



CITY OF SPRING PARK
PLANNING COMMISSION AGENDA
SEPTEMBER 9, 2020 – 6:00 PM
SPRING PARK CITY HALL

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. ADOPT AGENDA
5. APPROVAL OF MINUTES
 - a. Planning Commission Meeting Minutes from July 8, 2020
6. CONSIDERATION/DISCUSSION ITEMS
 - a. 3765-3781 Sunset Drive Re-Zoning Request
 - i. Staff Presentation
 - ii. Public Hearing
 - iii. Discussion
 - iv. Recommendation
 - b. 4000 Sunset Drive Setback Variance
 - i. Staff Presentation
 - ii. Public Hearing
 - iii. Discussion
 - iv. Recommendation
 - c. Short-Term Rental Prohibition Ordinance
 - i. Staff Presentation
 - ii. Public Hearing
 - iii. Discussion
 - iv. Recommendation
7. COMMUNICATIONS
8. MISCELLANEOUS
9. ADJOURNMENT



CITY OF SPRING PARK
PLANNING COMMISSION MINUTES
JULY 8, 2020 – 6:00 PM
SPRING PARK CITY HALL

1. CALL TO ORDER - The meeting was called to order by Acting Chair Homan at 6:05 p.m.
2. PLEDGE OF ALLEGIANCE – Acting Chair Homan led the audience in the Pledge of Allegiance
3. ROLL CALL

Planning Commissioners Present: Bruce Homan, Acting Chair; Michael Mason; Max Avalos; and Pete Kaczanowski

Planning Commissioners Absent: Jeff Hoffman, Chair

Staff Present: Dan Tolsma, City Administrator; Al Brixius, City Planner; and Theresa Schyma, City Clerk

4. ADOPT AGENDA

M/ Mason, S/Kaczanowski to approve the agenda.

Motion carried 4-0

5. APPROVAL OF MINUTES

- a. Planning Commission Meeting Minutes from June 10, 2020

M/Mason, S/Avalos to approve the minutes.

Motion carried 4-0.

6. CONSIDERATION/DISCUSSION ITEMS

- a. 4317 Channel Road Variance
 - i. Staff Presentation

City Planner Brixius reviewed Land Use Application No. 20-02 VAR requesting a side-yard setback variance to allow for the construction of a 3-car attached garage with additional living space on the second floor. He further detailed staff's recommended conditions for approval.

Patrick and Hannah Berry, 4317 Channel Road, were available for questions.

ii. Public Hearing

M/Kaczanowski, S/Avalos to open the public hearing at 6:15 p.m.

Motion carried 4-0.

M/Mason, S/Kaczanowski to close the public hearing at 6:17 p.m.

Motion carried 4-0.

iii. Discussion

The Planning Commission thanked the applicants for enhancing their property.

iv. Recommendation

M/Avalos, S/Mason to recommend to the City Council to approve Land Use Application No. 20-02 VAR, to approve a side-yard setback variance to allow for the construction of a 3-car attached garage with additional living space on the second floor subject to the conditions of the July 1, 2020 planning report.

Motion approved 4-0.

b. 4364/4368 West Arm Road Variance

i. Staff Presentation

City Planner Brixius reviewed Land Use Application No. 20-03 VAR requesting a street-side setback variance to allow for the expansion of a two-family dwelling unit located at 4364 and 4368 West Arm Road. He further detailed staff's recommended conditions for approval. He added a correction to Condition #2 since the current area of the project is already hardcover, the applicant will not need a stormwater management plan. He suggested Condition #2 change to "All runoff from the building and driveway shall be directed away to storm sewer subject to the review and approval of the City Engineer."

Barbara and Andrew Ward, 4364 and 4368 West Arm Road, were available for questions.

Duane Myers of Myers Construction, project manager of the proposed remodel, was available for questions.

ii. Public Hearing

M/Mason, S/Avalos to open the public hearing at 6:38 p.m.

Motion carried 4-0.

M/Avalos, S/Kaczanowski to close the public hearing at 6:40 p.m.

Motion carried 4-0.

iii. Discussion

Acting Chair Homan stated that the proposed project enhances and improves the community.

iv. Recommendation

M/Mason, S/Avalos to recommend to the City Council to approve Land Use Application No. 20-03 VAR, to approve a street-side setback variance to allow for the expansion of a two-family dwelling unit located at 4364 and 4368 West Arm Road subject to the conditions of the July 1, 2020 planning report and with the correction to Condition #2 to read “All runoff from the building and driveway shall be directed away to storm sewer subject to the review and approval of the City Engineer.”

Motion approved 4-0.

7. COMMUNICATIONS – None.

8. MISCELLANEOUS

a. Parks Site Visit Recap

City Administrator Tolsma presented an update on the memorial plaques that will be placed at the City’s parks. He further discussed the June 15 meeting he had with Commissioners Kaczanowski and Mason at the City’s two parks. He detailed the potential updates to the parks that were discussed at the meeting including the addition of curb and gutter along Park Lane for Thor Thompson Park, repaving the entrance to the playgrounds, updating the existing entrance signs, and looking into obtaining an easement for access to Wilkes Park from Black Lake Road.

b. 2413 Black Lake Road Variance Extension Request

City Administrator Tolsma presented a summary of the extension request.

Max Avalos, 2413 Black Lake Road, was available for questions. He discussed the difficulty of getting a contractor due to COVID-19 and did not believe he would complete the project before the August deadline.

M/Mason, S/Kaczanowski to recommend to the City Council to approve an additional 12-month extension to Land Use Application No. 18-03 VAR, that was originally approved by the City Council on August 20, 2018 to allow a garage at 2413 Black Lake Road.

Motion approved 3-0. (Avalos recused)

9. ADJOURNMENT

M/Mason, S/Avalos adjourn the Planning Commission Meeting at 7:05 p.m.

Motion carried 4-0.

Date Approved: September 9, 2020

Dan Tolsma, City Administrator

Theresa Schyma, City Clerk

**NORTHWEST ASSOCIATED CONSULTANTS, INC.**

4800 Olson Memorial Highway, Suite 202, Golden Valley, MN 55422
Telephone: 763.231.2555 Facsimile: 763.231.2561 planners@nacplanning.com

PLANNING REPORT

TO: Dan Tolsma
FROM: Alan Brixius / Daniel Elder
DATE: September 3, 2020
RE: Spring Park – 3781 and 3765 Sunset Drive – Rezoning
FILE NO: 175.01 – 20.06
PID: 1711723310006 & 1711723310007

BACKGROUND:

William Naegele of Restaurants No Limits Inc, has submitted an application requesting a change of zoning from R-1 Single and Two Family Residential district to C-1 General Commercial district. The site currently is two vacant residential lots at 3765 and 3781 Sunset Drive which are currently being used for parking for Lord Fletchers.

The applicant is seeking to rezone the property to a general commercial district and bring the existing parking lot into compliance with city code.

