



MARION COUNTY COURTHOUSE

MARION COUNTY, KANSAS

PLANNING COMMISSION/BOARD OF ZONING APPEALS

203 SOUTH THIRD
MARION, KANSAS 66861
PHONE: 620-382-2945

STAFF REPORT

March 13, 2018

TO: Marion County Planning Commission/Board of Zoning Appeals

FROM: Emma Tajchman, Director of Planning and Zoning

SUBJECT: PC-18-01 – Request for a Conditional Use Permit to utilize the current residence as an art studio and retail store and convert the barn to the primary residence at 2166 Remington, Marion, Kansas, on property zoned “SR” Suburban Residential District.

This is the request of Michele Carter, owner, and spouse, Kevin Carter, requesting a Conditional Use Permit to convert a barn to their primary residence and retain the existing residential structure as an art studio and retail store at the above address.

The applicants currently reside at the aforementioned property, consisting of a residence and storage buildings. The parcel is approximately 9.2 acres. The residence is currently used for living quarters, an art studio, and homeschooling the Carter children. While Mr. Carter works outside the home, Mrs. Carter works from home as an educator and artist. The space within the current residence is no longer sufficient for Mrs. Carter’s work. Also, Mrs. Carter’s parents will be relocating from Arizona in the near future. They intend to reside with Mr. and Mrs. Carter so that the Carters may provide care and assistance during the aging process.

No structures will be added to the property. The existing structures will be remodeled to suit the applicants’ needs; however, there are no plans to alter the physical footprint for either building. Significant modifications will be made to the barn to convert it to a residence. A contractor has been hired to develop floorplans and design modifications for the existing structure. Interior construction is anticipated to be completed in phases, beginning on the main level and working up. The applicant replaced the roof of the structure four years ago and a wastewater line has been stubbed out but is not connected to the structure. This was done when the lagoon was installed in 2008. While the lagoon appears to be functioning properly, removal of vegetation is needed. Two private water wells are onsite; however, only one is being utilized at this time. The applicant prefers to continue utilizing the wells onsite for both structures. The residence may be modified slightly to be better utilized as an art studio and retail store. Retail items will include antiques and collectibles. No outside employees are anticipated. A sign may be installed in the future for advertising purposes.

The Marion County Zoning Regulations has two Articles that deal with submittal requirements for a Conditional Use Permit request. The Article 24 requires that a Development Plan be included with the application. The standards for submittal of a Development Plan are outlined in Article 12 and listed below.

The Development Plan shall include and/or display the following information:

1. *When deemed necessary, a topographic survey indicating the legal description, property boundary, existing contours, existing utilities and easements, and natural and manmade features of the property.*
2. *A Development Plan, drawn to the same scale as the topographic survey, indicating:*
 - A. *existing contours (shown as dashed lines);*
 - B. *proposed contours (shown as solid lines);*
 - C. *location and orientation of all existing and proposed buildings;*
 - D. *areas to be used for parking, including the number and arrangement of stalls;*
 - E. *areas to be developed for screening, including the location of plant materials, and screening structures and features;*
 - F. *pedestrian and vehicular circulation and their relationship to existing streets, alleys and public right-of-way;*
 - G. *points of ingress and egress;*
 - H. *location of all existing and proposed utilities (sanitary sewage systems, water systems, storm drainage systems, gas lines, telephone lines and electrical power lines);*
 - I. *drainage controls (retention or detention ponds);*
 - J. *location, size and characteristics of identification and business signs;*
 - K. *lighting layout, appurtenances, and intensity of illumination;*
 - L. *proposed finished floor elevations of all buildings and structures.*
3. *A statement of intent shall accompany the Development Plan to explain the measures used to achieve compatibility of the proposed development with surrounding properties through the planning of the site and the location and design of structures.*

In Article 24 of the Marion County Zoning Regulations, the factors to be considered for a Conditional Use Permit are listed. The Marion County Planning Commission may recommend approval of a Conditional Use, and the Governing Body may approve such Conditional Use, using the following factors as guidelines. Those factors, and staff comments where appropriate, are as follows:

- A. *Whether approval of the Conditional Use would be consistent with the intent and purpose of these Regulations;*

Artists are classified as allowed home occupations; however, maintaining two residential structures on one parcel and retail stores require a Conditional Use Permit per the Marion County Zoning Regulations.

- B. *Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood;*

Surrounding properties are primarily agricultural in nature. It is the opinion of staff that the proposed use will have minimal impacts to the neighborhood.

- C. *Whether the proposed use places an undue burden on the existing transportation and service facilities in the area affected and, if so, whether such additional transportation and service facilities can be provided;*

Staff believes the impact to public roads as a result of the proposed use will be minimal. While the art and retail store may increase traffic to the area, the existing public road access for the property is on an improved asphalt road.

- D. *Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected;*

While development is anticipated nearby, in the unincorporated city of Pilsen, that prospect is still speculative. Staff does not believe this is applicable at this time.

- E. *The length of time the subject property has remained vacant or undeveloped as zoned; provided, the use of land for agricultural purposes shall be considered as viable use of the land and not be considered as allowing the land to be vacant or undeveloped;*

Staff does not believe this is applicable.

- F. *Whether the applicant's property is suitable for the proposed use;*

The property has consistently been utilized for residential or agricultural activities. Currently, the residence serves dually as a home and as an art studio, which is consistent with the Marion County Zoning Regulations as a home occupation. The addition of a second residential structure and retail operation would be suitable at the proposed location.

G. *The recommendations of permanent or professional staff;*

See below.

H. *Whether the proposed Conditional Use would be in conformance to and further enhance the implementation of the Comprehensive Plan;*

It is the opinion of staff that based on the location and the nature of development, the proposed uses would adhere to the intent of the Comprehensive Plan.

I. *Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed on the applicant by not upgrading the value of the property by approving the proposed Conditional Use;*

The proposed use poses little threat to the general public. The art studio and retail operation are not anticipated to generate any significant noise or light disturbances. A sign may be installed near Remington Road and will utilize an existing sign structure. Utilities existing onsite are sufficient to support the proposed land use; however, the wastewater system will require some improvements. The lagoon is sized appropriately but trees and vegetation will be required to be removed prior to improvements being made. Overall, it is the opinion of staff that the hardships imposed do not outweigh the benefit of development at this location.

J. *Whether the proposed Conditional Use, if it complies with all the conditions upon which the approval is made contingent (as authorized in Article 24 of these Regulations), will not adversely affect the property in the area affected; and,*

The immediate area surrounding the property is primarily agricultural in nature. It is the opinion of staff that the properties in the immediate area will not experience adverse impacts.

K. *Such other factors as may be relevant from the facts and evidence presented in the application.*

This staff report covers all the issues identified based upon the Regulations and in response to the information submitted. Nothing more needs to be provided based upon what is known at this time.

Staff Recommendation:

Based on the evaluation of the above criteria, staff believes this proposal to utilize the current residence as an art studio and retail store and convert the barn to the primary residence be recommended for approval with the condition that the wastewater lagoon be brought into compliance with the Marion County Sanitation Code.

Suggested Motion:

I move that Case No. PC-18-01, the request of Michele Carter, owner, and spouse, Kevin Carter, seeking a Conditional Use Permit to utilize the current residence as an art studio and retail store and convert the barn to the primary residence, at 2166 Remington, Marion, Kansas, be recommended for approval.

