PLANNING COMMISSION
REGULAR MEETING AGENDA

Village Hall, 313 Cree Meadows Drive, Ruidoso, NM 88345

Tuesday, February 1, 2022 – 2:00 pm

Attendance: In response to the Governor’s declaration of a Public Health Emergency and ban on large public gatherings, the Planning Commission meeting will be held via Zoom video conference and in person.

Viewing: Members of the public that do not wish to attend in person will have the ability to view the meeting through Zoom and/or YouTube.

Zoom meeting website: Zoom:
https://zoom.us/j/92959910806?pwd=RE4vNDZodFVFT0tGS2RWbk5ONUJLUT09

Meeting ID: 929 5991 0806
Passcode: 2584343
Telephone:+1 669 900 9128 US

YouTube at https://www.youtube.com/channel/UCil01gVEgmvcl-yZLOxTN0w/featured. The YouTube channel can be streamed using this address from most smartphones, tablets, or computers.

Public Comment: The Commission will take general public comments and comments on the meeting’s specific agenda items in written form via email at: samanthamendez@ruidoso-nm.gov or by mail: 313 Cree Meadows Drive, Ruidoso, NM 88345 before February 1st at 10:00 am. These comments will be distributed to all Commissioners for review.

1. CALL TO ORDER, ROLL CALL, AND DECLARATIONS OF CONFLICT OF INTEREST

2. CERTIFICATION OF COMPLIANCE WITH RESOLUTION #2022-01

3. APPROVAL OF AGENDA

4. APPROVAL OF MINUTES
   a) Regular Meeting January 4, 2022

I certify that notice of the Public Meeting has been given in compliance with Section 10-15-1 through 10-15-4 NMSA 1978 and Resolution 2022-01. Agendas are available at Village of Ruidoso City Hall, 313 Cree Meadows Drive, Ruidoso, NM 88345. If you are an individual who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Village Clerk at Village of Ruidoso City Hall at least one week prior to the meeting or as soon as possible.
5. PUBLIC INPUT (Limited to items not on Public Hearing Agenda and up to 3 minutes per speaker.) Written public input must be submitted by email to StephanieWarren@Ruidoso-NM.gov by mail to 313 Cree Meadows Drive, Ruidoso, NM 88345 before February 1st at 10:00 AM. In addition, anyone wishing to speak during the meeting can do so by joining the meeting via Zoom or in Person.

6. QUASI-JUDICIAL PUBLIC HEARING (all parties with standing shall have an opportunity for cross-examination.)

   A) Conditional Use Case #P2022-1- Efrain Serna is requesting Conditional Use Approval to construct a two-family dwelling within R-1 Single-Family Residential District located at 139 Reese; Lot 75A, Block 1A, of the Palmer Gateway Subdivision, Ruidoso, New Mexico 88345.

   B) Conditional Use Case #P2022-5- Village of Ruidoso is requesting Conditional Use Approval to construct a Wireless Telecommunications Facility within the M-PUD Mixed Planned Use Development District located at 237 Service Rd.; Tract 2 of the School Tract known as the Horton Complex, of the Palmer Gateway Subdivision, Ruidoso, New Mexico 88345.

7. COMMUNITY DEVELOPMENT REPORT

8. COMMISSIONERS COMMENTS

9. ADJOURNMENT
Village of Ruidoso
Planning Commission, Regular Meeting
313 Cree Meadows – Village Hall
Ruidoso, NM 88345
December 7, 2021

CALL TO ORDER AND ROLL CALL:
The regular meeting was called to order by Chairmen Alan Briley at 2:00 PM. Chairman Briley, Commissioners Byars, Tondino, and Hooker recorded present at Village Hall; Commissioners Michelena and Baugh recorded present on Zoom; Village staff present was Samantha J. Mendez, Community Development Director, Victoria Barrios Community Development Administrative Assistant and Stephanie Warren GIS Coordinator/Planner. Commissioner Williams was recorded as absent. There were 7 visitors present.