Attached for reference:

- Exhibit A: Application Material
- Exhibit B: Aerial Photo
- Exhibit C: 2040 Future Land Use Map
- Exhibit D: Existing Zoning Map
- Exhibit E :Photos

ISSUES AND ANALYSIS

Comprehensive Plan. The 2040 Comprehensive Plan guides this area for low density residential. The current R-1 zoning is reflective of this land use plan. In conjunction with this zoning request the city will process a comprehensive plan amendment if the zoning change is approved.

Comment: The current use of the lot is for parking. The access to the parking lot is from a single access point to the north. The parking lot is at an elevation that is lower than the home to the south and there is a retaining wall , fence and significant trees

screening the parking area. The change in zoning would bring the parking lot into conformity with the city code.

The sale of the lots for residential use would result in new homes fronting on Sunset Drive and facing Lord Fletchers Restaurant. These lots would have direct access to Sunset Drive introducing new driveways accessing a busy street. The location, orientation and size of the lots isolate them from other residential neighborhood having them contend with existing adjoining commercial uses.

The aforementioned conditions raise consideration as to whether residential use and zoning is the best use of the site.

The following Comprehensive Plan stated goal and policies provide support the change in land use.

Goal 4: Ensure compatibility and strong functional relationships between land uses.

Policies:

- A. Maintain and strengthen the character of individual neighborhoods.
- B. Prevent over-intensification of land use development, that is, development which is not accompanied by a sufficient level of supportive services and facilities (utilities, parking, access, etc.).
- C. Investigate remedies to correct or eliminate existing land use compatibility problems and review and make changes to the zoning map accordingly.
- D. Examine requested land use changes in relation to adjoining land uses, site accessibility, utility availability, and consistency with the City's Comprehensive Plan and policies.
- E. Accomplish transitions between distinctly differing types of land uses in an orderly fashion which does not create a negative (economic, social or physical) impact on adjoining developments.
- F. Address conflicting and non-complementary land uses through code enforcement or improved site design options, where practical.
- G. Examine and re-evaluate under-utilized commercial parcels to insure full land utilization and proper infill development of parcels.
- H. Amend the R-1 zoning district to limit uses to single family homes.

Land Use Compatibility. The proposed use is or will be compatible with present and future land uses of the area.

Comment: The surrounding land uses are shown below.

	Land Use	Zoning
North	Lord Fletchers	C-1
south	City of Orono- wetlands	N/A
East	Lord Fletchers - parking	C-1
West	Single Family	R-1

The rezoning of the lots to C-1 would bring the lots into similarity with the balance of Lord Fletcher’s parking east of Sunset Drive. The single family home presents some concern, however the current parking area is at a lower elevation than this house, there is a retaining wall, fence and mature trees existing to screen this house.

As stated above, the location, size and orientation of the two lots makes development under the R- 1 district questionable due to surrounding land uses and need for street access.

Utilities. The proposed use can be accommodated with existing public services and will not overburden the City’s service capacity.

Comment: The two parcels will be utilized as parking lots if rezoned and will not have an impact on City utilities.

Streets. Traffic generation by the proposed use is within capabilities of the streets serving the property.

Comment: The traffic generated by Lord Fletchers has in the past created parking problems by customers utilizing local streets for parking. This parking lot is integral to Lord Fletcher’s operations to reduce on-street parking elsewhere. The parking lot has a single point of access that controls traffic leaving the parking lot. The C-1 zoning brings this parking into conformance with the city codes.

RECOMMENDATION:

Based on the aforementioned review and the findings of this report we recommend approval of comprehensive plan land use map change and a change in zoning from R-1 to C-1 for the properties at 3765 and 3781 Sunset Drive.

The comprehensive plan amendment will require submission to the Metropolitan Council as a minor amendment.

CC: Theresa Schyma
Scott Qualle
William Naegele



GENERAL LAND USE APPLICATION

Application No: _____
 Date Filed: _____
 Date Complete: _____
 Received By: _____
 Base Fee: _____
 Escrow: _____

Instructions: Please read carefully and answer all questions thoroughly. Only complete applications will be accepted after validation by the Zoning Administrator, and prior to acceptance of required processing fees and escrows.

PROPERTY INFORMATION

Property Identification Number (PID): 17-117-23-31-007
 Street Address: 3781 SUNSET DRIVE, SPRING PARK, MN.
 Legal Description: LOT 21, EXCEPT THE WEST 18' HEREOF
 Other information: GUST S JOHNSON'S ADDITION

APPLICATION INFORMATION

Name: WILLIAM J. NAEGELE Business Name: RESTAURANTS No LIMIT INC.
 Address: OFFICE - 4300 BAKER RD. - SUITE 300
 City: MTRK State: MN Zip Code: 55343-8600
 Telephone: 612-867-4144 Fax: 952-938-1854 e-mail: ottoandme@aol.com

PROPERTY OWNER INFORMATION (if other than applicant)

Name: _____ Business Name: _____
 Address: _____
 City: _____ State: _____ Zip Code: _____
 Telephone: _____ Fax: _____ e-mail: _____

REQUEST

Comprehensive Plan Amendment	_____	Site and Building Plan Review	_____
Ordinance Amendment (text or map)	_____	Subdivision Sketch Review	_____
Conditional Use Permit	<input checked="" type="checkbox"/>	PUD (concept plan/development)	_____
Interim Use Permit	_____	Preliminary Plat	_____
Administrative Permit	_____	Final Plat	_____
Variance	_____	Minor Subdivision	_____
Appeal	_____	Other:	<u>X Re-zoning</u>

DESCRIPTION of REQUEST (attach additional sheets as necessary)

Existing Use of Property: PARKING lot

Nature of Proposed Use: Lord Fishers PATRONS PARKING.

Reason(s) to Approve Request: NON CONFORMING RESIDENTIAL lot (not enough square footage) - ACCESS IS THRU EXISTING LORD FISHERS COMMERCIAL ZONED PROPERTY

DESCRIPTION of REQUEST (attach additional sheets as necessary)

REZONE TO COMMERCIAL - ~~NEW~~

Please describe any previous applications pertaining to the subject site:

NONE - INQUIRIES IN PREVIOUS YEARS

Project Name: REZONE 3781 Date of Application: JULY 24, 2020

Nature of Request:

TO REZONE NON-CONFORMING RESIDENTIAL LOT (UNDERSIZED) TO COMMERCIAL - COMBINE WITH EXISTING PARKING LOT TO CREATE A PARKING PLAN

APPLICATION FEES AND EXPENSES. The undersigned has paid the application fees and posted the required escrows for this application. The undersigned agrees to pay all expenses incurred by the City of Spring Park for review and processing of this application, including expenses for legal, planning, engineering, administrative and/or other professional services. If these expenses exceed the application fee paid and the posted escrows, the undersigned understands and agrees that it is the responsibility of the applicant and the property owner to pay such expenses in full within 30 days of receiving a bill from the City. If the City does not receive payment in full within 30 days of the date of the bill, the City may approve a special assessment against the property for the full amount of such unpaid expenses, and the property owner specifically agrees to such an assessment and waives any and all appeals under Minnesota Statutes Section 429.82. All fees and expenses are payable in full whether the application is approved or denied. Escrow funds received in excess of the City's expenses for review and processing of the application will be returned to the applicant/property owner.

