

City of Lee's Summit

Development Services Department

March 17, 2022

TO: Board of Zoning Adjustments
FROM: Hector Soto, Jr., Planning Manager
RE: **PUBLIC HEARING – Application #PL2022-061 – Variance to Unified Development Ordinance (UDO) Article 6, Section 6.040, Table 6-3 and Section 6.1350.B.5, Rear Yard Setback – 3000 NW Audubon Ln; William Steenson, applicant**

Recommendation

The Development Services Department recommends **APPROVAL** of a variance to the 25' uncovered deck setback from the rear property line, to allow a 22.1' foot rear yard setback for an uncovered deck.

Request

Variance Requested: a non-use variance to the uncovered deck setback requirement.

Site Characteristics

Location: 3000 NW Audubon Ln

Zoning: AG (Agricultural) and R-1 (Single-Family Residential)

Property Owner: William and Terri Steenson

Surrounding Zoning and Uses:

North: AG and R-1 – common area tract

South (across NW Audubon Ln): R-1 – single-family residential

West: R-1 – common area

East: AG and R-1 – single-family residential

Background

- February 23, 2022 – The Development Services Department issued a building permit (#PRRES20220486) for a single-family residence on the subject property.

Ordinance Requirement

Rear Yard Setback Requirements. The Unified Development Ordinance requires the following:

- The minimum rear yard setback requirement for a principal structure (i.e. the house) in the R-1 zoning district is 30 feet (UDO Article 6, Section 6.040, Table 6-3).
- Uncovered attached decks, associated with detached single-family and two-family laterally attached homes, may encroach into a required rear yard by five (5) feet (UDO Section 6.1350.B.5), resulting in a minimum 25' rear yard setback in the R-1 zoning district.

Existing Conditions. The subject lot in the Winterset Valley is currently vacant, but a building permit has been issued to allow construction to commence on a single-family home. To the north and west of the property are common area tracts. The common area to the north, in the direction

of the encroachment, contains a ravine that serves as a natural drainageway that feeds Cedar Creek to the northeast.

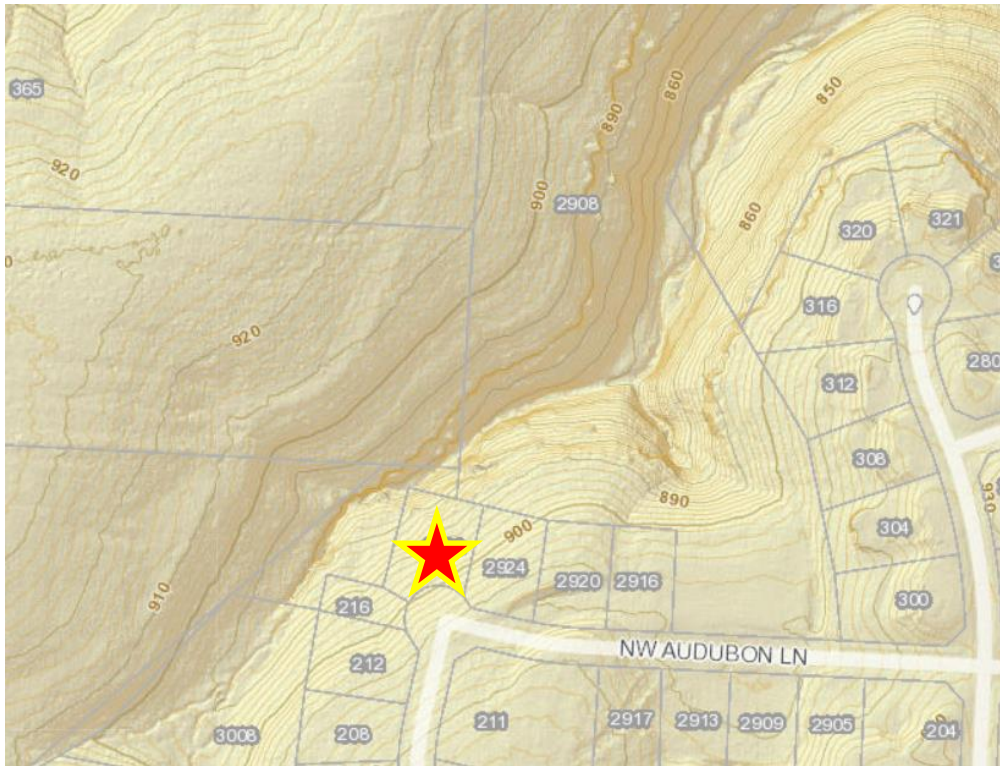


Figure 1 – Topographical map of area and ravine/natural drainageway.



Figure 2 - Aerial photo

Request. The applicant proposes to construct an uncovered 7' x 19' uncovered deck off the northeast corner of the future single-family residence. The closest point of the deck is 22.1' from the rear property line. The applicant requests a 2.9' variance to the rear yard setback requirement.

Analysis of Variance

With respect to all variances, the following is an evaluation of the criteria set forth in the Unified Development Ordinance Article 2, Sec. 2.530.B.3.:

Criteria #1 – The granting of the variance will not adversely affect the rights of adjacent landowners or residents.

Granting a variance is not expected to adversely affect the rights of adjacent landowners or residents. The proposed setback encroachment is toward the rear where the subject property backs up to a ravine and natural drainageway. The exact nature of future development of the property to the north is unknown, but the Ignite Comprehensive Plan identifies the highest and best use of the general area to the north as Residential 1 (low-intensity residential). The presence of the ravine immediately north of the subject property provides a natural buffer ensuring that future development will be located a significant distance away.

Criteria #2 – The granting the variance will not be opposed to the general spirit and intent of this Ordinance.