CERTIFICATION OF COMPLIANCE WITH RESOLUTION 2020-02:
Stephanie Warren certified the notice of the meeting was properly posted in accordance with Resolution 2021-02 and section 54-40 of the Village Municipal Code.

APPROVAL OF AGENDA:
Commissioner Hooker moved to approve the agenda. Commissioner Byars seconded, and the motion carried with all ayes.

APPROVAL OF MINUTES:
Commissioner Michelena moved to approve the minutes. Commissioner Byars seconded. Mrs. Warren called roll to record votes:

Commissioner Briley: Aye
Commissioner Byars: Aye
Commissioner Michelena: Aye
Commissioner Tondino: Aye
Commissioner Hooker: Aye
Commissioner Baugh: Aye
Motion carried with all ayes.

PUBLIC INPUT: (Limited to items not on Public Hearing Agenda and up to 3 Minutes per speaker). None
Quasi-Judicial Public Hearings:

A) Variance Case #P2021-246-Daniel Jaramillo is requesting approval of a variance to encroach 8.89 feet into the required 10-foot left side-yard setback as designated by the R-1 Single-Family Residential District to construct an addition and covered deck located at 323 Carters Ln; Lot 272A, of the Skyland Addition, Ruidoso, New Mexico 88345.

Director Mendez stated that the applicant is requesting to encroach 8.89 feet into the left side-yard setback to build an addition and covered deck. The applicant previously obtained a variance in the spring of 2020. The applicant Daniel Jaramillo and designer Mark Younger are present for questions.

Chairman Briley swore in Mr. Jaramillo and Mr. Younger.

Mr. Jaramillo stated that the addition is to adjust and create space for the master bedroom. The proposed addition is 12x14.

Chairman Briley asked where he was previously approved for the variance, Mr. Jaramillo stated it was in the front for an addition and deck.

Commissioner Tondino stated that it appears the house is currently a non-conforming structure and is built within the setbacks. Mr. Jaramillo and Mr. Younger agreed. Mr. Jaramillo stated that he had completed the replat as required from the first variance approval.

The Public Hearing opened at 2:07 PM. No letters or emails were added to the record.

None provided

Chairman Briley closed the public hearing at 2:08 PM.

Chairman Briley asked if there were any further questions of the Commission. There were no further questions.

Commissioner Tondino stated based upon the foregoing findings of fact per §54-92, §54-66, and § 54-140 of the Village Code, I move to grant the requested variance for Case #PV-2021-246 with the conditions stated in the case report.”

Commissioner Byars seconded the motion. Mrs. Warren called roll to record votes:

Commissioner Briley: Aye
Commissioner Byars: Aye
Commissioner Michelena: Aye
Commissioner Tondino: Nay
Commissioner Hooker: Aye
Commissioner Baugh: Aye

Motion carried with all ayes.
B) Periodic Review Conditional Use Case #2021-33-Periodic review of Conditional Use approval of mobile vending stand located at 525 Resort Dr; James Townsend Tract 1A, Ruidoso, New Mexico.

Director Mendez stated that this was a Periodic Review as stated within the conditions from the approval hearing. There have been no Code Enforcement problems during operation. Mr. Jesse Townsend is here to answer any questions.

Mr. Townsend stated that they did not have any issues and had a great team. He is ready for good weather and excited to start the upcoming season.

Commissioner Tondino asked if all the same activities will remain. Mr. Townsend stated they would remain and is adding a zip line to the property and feels that will bring more visitors to his location.

Chairman Briley stated that there were no noticeable vehicle/people/trash problems in the area during the previous season operation and asked if there was a time frame to build restroom facilities or if keeping the porta-potties would remain. Director Mendez stated the requirement of a restroom facility was not designated within the conditions; it was the intent to allow the applicant time to obtain a return on his investment before constructing the permanent structure. Porta-potties will remain at the location until such a facility has been constructed.

The Public Hearing opened at 2:11 PM. No letters or emails were added to the record.