I, the undersigned, hereby apply for the considerations described above and declare that the information and materials submitted in support of this application are in compliance with adopted City policy and ordinance requirements and are complete to the best of my knowledge.

I understand that this application will be processed in accordance with established City review procedures and MN Statutes Section 15.99, as amended, supplemented or replaced from time to time, at such time as it is determined to be complete. Pursuant to MN Statutes Section 15.99, as amended, supplemented or replaced from time to time, the City will notify the applicant within (15) business days from the filing date of any incomplete or other information necessary to complete the application. Failure on my part to supply all necessary information as requested by the City may be cause for denying this application.

A complete application shall include a completed and signed application form, payment of all required fees and escrows, and a complete plan submission for the specific application.

I acknowledge and grant permission to any city staff members, city consultants, council members or planning commission members to access the property named in this application, at any time during this application process, in order to view, evaluate and understand this request.

Applicant: William M. Muehle Date: JULY 24, 2020

Property Owner: RESTAURANTS DO LIMITED INC. Date: JULY 24, 2020



Dickson Ave

set Dr

Dickson Ext

Sunset Dr

51
COUNTY

19
COUNTY

Shadywood Rd

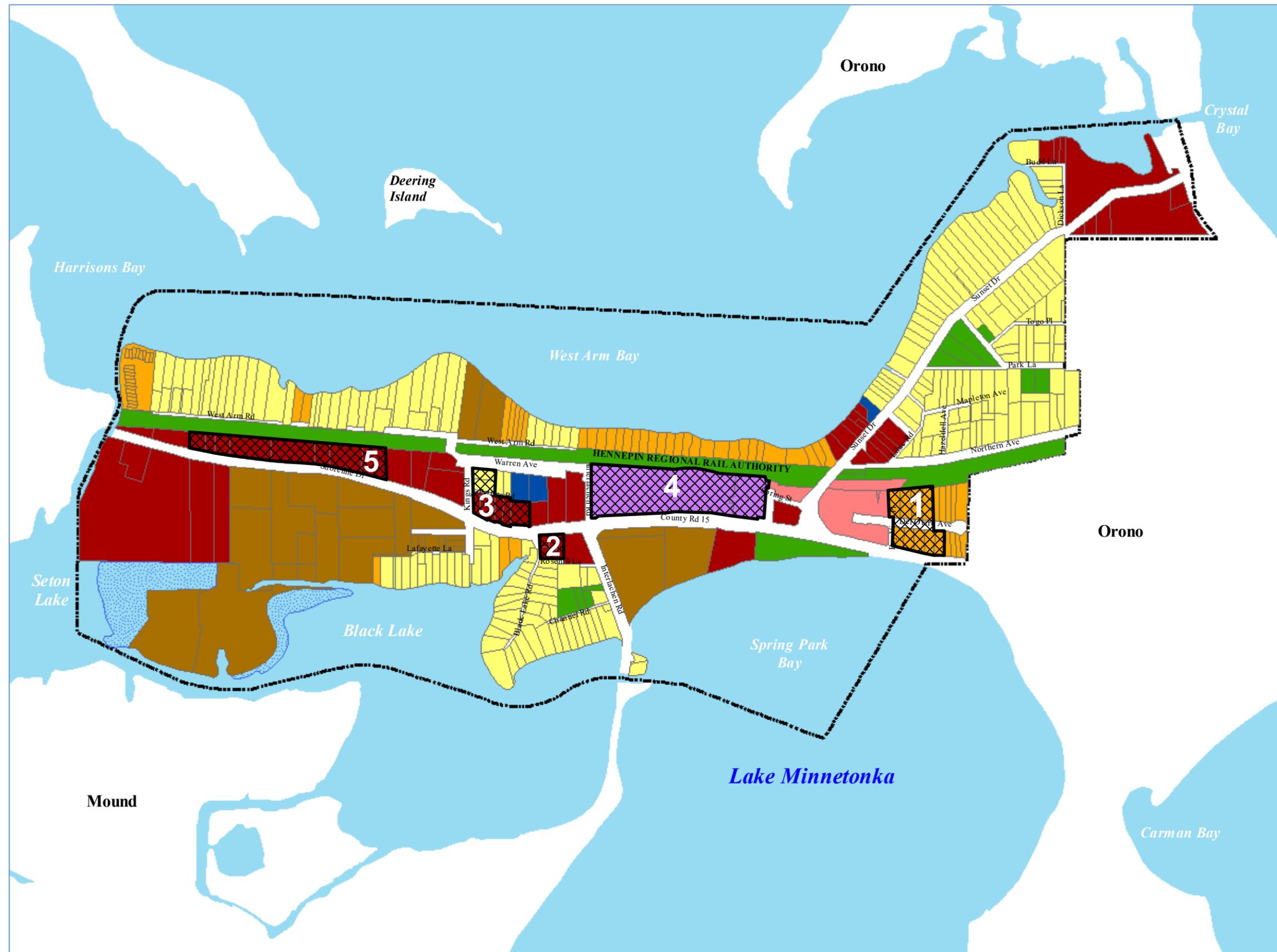
19
COUNTY

Spring Park

Shadywo

911 JVH6

2040 Future Land Use

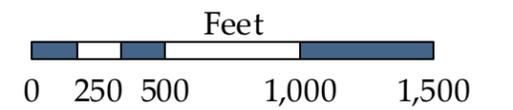


City of Spring Park



Legend

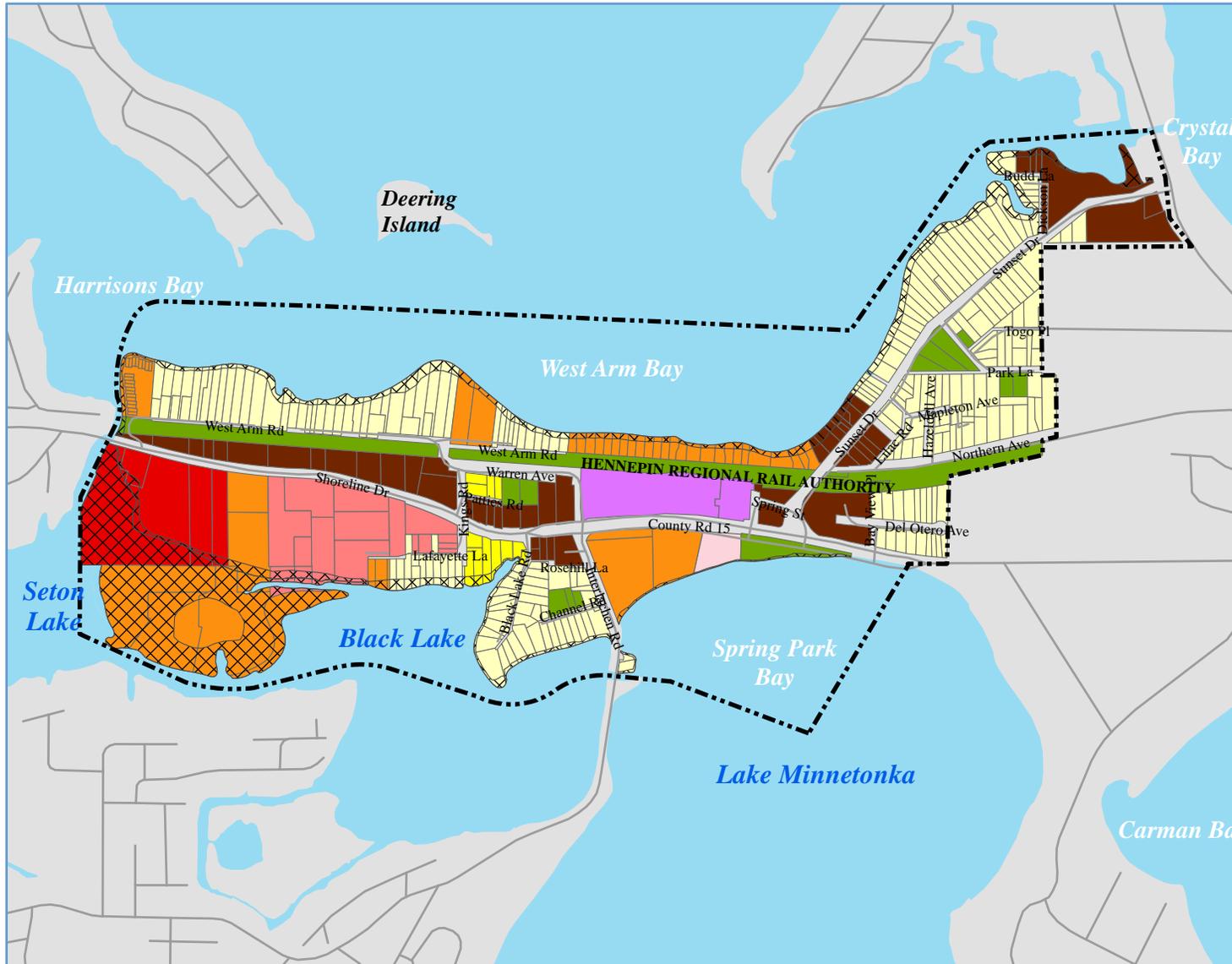
- Low Density (1-4 units/acre)
- Medium Density (5-19 units/acre)
- High Density (20+ units/acre)
- Mixed Use Residential (40+ units/acre)
- Commercial
- Industrial and Utility
- Institutional
- Parks and Open Space
- Wetlands
- Potential Redevelopment
- Boundary
- Lakes



Source:
 Hennepin County, City of Spring Park
 Minnesota Department of Natural Resources, &
 Northwest Associated Consultants, Inc.
 Prepared: January 2018.



Zoning Map



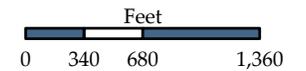
City of Spring Park



Zoning Districts

- R-1 Single and Two Family Residential
- R-2 Medium Density Residential
- R-3 High Density Residential
- C-1 General Commercial
- C-2 Shopping Center
- C-3 Health Care Facility
- C-4 Office Commercial
- M Manufacturing
- P Public/Semi-Public

- Floodplain
- City Limits



Source:
Minnesota Department of Natural Resources
Northwest Associated Consultants, Inc.

Map Date: August 2010





Exhibit E



Exhibit E



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**PLANNING REPORT**

TO: Dan Tolsma

FROM: Alan Brixius / Daniel Elder

