

MCCOOK CITY COUNCIL

REGULAR MEETING

**Monday, December 11, 2023
5:15 PM - City Council Chambers**

Open Meetings Act Announcement.

Items

1. Approve the minutes of the October 9, 2023 joint City of McCook Planning Commission and Council meeting.
2. Public Hearings and Regular Agenda.
 - A. Public Hearing - Request for a special exception by Living Bones, LLC to locate a Bed and Breakfast/Vacation Rental in a Residential Medium (RM) District, property located at 205 and 207 East "H" Street.
 1. Adjourn the Public Hearing.
 - B. Recommend approval to the City Council the application for a special exception by Living Bones, LLC to locate a Bed and Breakfast/Vacation Rental in a Residential Medium (RM) District, property located at 205 and 207 East "H" Street, finding Special Exception considerations A-I are satisfied.

Adjournment.

**CITY MANAGER'S REPORT
DECEMBER 11, 2023 PLANNING COMMISSION MEETING**

ITEM: 1.

RECOMMENDATION:

Approve the minutes of the October 9, 2023 joint McCook Planning Commission and City Council meeting.

BACKGROUND:

Receive and approve the minutes.

**FISCAL
IMPACT:** None.

APPROVALS:



Lea Ann Doak, City Clerk

December 7, 2023

McCook Planning Commission
City Council
Joint Meeting
October 9, 2023
5:15 PM Central

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

Planning Commission present: Vice Chair Hilker; Commissioners Davidson, Dueland, Friehe, McDowell, Stevens (arrived 5:47 P.M.), Mockry.

Planning Commission absent: Chair Vosburg; Commissioners Bradley, Lyons,

City Council present: Mayor Taylor, Councilmembers Calvin, Weedon, Muehlenkamp, Rambali.

City Council absent: None.

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

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on October 5, 2023, the designated method of giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to all members of the Planning Commission and City Council. Availability of the agenda was communicated in the advance notice. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

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

1. Approve the minutes of the September 11, 2023 regular Planning Commission meeting.

Motion to approve the minutes of the September 11, 2023 regular Planning Commission meeting. This motion, made by Mockry and seconded by Friehe, passed.

Bradley: ABSENT, Davidson: YEA, Dueland: YEA, Friehe: YEA, Hilker: YEA, Lyons: ABSENT, McDowell: YEA, Mockry: YEA, Stevens: ABSENT, Vosburg: ABSENT
YEA: 6, NAY: 0, ABSENT: 4

2. Presentation from Marvin Planning Consultants regarding their analysis of the McCook Solar, LLC, Special Exception Application in Sections 11, 12, 13, 24, T3R30, Red Willow County, Nebraska.

City Manager Schneider reviewed the information in his City Manager's report. Per request, Marvin

Planning Consultants analyzed a special exception application filed by McCook Solar, LLC to determine the application's compliance with the City of McCook's zoning ordinance. In particular, the analysis focused on the application as it relates to Article 7 (Agricultural District) and Article 24 (Special Exceptions) of McCook's zoning ordinance. Marvin Planning Consultants analysis also focuses on McCook's Comprehensive Plan to assure the application lines up with the stated goals and objectives for the current and future development of the McCook area. Marvin Planning Consultants completed its review and submitted a memo dated September 26, 2023.

Marvin Planning Consultants - Keith Marvin and John Shepherd reviewed their memo dated September 26, 2023 regarding their analysis of the McCook Solar, LLC, Special Exception Application.

Brice Barton of 39North, representing Birch Creek and McCook Solar, LLC, reviewed their application and addressed questions and concerns from the Commission.

Adjournment.

With no further business, Vice Chair Hilker declared the joint Planning Commission and City Council meeting adjourned at 6:54 P.M.



Lea Ann Doak, City Clerk
Recording Secretary

**CITY MANAGER'S REPORT
DECEMBER 11, 2023 MCCOOK PLANNING COMMISSION MEETING**

2.A.

ITEM: Public Hearing - Request for a special exception by Living Bones, LLC to locate a Bed and Breakfast/Vacation Rental in a Medium Density Residential District (RM) - property located at 205 and 207 East H Street.

2.B.

ITEM: Recommend approval of a special exception to the City Council to allow a Bed and Breakfast/Vacation Rental in a Medium Density Residential District (RM) - property located at 205 and 207 East H Street, finding that Special Exception considerations A - I are satisfied.