None provided

Chairman Briley closed the public hearing at 2:12 PM

Commissioner Hooker stated based upon the foregoing findings of fact per §54-68and § 54-150 of the Village Code, I move to Grant the requested continuation conditional use approval for Case #CU-2021-33 without further requirements of periodic review. Seconded by Commissioner Tondino. Mrs. Warren called roll to record votes:

Commissioner Briley: Aye
Commissioner Byars: Aye
Commissioner Michelen: Aye
Commissioner Tondino: Aye
Commissioner Hooker: Aye
Commissioner Baugh: Aye

Motion carried with all ayes.

NEW BUSINESS:

Director Mendez stated that Resolution 2022-01 is required for declaring reasonable notice of public meetings for the Planning Commission for the year 2022. The proposal remains on the first Tuesday of the month at 2:00 pm.

Chairman Briley asked the Commission if anyone wanted to change the date or times of the meetings or if there were any comments or questions of the Commission.
Commissioner Tondino motioned to approve Resolution 2022-01 Open Meetings Act remaining at 2:00 pm on the first Tuesday of the month. Seconded by Commissioner Hooker. Mrs. Warren called roll to record votes:

Commissioner Briley: Aye
Commissioner Byars: Aye
Commissioner Michelena: Aye
Commissioner Tondino: Aye
Commissioner Hooker: Aye
Commissioner Baugh: Aye
Motion carried with all ayes.

COMMUNITY DEVELOPMENT REPORT:

Director Mendez stated that the strategic planning will happen within the next week with the State of the Village. The Community Development Department’s goals are to complete the readdressing of the Village, be able to accept online payments for applications processed by the department and have the Chapter 54 re-write completed.

Director Mendez stated that Mesa Apartments has requested to be set for the March hearing as they are unable to obtain the civil engineering prior to the meeting as requested in the December meeting. The Village is also held upon obtaining the survey to provide to the developers due to the holiday season. The Planning Commission unanimously agreed to have them on the March agenda without the need to publish and continue the hearing in February.

COMMISSIONER'S COMMENTS:

The Commissioners wished everyone a Happy New Year.

ADJOURNMENT:

Commissioner Briley adjourned the meeting at 2:18 PM.

MINUTES ARE DRAFT UNTIL APPROVED AT THE NEXT REGULAR MEETING

Passed and approved this ____ day of __________________, 2022.

APPROVED: ____________________________

Alan Briley, Chairman

ATTEST: ______________________________

Samantha J. Mendez, Community Development Director
Planning Commission
Village Hall
313 Cree Meadows Drive, Ruidoso, New Mexico 88345

Case Report – Conditional Use Request #CU-2022-5

Subject Property: 237 Service Rd.
Zoning: M-PUD Mixed Planned Unit Development
Subdivision: Palmer Gateway

Legal Description: Tract 2 of the School Tract
Applicant: Village of Ruidoso
Hearing Date: February 1, 2022

Applicable Sections of Village Code:
➢ Article VII- Wireless Telecommunications Facilities
➢ Sec. 54-68. - Conditional use permit approval.

I. REQUEST: The Village of Ruidoso is requesting approval to construct a Wireless Telecommunication Facility within the M-PUD District located at Tract 2 of the School Tract of the Palmer Gateway Subdivision, 237 Service Rd., Ruidoso, New Mexico.

II. NOTIFICATION AREA MAP
III. AREA ZONING MAP

<table>
<thead>
<tr>
<th>Direction</th>
<th>Zoning</th>
<th>Existing Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>R-1</td>
<td>Horton Stadium</td>
</tr>
<tr>
<td>East</td>
<td>PUD</td>
<td>Boys &amp; Girls Club/VOR</td>
</tr>
<tr>
<td>South</td>
<td>C-1</td>
<td>Residential Homes</td>
</tr>
<tr>
<td>West</td>
<td>R-1</td>
<td>Residential Homes</td>
</tr>
</tbody>
</table>
IV. Current Street View

V. Arial View
VII. ANALYSIS Article VII-Wireless Telecommunications Facilities

**Sec. 54-701. - Purpose.**

The purpose of this article is to provide a process and a set of standards for the placement, modification, and construction of wireless telecommunications towers and facilities in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the village.