DATE: September 1, 2020

RE: Spring Park – 4000 Sunset side yard variance request

FILE NO: 175.01 – 20.05

PID: 171-172-333-0031

BACKGROUND:

Joe Cheney owns the property at 4000 Sunset Drive in Spring Park. The lot contains an existing duplex. Mr. Cheney wishes to renovate and expand the building to provide additional living space and garages for the two units. In review of the lot City Staff discovered a property line concern that differs between past and current surveys. The lot abuts the city owned lake access off of Sunset Drive. This lake access was platted as City street right of way between Lots 13 and 14 Skarp & Lindquist's Hazeldell Addition to Minnetonka in 1906. (See Exhibit A)

Since the original plat, Lot 14 has been divided into 6 lots by metes and bound descriptions (no subsequent plat). All of the 6 lots have been developed. In 1993 and revised in 1996 Gronberg Inc prepared a survey of 4000 Sunset Drive for Scott Schulz. (See Exhibit B) This survey illustrates the duplex being located on the lot's north lot line and 2 feet from the lake access pavement. This survey presents a number of hurdles to any expansion of this building.

In 2018, Otto Associates prepared new survey for 4000 Sunset Drive (Exhibit C). This survey shows that the duplex is located 8 feet from the north lot line with the City's Lake access drive extending into the Cheney lot.

The discrepancy between the surveys has not been resolved. To allow Mr. Cheney to precede the remodeling and expansion of the duplex a variance application has been submitted.

Joe Cheney, property owner in the City of Spring Park, is seeking a variance from the R-1 district side yard setback requirement for the duplex property at 4000 Sunset Drive. This variance is needed to renovate and expand the building to provide additional living space and garages for the two existing units on the property.

Attached for reference:

- Exhibit A: Original Plat
- Exhibit B: 1993/ 1996 site Survey
- Exhibit C: 2018 Site Survey
- Exhibit D: Project Narrative
- Exhibit E: Site Plan & Elevation

ISSUES AND ANALYSIS

Existing Site Challenges

4000 Sunset is located within an R-1, Single Family and Two-Family Residential District. Two family homes are a permitted use within this zoning district. The existing Duplex is a legal non-conforming use in that it is located on a lot not meeting the R-1 lot area, width or setback requirements. The applicant’s lot area of 6,335 sq. ft. falls below the required R-1 lot area of 10,000 sq. ft. and the 47.9 ft lot width does not meet the required 50 foot lot width requirements. The building also does not meet the R-1 required 10 foot side yard setback along the north lot line.

The development pattern to the south of 4000 Sunset, reflect similar nonconforming conditions with regard to lot area, lot width and setbacks.