BACKGROUND:

The City of McCook has received a special exception request from Living Bones, LLC. Specifically, the applicants have requested that the property located at 205 and 207 East H Street be granted special exception status for the purposes of operating a bed and breakfast and/or a vacation rental. Historically, the property has been used as two single family dwelling units. The property is a duplex structure that was built in 1925. The property is unique in its size and location. The front of the property faces East H Street and appears to have been divided from a larger "L" shaped lot located to the west and north. Due to the aforementioned action, the lot is smaller than typical RM lots. With respect to the immediate application, Living Bones, LLC asks that the two units be given special exception status to legally conduct a vacation rental/bed and breakfast at the site.

The application addresses McCook's Zoning Ordinance, Article 24 Special Exception requirements relative to the RM District. Based on staff's review, despite the small size of the lot, it is believed a grant of special exception will not adversely impact ingress and/or egress. The property is located on a through street, and the structure would not house numerous individuals. Additionally, there is adequate off-street parking on the lot to accommodate individuals that are renting the property. Staff reviewed the property and found sufficient space for 4 vehicles at the front of the property and sufficient space for 1 or 2 vehicles off the alley on the north side of the property. The residential structure's footprint would remain the same. Also, staff believes the request generally complies with the City of McCook's Comprehensive Plan.

APPROVALS:



Lea Ann Doak, City Clerk

December 7, 2023



Nathan A. Schneider, City Manager

December 7, 2023

EXHIBIT #1

PAGE(S) - 1

**NOTICE OF PUBLIC HEARING
REQUEST FOR A SPECIAL EXCEPTION**

NOTICE IS HEREBY GIVEN that a public hearing will be held by the City of McCook Planning Commission on December 11, 2023, at 5:15 P.M. and by the McCook City Council on December 18, 2023, at 5:30 P.M. The hearings will be held in the City Council Chambers, 505 West "C" Street, McCook, Nebraska, to consider a request for a special exception to allow a Bed and Breakfast/Vacation Rental in a Residential Medium Density (RM) District in the City of McCook. Property located at 205 and 207 East "H" Street; E 40' of Lot 7 and the E 40' of the S 20' of Lot 8, Block 3, First Addition to the to the City of McCook, Red Willow County, Nebraska. Land Owner, Living Bones, LLC, Jeff and Patty Tidyman, members. Any and all persons desiring to comment on the above-described special exception may attend said public hearings and will be given an opportunity to be heard. For additional information regarding this notice please contact Nate Schneider, City of McCook City Manager, at 345-2022 ext. 225.

-s- Lea Ann Doak
City Clerk

Publish: December 1, 2023.

EXHIBIT #2

PAGE(S) - 1

NOTICE OF HEARING

REQUEST FOR

SPECIAL EXCEPTION

NOTICE IS HEREBY GIVEN that a public hearing will be held on a request to allow a Bed and Breakfast/Vacation Rental in a Residential Medium Density (RM) District in the City of McCook.

ADDRESS: 205 and 207 East "H" Street

LEGAL DESCRIPTION: East forty feet (E 40') of Lot Seven (7) and the East forty feet (E 40') of the South twenty feet (S 20') of Lot Eight (8), Block Three (3), First Addition to the to the City of McCook, Red Willow County, Nebraska.

LAND OWNER: Living Bones, LLC
Jeff and Patty Tidyman, members

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

DECEMBER 11, 2023 - 5:15 P.M.
MCCOOK PLANNING COMMISSION
CITY COUNCIL CHAMBERS
505 WEST "C" STREET

DECEMBER 18, 2023 - 5:30 P.M.
MCCOOK CITY COUNCIL
CITY COUNCIL CHAMBERS
505 WEST "C" STREET

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

-s- Lea Ann Doak
City Clerk

Publish: December 1, 2023
Post: December 1, 2023
Mail: December 1, 2023

EXHIBIT #3

PAGE(S) - 2

OWNERSHIP LIST FOR MAILING:

President
McCook Public Schools
600 West 7th Street
McCook NE 69001

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

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

Red Willow County Planning Commission
502 Norris Avenue
McCook NE 69001

Tejon Investments, L.L.C
c/o Terry Schmidt
PO Box 1299
Pagosa Springs, CO 81147

Joseph Harrington and Sylvia Thornton
802 East 1st
McCook, NE 69001

William and Amanda Davidson
808 East 1st
McCook, NE 69001

Arthur Lashley
807 E 1st
McCook, NE 69001

Michael and Candice Owens
812 East 1st
McCook, NE 69001

Troy and Erin Werkmeister
809 East 1st
McCook, NE 69001

Russell Doyle
PO Box 712
McCook, NE 69001

Linda Brunswick
71370 Drive 387
McCook, NE 69001

M700 Properties
c/o Lance Manker
PO Box 2284
North Platte, NE 69101

Mark and Nicole Strecker
808 East 2nd
McCook, NE 69001

Ron's Solid Top Construction LLC
c/o Ron Nelson
812 Norris Ave
McCook, NE 69001

Diane Cobb
804 East 2nd
McCook, NE 69001

Francis Rupp
802 East 2nd
McCook, NE 69001

Courtney Cruse and Robert Wagner
801 East 2nd
McCook, NE 69001

Alisha Beenblossom
8945 West A St.
Lincoln, NE 68532

WMB Investments LLC
c/o Billy and Michelle Witt
2105 Blake Drive
McCook, NE 69001

Erin Smotherman and Jessie Carlson
807 East 2nd
McCook, NE 69001

Steve Towery
809 East 2nd
McCook, NE 69001

EXHIBIT #4

Damien Davis and Kylie May
811 East 2nd
McCook, NE 69001

Andrea McCormick
PO Box 502
McCook, NE 69001

Stephanie Carman
707 East 2nd
McCook, NE 69001

Elmer and Donna Longberry
709 East 2nd
McCook, NE 69001

Dwayne Jesse
711 East 2nd
McCook, NE 69001

Larry and Kendall Waddell
712 East 2nd
McCook, NE 69001

Sean Erickson
710 East 2nd
McCook, NE 69001

Jill and Terry McCorkle
1402 Norris Ave
McCook, NE 69001

Lorraine Sughroue
706 East 2nd
McCook, NE 69001

Leland Orvis
Trustee Leland Orvis
2005 Rev Tr
1331 Holly Ave
Oxnard, CA 9303

Robert and Cherri Putz
705 East 1st
McCook, NE 69001

Mark and Kelsey Brown
707 East 1st
McCook, NE 69001

Logan and Brettani Pearson
709 East 1st
McCook, NE 69001

Audrey and Joshua Stevens
711 East 1st
McCook, NE 69001

Derek and Emily Zipperlen
704 East 3rd
McCook, NE 69001

Elias Solorzano
1410 West Fairacres
McCook, NE 69001

Elizabeth Hollars and Devon Strunk Martin
710 East 3rd
McCook, NE 69001

Mary Propp
712 East 3rd
McCook, NE 69001

Mint Digs, LLC
37289 Road 719
Culbertson, NE 69024

Clarence and Peggy Chessmore
70990 US Hwy 83
McCook, NE 69001

Shannon and Theresa Gerih
806 East 3rd
McCook, NE 69001

Linda Prickett
808 East 3rd
McCook, NE 69001

Leon Maum
810 East 3rd
McCook, NE 69001

Dwayne and Sheryl Brunswick
812 East 2nd
McCook, NE 69001

CITY OF McCOOK

REC#: 00568101 11/08/2023 3:36 PM
OPER: pwc1k TERM: 230
REF#: _____
PAID BY: _____

LAND USE ACTION REQUE

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

- Zone Change
- Special Exception**
- Administrative Pe
- Special Exception
- Minor Subdivisor.
- Major Subdivision
- Planned Development(Includes Zone Change)

TRAN: 10.2100 OTHER PERMITS
 PATTY TIDYMAN
 LAND USE ACTION REQUEST
 10 -000-42100
 OTHER PERMITS 75.00CR

TENDERED: 75.00 CHECK
 APPLIED: 75.00-
 CHANGE: 0.00

Name of Project: Air BnB - H Street

Description of Project: Using duplex for Air BnB

Project sponsor or developer: Living Bones, LLC

Name: Jeff & Patty Tidyman, members

Address: 404 Park Ave McCook NE 69001

Phone number: 913 908 2888

Fax number: _____

E-mail Address: pattytidyman@gmail.com

Land owner or owners:

Name: _____

Address: _____

Phone number: _____

Fax number: _____

E-Mail Address: _____

Authorization of the land use action by land owner:

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

Patty Tidyman
Printed Name:

Jeff Tidyman
Printed Name:

Patty Tidyman
Signature:

J Tidyman
Signature:

10-23-23
Date:

Address and physical location of the Proposed Land Use Action: _____

205 & 207 E H St McCook

Property Description (Of the parent parcel for subdivisions): _____

0329 First addition McCook
Block 3 E 40' of Lot 7 & E 40'
of S 20' Lot 8

Required Information:

See Attached sheets for required information for:

- _____ Subdivisions
- _____ Zone Changes and special exceptions
- _____ Planned developments

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

Fee, complete application, and required attachments accepted by:

Patty Tidyman
Printed name

Patty Tidyman
Signature

10-23-23
Date

REQUIRED ATTACHMENTS:

For Zone Changes and Special Exceptions:

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

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

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

Request approval to use property for an Air BNB.

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

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

See next page

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

N/A

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

unchanged

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

unchanged

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

N/A

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

N/A

(G) required yards and other open space;

None

(H) general compatibility with adjacent properties and other properties in the district;

None

(I) compatibility with existing and future land use plan in the McCook Comprehensive Plan.

N/A

Explain how the project complies with the Comprehensive Plan: N/A

A - Barry has been through property and we have complied with his request for maintained egress in the front and back of the property, as well as drywall covering in stairwell.

Parking has been converted from one spot out front to four parking spaces. We communicate with guests that they are allowed two spaces out front and are to park close to the building to allow for walkway behind vehicles.

Recorded August 18, 2021 08:00 AM
Inst. No. 2021-01452

Fees: \$ 16.00 Pages 2

Penelope Cooper, Deputy
Register of Deeds, Red Willow County, NE

NEBRASKA DOCUMENTARY
STAMP TAX

Aug 18, 2021

\$211.50

By: JD

AFTER RECORDING RETURN TO:

McCook Abstract Company
318 Norris Avenue
McCook, NE 69001
M016054-

WARRANTY DEED

Casa Del Sol, LLC, GRANTOR, in consideration of One Dollar (\$1.00) and other good and valuable consideration, conveys to GRANTEE, Living Bones, LLC, the following described real estate (as defined in Neb. Rev. Stat. § 76-201):

The East 40' of Lot 7 and that part of the South Half of Lot 8, all in Block 3 in First Addition to McCook, Nebraska described as follows: Beginning at the southeast corner of said Lot 8, thence North 20', thence West 40' parallel to the south line thereof, thence South 20' to the south line thereof, thence East on said line 40' to the place of beginning.

GRANTOR covenants (jointly and severally, if more than one) with GRANTEE that GRANTOR:

1. is lawfully seized of such real estate and that it is free from encumbrances, EXCEPT subject to easements, reservations, and restrictions of record;
2. has legal power and lawful authority to convey the same;
3. warrants and will defend title to the real estate against the lawful claims of all persons.

Executed: August 12, 2021.



Parcel Information	
Parcel ID:	000743200
Map Number	
State Geo Code	4281-00-0-00000-000-0000
Cadastral #	C1-61-12
Images	Photo #1 Sketch #1
Current Owner:	LIVING BONES LLC 404 PARK AVENUE MCCOOK, NE 69001
Situs Address:	205 EAST H STREET MCCOOK
Tax District:	80
School District:	S.D. #17 GEN/SPEC BLD, 73-0017
Account Type:	Residential
Legal Description:	0 3 29 FIRST ADDITION MCCOOK BLK 3, E 40' OF LOT 7 & E 40' OF S 20' LOT 8
Lot Width:	40.00
Lot Depth:	70.00
Total Lot Size:	2800.00 sq ft

Assessed Values				
Year	Total	Land	Outbuilding	Dwelling
2023	\$114,913	\$3,500	\$0	\$111,413
2022	\$97,938	\$1,960	\$0	\$95,978

Yearly Tax Information		
Year	Amount	Levy
2022	\$1,711.86	1.854491
2021	\$1,556.38	1.929606

2022 Tax Levy	
Description	Rate
MID-PLAINS GEN/CAP IMP	0.07817000
S.D. #17 GEN/SPEC BLD	1.01429700
ED UNIT #15	0.01499500
NATURAL RESOURCE	0.03511000
CITY OF MCCOOK GEN	0.34081400
HIGH PLAINS HISTORICAL	0.00169300
COUNTY	0.30776500
S.D. #17 BOND	0.06164700

Sales Information				
Sale Date	Sale Price	Book & Page	Grantor	Parcel Ids
08/17/2021	\$94,000.00	2021 / 01452	CASA DEL SOL LLC % FRANK E WILLIAMS IV	
11/21/2011	\$0.00	2011 / 01824	WILLIAMS/FRANK E (IV)	000743200 000773900
10/20/2011	\$59,500.00	2011 / 01586	WAGNER/WILLIS O & SHIRLEY J	
09/29/1978	\$0.00	109 / 163		

Property Classification			
Status:	Improved	Location:	Urban
Property Class:	Residential	City Size:	5,001-12,000
Zoning:		Lot Size:	<10,000 sq. ft.