**Sec. 54-703. - Application process.**

Wireless telecommunications facilities are a conditional use in all zones. Any person seeking to construct, erect, build or replace a tower or telecommunications facility will be required to apply for approval from the village under this ordinance and shall submit an application along with the following documentation and information meeting the village’s standards.

(a) Application. The village will provide, upon request, application forms for approval pertaining to the construction, erection or increase in height of wireless telecommunications towers and facilities, see section 22-31b.(19) of this Code. All applications for tower approval must be in writing, must be on the form provided by the village and must include the information required in section 54-67, except as modified or augmented by the following:

(1) Documentation of the applicant's right, title, or interest in the property where the facility is to be sited, including name and address of the property owner and of the applicant.
(2) Identification of districts, sites, buildings, structures or objects, significant in history, architecture, archaeology, engineering or culture, as well as places, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); CFR 60 and 800).

(3) A detailed camouflage plan for both the site and the structure.

(4) A site plan drawn to a scale of one-inch equals 100 feet prepared and certified by a design professional registered in the State of New Mexico indicating:
   a. Location, type, and height of the proposed facility.
   b. Antenna capacity.
   c. On-site and abutting off-site land uses.
   d. Means of access.
   e. Setbacks from property lines.
   f. All applicable technical and structural codes.

(5) A scenic assessment, consisting of the following:
   a. Elevation drawings of the proposed facility and any other proposed structures, showing height above ground level.
   b. A landscaping plan indicating the proposed placement of the facility on the site including:
      1. A detailed camouflage plan for both the site and the structure;
      2. Location of existing structures, trees, and other significant site features;
      3. The type and location of plants proposed to screen the facility;
      4. The method of fencing, the color of the structure and any proposed lighting method.
   C. Photo simulations of the proposed facility must be taken. Each photo must be labeled with the line of sight, elevation, and the date the photograph was taken. The photos must show the color of the facility, the method of screening and the camouflage plan.

(6) A written description of how the proposed facility fits into the applicant’s telecommunications network. This submission requirement does not require disclosure of confidential business information.

(7) An application for approval shall include payment of the application fee for conditional use permit. The application shall not be considered complete until this fee is paid. This fee is non-refundable.

(b) Standards. No application shall be submitted for consideration or approved by the Ruidoso Planning Commission unless the following standards are met:

(1) Reserved.

(2) Siting on village property. If an applicant proposes to locate a new wireless telecommunications facility, or expand an existing facility on village property, the applicant must show the following:
   a. The proposed location complies with applicable village policies and ordinances.
   b. The proposed facility will not interfere with the intended purpose of the property.
c. The applicant has adequate liability insurance and a lease agreement with the village that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interest in the property.

(3) Design for co-location. A new wireless telecommunications facility and related equipment must be designed and constructed to accommodate expansion for future co-location of at least three additional wireless telecommunications facilities or providers. However, the village council may waive or modify this standard in the event co-location is not feasible. The applicant must show to the planning commission’s satisfaction why co-location on an existing facility is not feasible.

(4) Height. Towers are exempt from the maximum height restrictions of the zoning districts where located. Towers shall be permitted to a height of 150 feet. Tower height shall be measured from grade.

(5) Setbacks. A new or expanded wireless telecommunications facility must comply with the setback requirements for the zoning district in which it is located, or be set back 105 percent of its height from all adjacent residential properties. The setback may be satisfied by including areas within the residential property that are encumbered by an easement restricting placement of any habitable structure. The following exemptions apply:

a. This setback may be reduced by the village planning commission upon a showing by the applicant, stamped by an engineer, that the facility is designed to collapse in a manner that will not harm other property.

b. An antenna is exempt from the setback requirement if it extends no more than five feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon an abutting property.