Setbacks and Lot Requirements:

The following table outlines the R-1 District standards for lot area and setbacks compared against the existing conditions on the lot in question:

	R-1 District Code:	Existing Conditions:	Proposed:	Compliant:
Lot Requirements:				
Lot Area	10,000 sq. ft. Single-Family*	6,335 sq. ft.	N / A	No * Existing Condition
Lot Width	50 ft.	47.7 ft.	N / A	No *Existing Condition
Lot Coverage	30 percent	3,000 sq. ft. (46.9%)	3,000 sq. ft. (46.9%)	No *Existing Condition 40% is allowed with SMP

Setback Requirements:				
		Existing	Proposed	Complaint
Right-of-Way Setback	30 ft.	46.3 (approx.)	20 ft (approx.)	Yes * meets average of adjacent structures
Side Yard Setback (north)	10 ft.	2.2 ft. /8.1 ft.	3.4 ft. /8.8 ft.	No *
Side Yard Setback (south)	10 ft.	13.8 ft.	13.5	Yes
Setback from OHWL	50 ft.	47 ft.	47 ft.	No * Existing Condition

The table above shows the required amount of setback that a structure must meet in R-1 districts, compared to the anticipated amount of setback that will be left after the construction of the addition. The cited north setback both existing and proposed is reflective of both the 1996 and 2018 surveys. The new addition requires variances from the required side setback on north lot line setback. The setback from the OHWL is an existing condition and will remain without variance.

The new addition extends toward Sunset Drive. Section 42-65 (f) applies to this street side setback.

(f) **[Setbacks differing from requirements.]** Where adjacent structures within the same block have setbacks from the street different from those required, the minimum setbacks from the street shall be the average of the setbacks of the adjacent structures fronting on such street. If there is only one adjacent structure, the minimum setback from the street shall be the average of the required setback and the setback of the adjacent structure. In no case shall the required setback from the street exceed the minimum setback established for the district.

The property to the south has a 20 foot street side setback and the property to the north has a street side setback that exceeds the R-1 30 street side setback. Based on the allowed averaging the following street side setback is required for the new addition.

$$\begin{array}{ccccccc}
 \text{South property} & & \text{north property} & & \text{Total combined} & & \text{average required} \\
 & & & & \text{Setback} & & \text{setback} \\
 20\text{feet} & + & 30 \text{ feet} & = & 50 \text{ feet} & /2 = & 25 \text{ feet}
 \end{array}$$

This setback applies to all new construction. The applicant must reduce the garage length to provide a minimum 25 foot street side setback.

Lot Coverage:

Sec. 42-279 of the City Code, Lot Requirements and Setbacks, conditions are outlined in which new construction can be allowed to have up to a 40% impervious surface by meeting the following conditions.

Staff Comment: The applicant is expanding the building upon existing impervious surface and is not increasing the impervious surface. As such the percentage of impervious surface is a grandfather condition and does not require variance.

VARIANCE REVIEW CRITERIA

The applicant is requesting a variance from the required R-1 side yard Section 42-165 of the Spring Park ordinance outlines the criteria for considering a variance.

- Variances from the literal provisions of the chapter in instances where their strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration not resulting from the actions of an individual, and where it is demonstrated that such variance will be in keeping with the spirit and intent of the chapter.

(a) In considering any request for a variance and in taking subsequent action, planning commission and the city council, serving as the board of adjustment and appeals, shall make a finding of fact that the granting of such variance will not:

(1) Impair an adequate supply of light and air to adjacent property.

Staff Comment: *The expansion that is taking place will not impact the supply of light and air to adjacent properties.*

(2) Unreasonably increase the congestion in the public streets.

Staff Comment: *The proposed use continues to be a permitted duplex family home. The addition of an attached garage and additional living space and is not expected to increase traffic in the immediate area.*

(3) Increase the danger of fire or endanger the public safety.

Staff Comment: *The purposed use is not expected to increase the danger of fire or endanger the public safety.*

(4) Unreasonably diminish or impair established property values within the neighborhood, or in any other way be contrary to the intent of this chapter.

Staff Comment: *The addition of the garage and living space will be very similar in nature to neighboring properties and should not diminish or impair property values. Approval of the variance request is not expected to diminish or impair property values.*

(5) Violate the intent and purpose of the city comprehensive plan.

Staff Comment: The Spring Park 2040 Comprehensive Plan states in Strategy 2 that it will promote the renovation and reinvestment in existing homes as a priority for the City. The expansion of the duplex will allow for the renovation and reinvestment within the community

(b) A variance from the requirements of this chapter shall be permitted only when:

- The requested variance is in harmony with the general purposes and intent of the zoning ordinance.

Staff Comment: The expansion of the living area and garage is an allowed use in an R-1 district. The proposed expansion is consistent with the development patterns within the same block.

(c) No variance shall be granted that would allow any use that is not permitted in the zoning district in which the subject property is located.

Staff comment: A house/garage are allowed uses in an R-1 district within the City of Spring Park as stated in section 42-277 of the city code.

(d) A variance may be granted when the applicant establishes that there are practical difficulties in complying with the zoning ordinance without a variance.

Staff comment: As discussed, the size and shape of the parcel creates numerous challenges in the construction of a home addition without requiring a variance for the lot setbacks. The property line dispute presents a unique circumstance that has yet to be resolved. This issue alone presents a practical difficulty that interferes with the project. The property abutting the lake access to the North provides difficulty with the already non-conforming structure and its expansion.

(e) A variance application shall set forth the reasons for the requested variance, including:

- (1) The unique circumstances of the property, such as topography, lot size or shape, or water conditions, which cause practical difficulties in the reasonable use of the property; and

Staff Comment: See comments under provision (d) above

- (2) The requested variance is the minimum variance from the zoning ordinance required to make reasonable use of the property.

Staff Comment: The duplex is an allowed use within the R-1 zoning district. The proposed expansion provides additional living space and garage space making the dwelling units more appealing. The expansion will add value to the property. The proposed expansion mimics the development pattern of the

property to the south. Based on these attributes the requested variance offers reasonable use of the property.

RECOMMENDATION:

In reviewing this application, staff has evaluated the variance request against the Spring Park's zoning code criteria for variances. Based our review of these criteria and the findings outlined in this report; staff finds that the proposed variance offers reasonable use of the property and there are practical difficulties unique to the property that warrant variance considerations.

Staff recommends approval of the applicants request for a variance from the side setback requirements for the property at 4000 Sunset Drive with the following conditions.

1. Construction will not deviate from the site plan submitted to the city on 8/20/2020 as part of the variance application. Any change to the dimensions of the addition would be subject to a separate review.
2. The applicant shall revise the size of the garage to provide a 25 foot street side setback as required per code.
3. The reduced side yard variance may trigger more restrictive building and fire code requirements for that side of the building with the reduced setbacks. The new construction must meet all current building and fire codes.

