
AGENDA ITEM SUMMARY

Subject: Consider Resolution 117-21 approving multi-lot restriction for Richard and Katherine Deist

Recommendation: Approve Resolution No. 117-21

Background Summary:

Richard and Katherine Deist, 209 Fourteenth Avenue, recently applied for and received a special use permit from the Board of Adjustment. The special use is for the construction of an accessory structure (garage) on a vacant lot. Per Ordinance 1139, the special use permit includes a condition requiring the applicants to sign a non-conveyance agreement. The agreement prohibits the sale of the lot with the garage separate and apart from the sale of their primary dwelling at 209 Fourteenth Avenue. the

The Deists have signed and submitted the attached non-conveyance agreement. Prior to recording the agreement, the Mayor and Clerk will sign the agreement on behalf of the City

We recommend approval of Resolution 117-21 authorizing the Mayor and City Clerk to sign the agreement.

MULTI-LOT RESTRICTION AGAINST CONVEYANCE

The undersigned Owner/s has obtained authorization from the Board of Adjustment of the City of Charles City, Iowa to construct a garage as a special use upon the following described property, hereinafter referred to as Parcel 1:

The North 125 feet of the South 158 feet of Lots 15 and 16, Block 132, Lane's Addition to St. Charles, now incorporated in and a part of Charles City, Iowa.

This garage is constructed for use accessory to a residence located on an adjacent lot or parcel legally described as follows, and hereinafter referred to as Parcel 2:

The North 125 feet of the South 158 feet of Lot 14, Block 132 Lane's Addition to St. Charles

This special use authorized by the Board of Adjustment is given under a statutory restriction providing that, upon construction of the garage upon Parcel 1, that said Parcel 1 may not thereafter be sold, mortgaged, or otherwise conveyed separate and apart from Parcel 2, and upon the further statutory requirement that the Owner execute a recordable document giving evidence to this restriction.

NOW THEREFORE in consideration for the special use afforded to the undersigned Owner/s, and its heirs, successors, and assigns for the construction of a garage upon Parcel 1, it is hereby provided that any conveyance of Parcel 1 by the Owner/s, or their heirs, successors, and assigns, that does not fully include Parcel 2 shall be null and void. Although such conveyance shall be deemed null and void without further action on behalf of the City, nonetheless the undersigned Owner/s further consent to entry of an order or judgment *in rem* by the Iowa District Court in and for Floyd County upon the ex-parte application of the City declaring such conveyance to be null and void.

PROPERTY OWNERS

CITY OF CHARLES CITY

Richard W. Deist Date

Dean Andrews, Mayor Date

Catherine A. Deist Date

Attested to by:

Trudy O'Donnell, City Clerk Date

STATE OF IOWA, FLOYD COUNTY, ss:

On this _____ day of _____, 2021, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared _____ and _____ to me known to be the individual(s) who executed the foregoing instrument and acknowledged that (he)(she)(they) executed the same as (his)(her)(their) voluntary act and deed.

NOTARY PUBLIC - STATE OF IOWA

STATE OF IOWA, FLOYD COUNTY, ss:

On this _____ day of _____, 2021, before me, a notary public in and for the state of Iowa, personally appeared Dean Andrews and Trudy O'Donnell, to me personally known, and who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Charles City, Iowa; that the seal affixed to the foregoing instrument is the seal of said municipality of Charles City, Iowa, and that the instrument was signed and sealed on behalf of said City by authority of its City Council, and that Dean Andrews and Trudy O'Donnell acknowledged the execution of the instrument to be the voluntary act and deed of said municipal corporation, by it and by them voluntarily executed.

NOTARY PUBLIC - STATE OF IOWA

RESOLUTION NO. 117-21

*RESOLUTION APPROVING MULTI LOT RESTRICTION AGAINST CONVEYANCE
FOR 211 14th AVENUE*

WHEREAS, Richard and Catherine Deist have been granted a special use by the board of adjustment for the purpose of constructing a garage as an accessory structure to a principal building located within the corporate limits of Charles City on property located at 211 14th Avenue, and

WHEREAS, the City Council of the City of Charles City, Iowa desires that this lot may not be sold or otherwise conveyed separate and apart from the primary residence lot at 209 14th Avenue;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charles City, Iowa, meeting in regular session on the 20th day of September, 2021, that the multi-lot restriction against conveyance agreement with Richard and Catherine is approved.

COUNCIL MEMBER moved the adoption of the foregoing Resolution;

COUNCIL MEMBER seconded the motion to adopt, and on roll call the voting was as follows:

AYES:

NAYS:

Passed and approved this 20th day of September, 2021.

Dean Andrews, Mayor

Attest:

Trudy O'Donnell, City Clerk