The intent of setbacks is to keep privacy and separation between uses and structures. The proposed encroachment is not toward the adjacent single-family lots in the area. The encroachment is toward the large common area tract to the north that is the site of a ravine/natural drainageway.

Criteria #3 – The variance desired will not adversely affect the public health, safety or general welfare.

The requested variance is not expected to adversely affect the public health, safety or general welfare.

Criteria #4 – The variance requested arises from a condition that is unique to the property in question, is not ordinarily found in the same zoning district, and is not created by an action or actions of the landowner or the applicant.

The need for a variance is in part attributed to the shape of the lot. The lot fronts on a street bulb. The curvilinear nature of bulbs pushes at least a portion of the front property line into the lot, thereby correspondingly shifting the front setback line along the bulb. This results in a reduction in the buildable envelope compared to a rectangular lot of similar overall dimensions. In this case, the bulb and corresponding front setback line forces the house to be pushed toward the rear property line to the north.

Criteria #5 – Substantial justice will be done.

Substantial justice would be done by granting a variance. The need for the variance is triggered in part by the lot shape, its resulting variable alignment of the front lot line and corresponding front setback line. The resulting encroachment is not expected to impact any surrounding properties due to the encroachment being in the direction of a ravine and natural drainageway.

Analysis of Non-Use Variance

With respect to a non-use variance, the following is an evaluation of the criteria set forth in the Unified Development Ordinance Article 2, Sec. 2.530.B.2.:

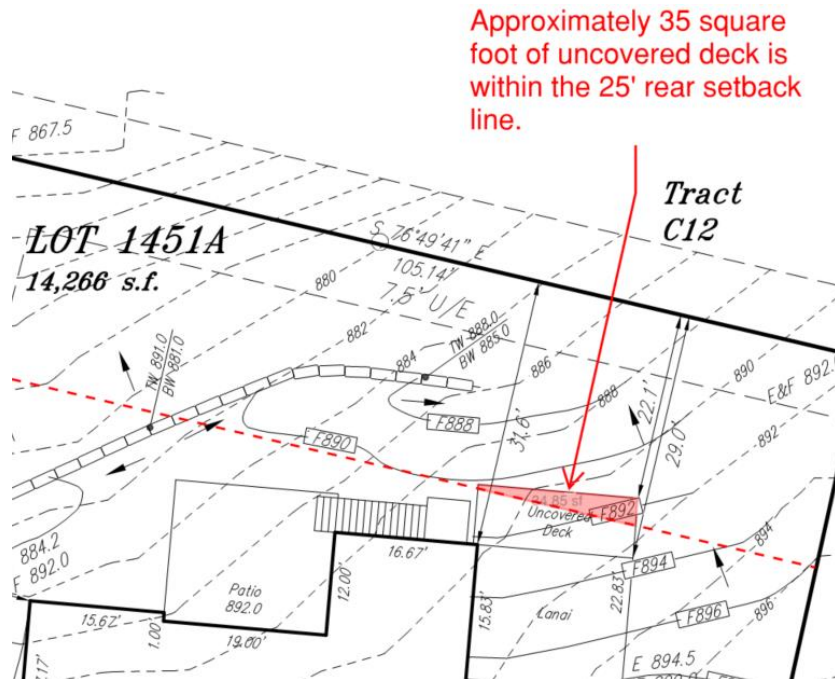
Criteria #1 – Whether practical difficulties exist that would make it impossible to carry out the strict letter of the Ordinance.

It is not impossible to carry out the strict letter of the UDO. The dimensions of the uncovered deck can be reduced by approximately 3' in depth, but the resulting 4' deep deck would have limited functionality.

In making such recommendation, the Staff has analyzed the following considerations set forth in the Unified Development Ordinance Article 2, Sec. 2.530.B.2.:

Consideration #1 – How substantial the variation is, in relation to the requirement.

The applicants request a variance of 2.9' to the 25-foot rear (north) yard setback for an uncovered deck.



Consideration #2 – If the variance is allowed, the effect of increased population density, if any, on available public facilities and services.

Approval of the variance request will not increase population and thus would have minimal, if any, effect on the available public facilities.

Consideration #3 – Whether a substantial change will be produced in the character of the neighborhood or a substantial detriment to adjoining properties is created.

Granting a variance will not substantially change the character of the neighborhood or be a substantial detriment to adjoining properties. The encroachment is toward common area, a ravine and natural drainageway. The required uncovered deck setbacks met in the direction of the abutting single-family lot and common area to the east and west, respectively.

Consideration #4 – Whether the difficulty can be obviated by some method, feasible for the applicant to pursue, other than a variance.

The difficulty can be obviated by not building a deck at all or reducing the depth of the proposed deck from 7' to 4'.

Consideration #5 – Whether, in view of the manner in which the difficulty arose and considering all of the above factors, the interests of justice will be served by allowing the variance.

The need for a variance is in part attributed to the irregular nature of the subject lot and the resulting reduction on the lot's buildable envelope. That condition coupled with the presence of a ravine and natural drainageway in the direction of the setback encroachment is expected to have a negligible impact on any surrounding properties.

Consideration #6 – Conditions of the land in question, and not conditions personal to the landowner. Evidence of the applicant's personal financial hardship unrelated to any economic impact upon the land shall not be considered.

The subject property has some limitations in its buildable area due to the nature of lots that front on street bulbs. Were this home and uncovered attached deck placed on a similarly-sized rectangular lot with no frontage on a bulb, it would be able to satisfy the required rear yard setback.

Attachments:

1. Board of Zoning Adjustment Application and Variance Criteria – 7 pages
2. Plot Plan with mark-ups dated February 15, 2022
3. Location Map