(6) Landscaping. A new wireless telecommunications facility and related equipment must be screened with plants from view by abutting properties. All telecommunications facilities shall have one or more rows of evergreen trees, shrubs, earth-tone stucco walls, or berms capable of screening the base of the tower and all accessory equipment from view from adjacent properties. A break of not more than 15 feet in the visual barrier may be allowed for maintenance access. Existing plants and natural landforms on the site shall be preserved to the maximum extent practicable.

(7) Fencing. A new wireless telecommunications facility must be fenced to discourage trespass on the facility and to discourage climbing on any structures by trespassers.

(8) Lighting. Lighting of the facility is not permitted except as required by state or federal laws and/or regulations and/or to the extent deemed necessary by the planning commission for safety purposes.

(9) Color and materials. A new wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.

(10) Visual impact. The proposed wireless telecommunications facility will have no unreasonable adverse impact upon designated scenic resources within the village, as identified either in the adopted comprehensive plan, or by a state or federal agency.

a. In determining the potential unreasonable adverse impact of the proposed facility upon the designated scenic resources, the planning commission shall consider the following factors:

1. The extent to which the proposed wireless telecommunications facility is visible above the tree line from the viewpoint(s) of the designated scenic resource;
2. The type, number, height, and proximity of existing structures and features, and background features within the same line of sight as the proposed facility;

3. The extent to which the proposed wireless telecommunications facility would be visible from the viewpoint(s);

4. The amount of vegetative screening;

5. The distance of the proposed facility from the viewpoint and the facility's location within the designated scenic resource; and

6. The presence of reasonable alternatives that allow the facility to function consistently with its purpose.

(11) Historical and archaeological properties. The proposed facility, to the greatest degree practicable, will have no unreasonable adverse impact upon a historic district, site, or structure, which is currently listed on, or eligible for listing on the National Register of Historic Places.

(12) Camouflage. All telecommunications facilities must be camouflaged to the greatest extent reasonably possible and in a manner approved by the planning commission.

(13) Advertising. No wireless communications facility shall display any sign or advertising.

(Ord. No. 2012-05, 6-12-12; Ord. No. 2019-02, 3-12-19)

Sec. 54-68. - Conditional use permit approval.

(a) Generally. Certain uses, (as defined in section 54-91(c)), may, under certain circumstances, be acceptable. When such circumstances exist, a conditional use permit may be granted. The permit may be issued for a specified period of time, with automatic cancellation at the end of that time unless it is renewed, or conditions may be applied to the issuance of the permit and periodic review may be required. The permit shall be granted for a particular use and not for a particular person.

(b) Application. The person applying for a conditional use permit shall fill out and submit to the planning administrator the appropriate form, together with the required fee. The request for a conditional use permit shall follow the procedures and applicable requirements of sections 54-67 which pertain to site plan review.

(c) Notice of hearing. Notice of any public meeting at which the conditional use will be reviewed shall be accomplished as set forth in section 54-40.

(d) Review and decision by the planning commission.

(1) No conditional use permit shall be given for a use which is not listed in this article as a conditional use in the particular district in which it is proposed to be located. The planning commission shall consider the effect of the proposed use upon the health, safety, and general welfare of occupants of surrounding lands, existing and anticipated traffic conditions, including parking facilities, on adjacent streets and land, the impact upon the natural environment, and the effect of the proposed use upon the comprehensive plan. The planning commission may grant the application by motion, imposing such conditions and safeguards as it deems necessary, or it may deny the application. In reviewing conditional uses in residential areas, the planning commission shall consider particularly the response of adjoining property owners.
(2) Approval of conditional use permits shall require a two-thirds vote of the members of the planning commission present. If approved, the commission shall be required to make findings supporting its decision. If an application is denied, the denial shall constitute a finding that the applicant has not shown that the conditions required for approval exist. No application for a conditional use permit which has been denied wholly or in part shall be resubmitted for a period of six months from the date of the order of denial, except on grounds of new evidence or proof of a change of conditions found to be valid by the planning commission.

The Planning Commission has the following options:

1. Approval of Conditional Use Request, with reasons stated in the motion, granting the requested conditional use.
2. Require modifications to Conditional Use Request, and have it returned for Planning Commission review at the next meeting.
3. Deny the request of Conditional Use Request with reasons and conditions.

