RIGHT)





REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

FINDINGS AND RECOMMENDATION

DETRIMENT TO PUBLIC SAFETY/HEALTH/WELFARE OR INJURY POSED TO NEARBY NEIGHBORHOODS

The granting of the variance may not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located.

UNIQUE CONDITIONS OF THE PROPERTY

The conditions upon which the request for a variance is based may be unique to the property to which the variance is sought, and are not applicable generally to other property.

HARDSHIP

Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner may result, as distinguished from a mere inconvenience, if the letter of these regulations are carried out.

RECOMMENDATION

There is one request for appeal to the fencing regulations and one request for Planning Commission approval contained in this application:

- Request for relief from Section 405.760(S)(3)(b)(1)(b) (location regulations for fences in street yards) for the purpose of allowing for a fence 6 feet from a property line shared with Vera Dr right-of-way, as shown in Exhibit A.
- Request for approval of a 6-foot privacy fence in a required front or street yard, per Section 405.760(S)(3)(c)(1).

Staff recommends favorable consideration of this request. Should the Planning Commission vote to approve, Staff recommends the Commission do so with the following conditions:

- **The front/street yard fence setback cannot be further reduced below six (6) feet.**

A handwritten signature in black ink, appearing to read "Sarah Turner", is written over a horizontal line.

Sarah Turner
Community Development Planner



ATTACHMENTS

**EXHIBIT A: APPLICANT NARRATIVE
(INCLUDES SITE PHOTOS AND SITE PLAN)**



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

Fence Permit Request

Sally Becnel
743 Louisa Dr.

The applicant is requesting a variance to the setback and height restrictions for a fence on a double frontage lot at 743 Louisa Dr. The purpose is to allow for a 6 foot privacy fence similar to adjacent properties 6 feet off the rear property line which is in a street yard to Vera Dr.

Sally Becnel had a new home built at 743 Louisa Dr. on a vacant lot in Spring 2020. Sally is requesting approval for professional installation of a white vinyl fence that will run parallel to Vera Dr. for approximately 30 feet of her 99 foot rear fence line.

Being granted this variance, the fence will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located.

The conditions upon which the request for a variance is based are unique to the property to which the variance is sought, and are not applicable generally to other property. All neighbors along Vera Dr. currently have a fence installed similarly within several feet of the street frontage that were approved prior to currently requirements.

Because of the physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the letter of these regulations are carried out. Being granted the hardship request, the fence would block visual view from Vera Dr. directly into the rear of the house, which includes the master bedroom and bathroom, kitchen, and living room. The fence would also match the neighbors existing fence along Vera Dr. The purpose of the fence is to insure privacy and safety of the homeowner.

Below are several photos showing the property layout and site plan.

Thank you in advance for your time and consideration.

REPORT TO PLANNING COMMISSION
CITY OF ARNOLD



Fence Permit Request

Sally Becnel
743 Louisa Dr.

Satellite image of 743 Louisa Dr (brand new house was built in 2020 after imagery). Existing fence line indicated in red along Vera Dr.



EXHIBIT A: APPLICANT NARRATIVE, PG. 2

PC-2020-19 FENCE APPEAL



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

Fence Permit Request

Sally Becnel
743 Louisa Dr.

Two images taken from Vera Dr. showing the rear of 743 Louisa Dr. and neighbors existing 6 foot privacy fence



EXHIBIT A: APPLICANT NARRATIVE, PG. 3 (SITE PHOTOS)

743 Louisa Dr.

REPORT TO PLANNING COMMISSION

CITY OF ARNOLD



Fence Permit Request

Sally Becnel
743 Louisa Dr.

Site Plan- Fence outline highlighted yellow. Both front sections are 25'. The right section is 56'. The rear section is 99' and set 6' inward of property line. There is no left section as the neighbor has an existing fence.



EXHIBIT A: APPLICANT NARRATIVE, PG. 4 (SITE PLAN)

PC-2020-19 FENCE APPEAL