Land Information			
Lot Width (ft)	Lot Depth (ft)	Description	Lot Size
40.00	70.00	2800 S.F.	2800.00 sq ft

Residential Datasheet			
Zoning:		Quality:	Average
Year Built:	1925	Condition:	Badly Worn - Average
Exterior:	100% Veneer, Masonry	Style:	100% Two Story
Bedrooms:	0	Bathrooms:	2.00
Roof Cover:	Composition Shingle	Heating/Cooling:	100% Warmed & Cooled Air
Basement Size:	1,496 sq. ft	Min Finish:	0 sq. ft
Building Size:	2,992 sq. ft	Part Finish:	0 sq. ft

Dwelling Data		
Description	Units	Value
Raised Slab Porch with Roof	272	\$8,215

Photo/Sketch	



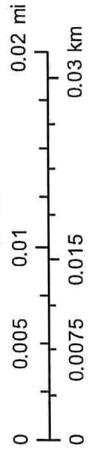
December 7, 2023

□ Parcels

□ Sections

DISCLAIMER: This map is not intended for conveyances, nor is it a legal survey. The information is presented on a best-efforts basis, and should not be relied upon for making financial, survey, legal or other commitments.

1:630



ARTICLE 24

SPECIAL EXCEPTIONS

Article 24 - Special Exceptions

Section 2401. Special Exceptions. As the zoning ordinance is established at the present time, the McCook City Council has been given the authority to hear and decide requests for special exceptions. This is consistent with State Law; however, the City also has the option to delegating this power to the Planning Commission through the Zoning Ordinance.

Section 2402. Conditions for Granting Special Exceptions. A special exception shall not be granted by the City Council unless and until:

1. A written application for a special exception is submitted indicating the section of this ordinance under which the special exception is sought and stating the grounds on which it is requested;
2. Notice shall be given at least ten (10) days in advance of public hearing. The owner of the property for which special exception is sought or his agent shall be notified by certified mail. Notice of such hearings shall be posted on the property for which special exception is sought at least ten (10) days prior to the public hearing;
3. The public hearing shall be held. Any party may appear in person, or agent or attorney;
4. The City Council shall make a finding that is empowered under the section of this Ordinance described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest;
5. Before any special exception shall be issued, the City Council shall make written findings certifying compliance with the specific rules governing individual special exceptions and that satisfactory provisions and arrangements have been made concerning the following where applicable:
 - A. ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
 - B. off-street parking and loading areas where required, with particular attention to the items in A above, and the economic, noise, glare or odor effects of the special exception on adjoining properties and properties generally in the district;
 - C. refuse and service area, with particular reference to the items in A and B above;
 - D. utilities, with reference to locations, availability, and compatibility;
 - E. screening and buffering with reference to type, dimensions, and character;
 - F. signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;
 - G. required yards and other open space;
 - H. general compatibility with adjacent properties and other property in the district.
 - I. compatibility with the existing and future land use plans in the McCook Comprehensive Plan.

EXHIBIT #6

PAGE(S) - 1

FINDINGS AND DETERMINATIONS OF MCCOOK CITY COUNCIL

CASE NO. _____

SIGNED: _____
Mayor

DATE _____

ATTEST: _____
City Clerk

SPECIAL EXCEPTION CONSIDERATIONS:

YES

NO

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

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

b) off street parking and loading areas where required, with particular attention to the items in a) above, and the economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

c) refuse and service areas, with particular attention to the items in a) and b) above;

d) utilities, with reference to locations, availability and compatibility;

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

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

g) required yard and other open space;

h) general compatibility with adjacent properties and other property in the district.

i) Compatibility with existing and future land use plan in the McCook Comprehensive Plan.

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

CITY COUNCIL FINDINGS AND DECISION:

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

THIS _____ DAY OF _____, 20_____.