The reasons for either approval or rejection must be stated in the findings of fact and motion.

V. STAFF RECOMMENDATION
The determination of appropriateness for granting or denying the Conditional Use request application rests only with the consistency with applicable statutes, codes, and policies and with the Commission’s analysis of the impacts to the surrounding properties and the community at-large.

Upon review of the application and existing conditions, staff finds that the proposed request for Conditional Use Approval appears to be consistent with the Village Code and the conditions in the above referenced code sections have been met including Sec. 54-703-Application Process, and hereby recommends the following conditions.

1. Applicant must complete and return necessary Conditional Use Development Agreement prior to any construction. Failure to complete and record conditional use agreement within twelve (12) months will void the approval of Case #CU-2022-5.

2. The Applicant or their agents may secure building permits for each unit or phase of the project, provided that each permit be completed within one year of issuance. The approval for the entire project of Case CU-2022-5 would last for two years from date of approval with the option to request in writing an extension from the Planning Commission in accordance with Village Code.

3. Applicant shall make no substantial changes in plans without Planning Commission approval.

4. By accepting approval of this Conditional Use, Applicant agrees to comply in a timely manner with standards and conditions set. Failure to comply may lead to Court enforcement.

Suggested Motion:
“Based upon the foregoing findings of fact per Article VII and § 54-92 of the Village Code, I move to GRANT the requested conditional use approval for Case #CU-2022-5 with the conditions stated in the case report.”
Prepared & Submitted by:

________________________
Community Development Director

By signing below, the Owner/Applicant agrees to comply with all the conditions adopted by the Planning and Zoning Commission ("the Commission") at its hearing on this application. The Owner/Applicant further agrees that it will make no changes to the plans as presented to the Commission without prior approval from village staff or the Commission. Failure to comply with the application as approved by the Commission may result in Court action or revocation of approval.

________________________
Owner/Applicant

________________________
Date
Planning Commission
Village Hall
313 Cree Meadows Drive, Ruidoso, New Mexico 88345

Case Report – Conditional Use Request #CU-2022-1

Subject Property: 139 Reese Drive
Zoning: R-1 Single-Family Residential District
Subdivision: Palmer Gateway

Legal Description: Lot 75A, Block 1A
Applicant: Efrain Serna
Hearing Date: February 1, 2022

Applicable Sections of Village Code:
- Sec. 54-92. - Single-Family Residential District.
- Sec. 54-68. - Conditional use permit approval.

I. REQUEST: Efrain Serna is requesting approval of conditional use to develop a two-family structure unit within the R-1 Single-Family Residential District located at Lot 75A, Block 1A of the Palmer Gateway Subdivision, 139 Reese Drive, Ruidoso, New Mexico.

II. NOTIFICATION AREA MAP

Case Report – #CU-2022-1
III. AREA ZONING MAP

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<tr>
<td>East</td>
<td>PUD</td>
<td>Boys &amp; Girls Club/VOR</td>
</tr>
<tr>
<td>South</td>
<td>R-1</td>
<td>Residential Homes</td>
</tr>
<tr>
<td>West</td>
<td>R-1</td>
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</tbody>
</table>
IV. Current Street View

V. ANALYSIS

Case Report – #CU-2022-1
Sec. 54-92. – R-1 Single-Family Residential District.

(a) Purpose; maximum density. The purpose of the R-1 single-family residential district is to provide for the development, at a low density, of single-family detached dwellings and directly related complementary uses. The district is intended to be strictly residential in character with a minimum of disturbance due to traffic or overcrowding.

(c) Conditional uses. Conditional uses in the R-1 district are:

(7) Two-family dwellings. Provided the following conditions are met:

a. One of the dwellings is owner-occupied as their primary residence.
   