CC: Theresa Schyma
Scott Qualle
Brian Hare
Joe Cheney

SKARP & LINDQUIST'S HAZELDELL ADDITION

TO MINNETONKA

Scale 100' = 1"

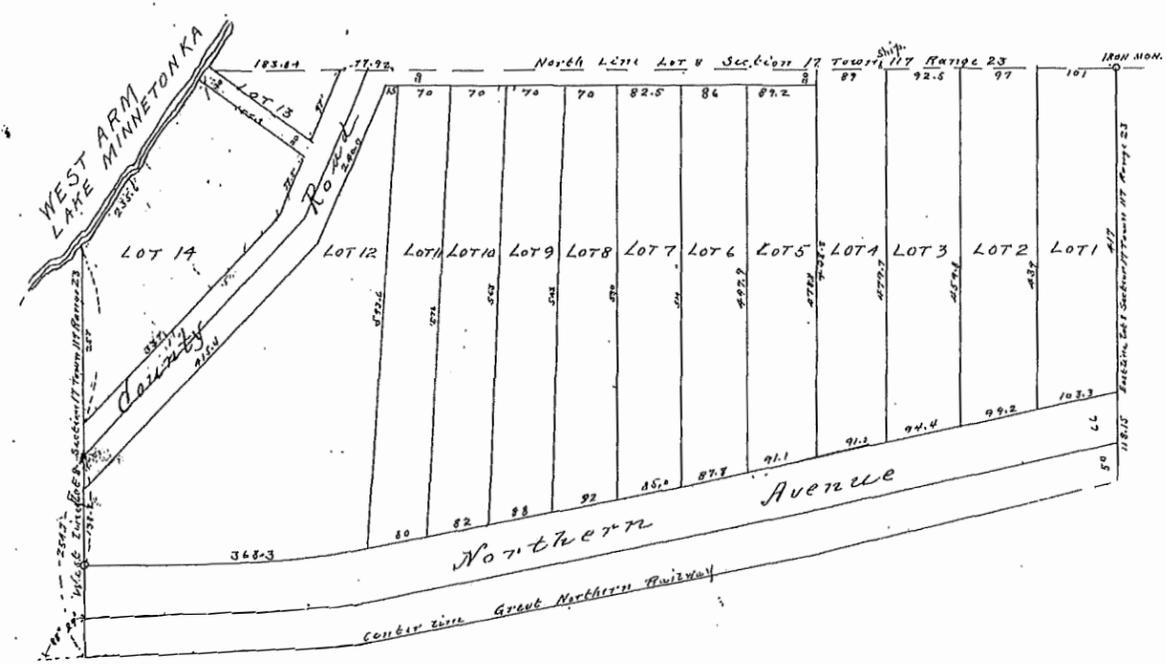
P. M. DAHL
Civil Engineer

Know all men by these presents that Minneapolis Trust Co a corporation organized under the laws of the State of Minnesota and owner and proprietor of the following described property lying in the County of Hennepin State of Minnesota to wit:

All that parcel of land (with Section 17 (fourteen) Township 17 North Range 23 County of Hennepin State of Minnesota) North of a line drawn parallel with and 50 feet (50 feet) North of the center line of the main track of the St. Paul Minneapolis and Manitoba Railway and the Great Northern Railway as now located has caused the same to be surveyed and platted as Skarp and Lindquist's Hazeldell Addition to Minnetonka as shown by the annexed plat and said Minneapolis Trust Company hereby donates and dedicates to the public use forever the streets and alley thereon shown.

In testimony whereof said Minneapolis Trust Company has caused these presents to be signed by E. Bridge C. Cooke its president and Robert W. Webb its secretary and its corporate seal to be hereunto affixed this 23 day of August A.D. 1906

In presence of *James C. Cooke* President
Robert W. Webb Secretary



State of Minnesota S.S.
County of Hennepin

On this 23 day of August A.D. 1906 personally appeared before me *E. Bridge C. Cooke* and *Robert W. Webb* come personally known to me being to me duly sworn did say that they respectively are President and Secretary of Minneapolis Trust Company and that the seal affixed to the foregoing instrument is the corporate seal of the said Corporation and that said instrument was signed and sealed in behalf of said Corporation by authority of its Board of Directors and said *E. Bridge C. Cooke* President and *Robert W. Webb* Secretary acknowledged the said instrument to be the free and true deed of said Corporation

E. B. Cooke
President
Robert W. Webb
Secretary

I hereby certify that this is a correct Plat of Skarp and Lindquist's Hazeldell Addition to Minnetonka as surveyed by me in July 1906 in conformity with the plat as shown in the office of the Register of Deeds of Hennepin County Minnesota as shown. All distances are given in feet or fractions of a foot

P. M. Dahl
Civil Engineer

State of Minnesota S.S.
County of Hennepin

On this 23 day of August 1906 personally appeared before me *P. M. Dahl* to me known to be the person described in and who executed the foregoing instrument and he acknowledged that he executed the same as his free and true deed

P. M. Dahl
Notary Public
Hennepin County Minnesota

I hereby certify that I have made the necessary surveys to determine the accuracy of the annexed plat that I find the same correct for the guidance of future surveys has been correctly placed that the boundary lines of the land platted are correctly shown on the plat and that the sizes of the lots are as shown on the plat

W. E. Stoops
County Surveyor
Hennepin County Minnesota

OFFICE OF REGISTER OF DEEDS,
HENNEPIN COUNTY, MINNESOTA

I Herby Certify, That the within Plat of *Skarp & Lindquist's Hazeldell Addition to Minnetonka* was filed in this office for record this *23* day of *August* A. D. *1906* at *1* o'clock *P.* and was duly recorded in Book *54* of *Plats* Page *1*

Geo. C. Merrill
Register of Deeds

I Herby Certify, That I have carefully compared the within copy of Plat of *Skarp & Lindquist's Hazeldell Addition to Minnetonka* with the original on file in this office for record this *23* day of *August* A. D. *1906* at *1* o'clock *P.* and

James C. Cooke
President
Robert W. Webb
Secretary

E. J. Fortier

LEGAL DESCRIPTION OF PREMISES SURVEYED:

That part of Lot 14, Skarp and Lindquist's Hazeldell Addition to Minnetonka described as follows: Beginning at a point in the Southeastery line of said Lot 14 distant 267 feet Northeastery measured along the Southeastery line of said Lot 14 from the most Southerly corner thereof, thence North 55 degrees 22 minutes West* to the shore of Lake Minnetonka, thence Northeastery along the shore of said Lake to the most Northerly corner of Lot 14; thence Southeastery along the Northeastery line of said Lot 14 to the most Easterly corner thereof; thence Southwesterly along the Southeastery line of said Lot 14 a distance of 48.5 feet, more or less, to the point of beginning.

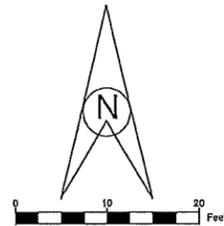
*Note: The above description is defective in that it refers to a proceeding on a bearing of "North 55 degrees 22 minutes West" bearing without giving a basis for that bearing; also occupation lines do not fit descriptions; therefore some type of judicial action may have to be taken to solve these problems.

This survey intends to show the boundaries of the above described property, and the location of an existing house thereon. It does not purport to show any other improvements or encroachments.

- : Iron marker found
 - : Iron marker set
- Bearings shown are based upon an assumed datum.

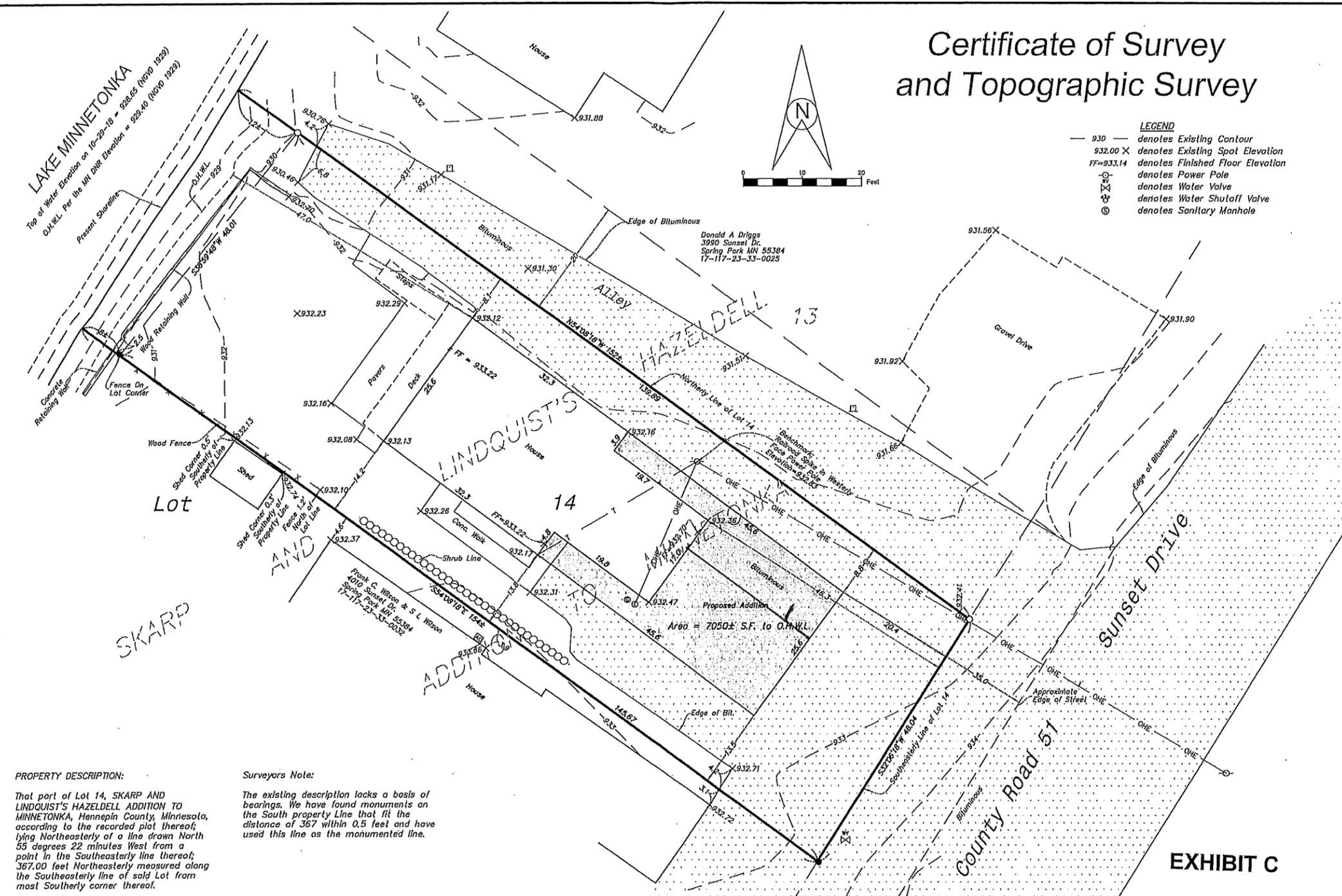
Certificate of Survey and Topographic Survey

- LEGEND**
- 930 — denotes Existing Contour
 - 932.00 X denotes Existing Spot Elevation
 - FF=933.14 denotes Finished Floor Elevation
 - ⊙ denotes Power Pole
 - ⊗ denotes Water Valve
 - ⊕ denotes Water Shutoff Valve
 - ⊙ denotes Sanitary Manhole



LAKE MINNETONKA
 Top of Water Elevation on 10-29-18 = 928.82 (NGVD 1929)
 O.H.W.L. Per the M1 DNR Elevation = 929.40 (NGVD 1929)

Donald A Driggs
 3990 Sunset Dr.
 Spring Park MN 55384
 17-117-23-33-0025



PROPERTY DESCRIPTION:

That part of Lot 14, SKARP AND LINDQUIST'S HAZELDELL ADDITION TO MINNETONKA, Hennepin County, Minnesota, according to the recorded plot thereof, lying Northeastly of a line drawn North 55 degrees 22 minutes West from a point in the Southeastly line thereof, 367.00 feet Northeastly measured along the Southeastly line of said Lot from most Southerly corner thereof.

Surveyors Note:

The existing description lacks a basis of bearings. We have found monuments on the South property line that fit the distance of 367 within 0.5 feet and have used this line as the monumented line.

Certificate of Survey and Topographic Survey of Lot 14, SKARP AND LINDQUIST'S HAZELDELL ADDITION TO MINNETONKA, Hennepin County, Minnesota

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Requested By:

Joe Cheney



www.otloassociates.com
 9 West Division Street
 Buffalo, MN 55313
 (763)682-4727
 Fax: (763)682-3522

- denotes iron monument found
- denotes 1/2 inch by 14 inch iron pipe set and marked by License #40062

Revised:
 3-19-19 -- Proposed Addition -- S.O.S.

Paul E. Otto
 Paul E. Otto
 License #40062 Date: 3-19-19

Date:
 10-30-18

Drawn By:
 M.J.H.

Scale:
 1"=10'

Checked By:
 P.E.O.

Engineers & Land Surveyors, Inc.

Project No. 18-0496

EXHIBIT C



GENERAL LAND USE APPLICATION

Application No: 20-05 VAR
 Date Filed: 8/20/2020
 Date Complete: _____
 Received By: DT
 Base Fee: 250.00 Chk # 1059
 Escrow: 500.00 Chk # 1060

Instructions: Please read carefully and answer all questions thoroughly. Only complete applications will be accepted after validation by the Zoning Administrator, and prior to acceptance of required processing fees and escrows.

PROPERTY INFORMATION

Property Identification Number (PID): 1711723330031

Street Address: 4000 Sunset Drive

Legal Description: That Part of Lot 14, Skarpana Cinqurists Hazedelt Addition to Minnetonka Township, County, Minnesota, according to the recorded plat thereof; lying Northeastly of & Southeastly of a line begun North 55 degrees 22 minutes West from a Point in the Southeastly line thereof; 387.00 feet Northeastly measured along the Southeastly corner thereof;

Cont...