   1. When second dwelling is for long-term monthly rental.

b. The use is for generational housing, long-term monthly rental, or care provider.

c. Parking shall be provided at the rate of one space for the second dwelling, plus two spaces for the resident owner. All parking shall be provided on-site and shall be landscaped to maintain the residential character of the property.

d. Shall comply with section 22-31(a) of the Ruidoso Code for two-family dwellings.

Sec. 54-68. - Conditional use permit approval.

(a) Generally. Certain uses, (as defined in section 54-91(c)), may, under certain circumstances, be acceptable. When such circumstances exist, a conditional use permit may be granted. The permit may be issued for a specified period of time, with automatic cancellation at the end of that time unless it is renewed, or conditions may be applied to the issuance of the permit and periodic review may be required. The permit shall be granted for a particular use and not for a particular person.

(b) Application. The person applying for a conditional use permit shall fill out and submit to the planning administrator the appropriate form, together with the required fee. The request for a conditional use permit shall follow the procedures and applicable requirements of sections 54-67 which pertain to site plan review.

(c) Notice of hearing. Notice of any public meeting at which the conditional use will be reviewed shall be accomplished as set forth in section 54-40.

(d) Review and decision by the planning commission.

(1) No conditional use permit shall be given for a use which is not listed in this article as a conditional use in the particular district in which it is proposed to be located. The planning commission shall consider the effect of the proposed use upon the health, safety, and general welfare of occupants of surrounding lands, existing and anticipated traffic conditions, including parking facilities, on adjacent streets and land, the impact upon the natural environment, and the effect of the proposed use upon the comprehensive plan. The planning commission may grant the application by motion, imposing such conditions and safeguards as it deems necessary, or it may deny the application. In reviewing conditional uses in residential areas, the planning commission shall consider particularly the response of adjoining property owners.

(2) Approval of conditional use permits shall require a two-thirds vote of the members of the planning commission present. If approved, the commission shall be required to make findings.
supporting its decision. If an application is denied, the denial shall constitute a finding that the applicant has not shown that the conditions required for approval exist. No application for a conditional use permit which has been denied wholly or in part shall be resubmitted for a period of six months from the date of the order of denial, except on grounds of new evidence or proof of a change of conditions found to be valid by the planning commission.

The Planning Commission has the following options:

1. Approval of Conditional Use Request, with reasons stated in the motion, granting the requested conditional use.
2. Require modifications to Conditional Use Request, and have it returned for Planning Commission review at the next meeting.
3. Deny the request of Conditional Use Request with reasons and conditions.

The reasons for either approval or rejection must be stated in the findings of fact and motion.

V. STAFF RECOMMENDATION
The determination of appropriateness for granting or denying the Conditional Use request application rests only with the consistency with applicable statutes, codes, and policies and with the Commission’s analysis of the impacts to the surrounding properties and the community at-large.

Upon review of the application and existing conditions, staff finds that the proposed request for Conditional Use Approval appears to be consistent with the Village Code and hereby recommends the following conditions.

1. The applicant shall submit a Site Plan for approval to the Planning Commission prior to obtaining building permits.
2. The Applicant is required to meet all local, state, and federal requirements pertaining to the development.
3. The Applicant agrees and understands that the use of the second dwelling unit is prohibited for use as a short-term rental. Using stated dwelling as a short-term rental will void the Planning Commission’s Conditional Use Approval immediately.
4. By accepting approval of this Conditional Use, the Applicant agrees to comply in a timely manner with standards and conditions set. Failure to comply may lead to Court enforcement.

Suggested Motion:
“Based upon the foregoing findings of fact per §54-68 and § 54-92 of the Village Code, I move to GRANT the requested conditional use approval for Case #CU-2022-1 with the conditions stated in the case report.”

Prepared & Submitted by:

______________________________
Community Development Director

#  #  #
By signing below, the Owner/Applicant agrees to comply with all the conditions adopted by the Planning and Zoning Commission ("the Commission") at its hearing on this application. The Owner/Applicant further agrees that it will make no changes to the plans as presented to the Commission without prior approval from village staff or the Commission. Failure to comply with the application as approved by the Commission may result in Court action or revocation of approval.

Owner/Applicant

Date