APPLICATION INFORMATION

Name: Joe Cheney Business Name: Lake Minnetonka Condos LLC
 Address: 4823 Twin Lake Ave N
 City: Brooklyn Center State: MN Zip Code 55429
 Telephone (651) 558-6753 Fax _____ e-mail joecheneycarpet@gmail.com

PROPERTY OWNER INFORMATION (if other than applicant)

Name: _____ Business Name: _____
 Address: _____
 City: _____ State: _____ Zip Code _____
 Telephone _____ Fax _____ e-mail _____

REQUEST

Comprehensive Plan Amendment	_____	Site and Building Plan Review	_____
Ordinance Amendment (text or map)	_____	Subdivision Sketch Review	_____
Conditional Use Permit	_____	PUD (concept plan/development)	_____
Interim Use Permit	_____	Preliminary Plat	_____
Administrative Permit	_____	Final Plat	_____
Variance	<u>X</u>	Minor Subdivision	_____
Appeal	_____	Other:	_____

DESCRIPTION of REQUEST (attach additional sheets as necessary)

Existing Use of Property: Duplex

Nature of Proposed Use: to convert to two condos by expanding the foot print & create a CTC with an HOA to receive two separate addresses and PID's

Reason(s) to Approve Request: According to our Survey we meet the 10 foot Set Backs But approval is needed to be less than that according to the Platted Survey. also the Street Set Back is Median cut at just over 25'



FRONT ELEVATION

SCALE: 1/4" = 1'-0" 09/02/20



ALLEY SIDE ELEVATION

SCALE: 1/8" = 1'-0"

- 1X10 WITH 1X2 AT TOP W/ CEDAR CORBELS
- LARGE CEDAR BRACKET
- BOARD AND BATTEN FINISH
- METAL SHED ROOF
- SMALL CEDAR BRACKETS
- ADDRESS NUMBER
- LP SIDING



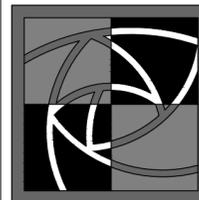
LAKESIDE ELEVATION (REAR)

SCALE: 1/8" = 1'-0"



SIDE ELEVATION

SCALE: 1/8" = 1'-0"



M. Andrews
Homes

8231 DUPONT AVE S
BLOOMINGTON, MN
952-346-0427

mandrews.homes@outlook.com

LAKE MINNETONKA
CONDOS

4000 SUNSET DRIVE
SPRING PARK, MN

PAGE

A1



NORTHWEST ASSOCIATED CONSULTANTS, INC.

4150 Olson Memorial Highway, Ste. 320, Golden Valley, MN 55422
Telephone: 763.957.1100 Website: www.nacplanning.com

MEMORANDUM:

TO: Dan Tolsma
FROM: Alan Brixius
DATE: September 1, 2020
RE: Short – term Rental Housing code
FILE NO: 175.01 20.04

BACKGROUND

In October 2019, the Spring Park Planning Commission made a recommendation to the City Council to approve rental license requirements for both long- term and short-term rental properties. At its meeting on August 17, 2020, the Council voted against the recommended long-term rental license ordinance . The Council, in consideration of the recommendation related to short-term rentals, made the following findings:

1. Short –term rentals are a commercial use not suitable to be located in the City’s residential zoning districts. Issues of traffic, parking, dock use and other nuisances are created with transient short term tenants.
2. The introduction of this commercial use into the City’s residential neighborhoods has the potential of being disruptive to the adjoining residential properties. This prevents the adjoining property owners the quiet enjoyment of their property.
3. The small and narrow lots found in Spring Park are not conducive to the short-term rental use in that they cannot provide separation from adjoining homes, needed parking for tenants, or yard space for outdoor entertainment.
4. Short-term rentals are commercial uses that are already currently not allowed in any of the City’s residential zoning districts. Section 42-9 of the Spring Park Zoning Code below indicates that any land use not listed within a zoning district is considered prohibited unless the City amends its ordinance to allow the use. Under this regulation, the short-term rentals existing today are illegal uses and **not** eligible for “grandfathered” rights.

Sec. 42-9. - Uses not provided for within zoning districts.

Whenever in any zoning district a use is neither specifically permitted nor prohibited, the use shall be considered prohibited. In such case, the city council, on its own initiative or upon request, may conduct a study to determine if the use is acceptable and if so, what zoning district would be most appropriate and to determine the conditions and standards relating to development of the use. The city council or property owner, upon receipt of the staff study, shall, if appropriate, initiate an amendment to the zoning ordinance to provide for the particular use under consideration or the city council shall find that the use is not compatible for development within the city.

(Ord. No. 62, § 1(Subd. I), 9-13-1993)

Based on these findings, the Spring Park City Council has requested a City Code change that makes the current prohibition on short-term rentals in the City's residential zoning districts more explicit. The attached zoning code amendment outlines the proposed changes.

ANALYSIS

Without a rental licensing code, Staff determined that the prohibition of short-term rentals becomes a land use issue that must be addressed in the City's Zoning Code. Any change to the Zoning Code requires a public hearing, Planning Commission consideration and recommendation, and final action by the City Council.

The draft ordinance amendment creates a new Section 42-77 in the General Provisions of the Zoning/Shoreland Ordinance that defines the relevant terms, explains the purpose and rationale for the prohibition, expressly prohibits short-term rentals in any residential zoning district in the City, and identifies the possible enforcement options for violations.

CONCLUSION:

The planning commission is directed to conduct a public hearing on the short-term rental ordinance prohibiting short-term rentals; review the ordinance, take public testimony and make recommendation to the city council.

Cc. Mary Tietjen
Theresa Schyma
Scott Qualle

**CITY OF SPRING PARK
COUNTY OF HENNEPIN
STATE OF MINNESOTA**

ORDINANCE NO. 2020- ____

**AN ORDINANCE AMENDING THE ZONING/SHORELAND ORDINANCE OF THE
SPRING PARK CITY CODE (CHAPTER 42) PROHIBITING SHORT-TERM
RENTALS WITHIN THE CITY OF SPRING PARK**

**THE CITY COUNCIL OF THE CITY OF SPRING PARK, MINNESOTA ORDAINS AS
FOLLOWS:**

Section 1. The City Council of the City of Spring Park hereby amends Chapter 42, Article II of the Spring Park City Code by adding a new Sec. 42-77 as follows:

Sec. 42-77. – Short-term rentals.

(a) *Definitions.* In addition to the definitions contained in Article I, Division 2 of this Chapter, the following definitions shall apply to this section.

(1) *Operator.* A person or enterprise, or its agent, who is the owner of a dwelling, which is being offered for rent to transients, whether such person's ownership interest in the property is as the owner, lessor, lessee, sublessee, mortgagee-in-possession, licensee, or any other interest. Where the operator performs their functions through a rental agent, the managing agency or the rental agent has the same duties as the operator hereunder.

(2) *Rent.* Compensation, in money or other consideration, given in exchange for the occupancy, use, or possession of real property which is charged, whether or not received.

(3) *Short-term rental.* Any temporary occupancy or use of a dwelling or dwelling unit that is offered for rent to a transient for fewer than thirty (30) consecutive calendar days for various purposes, including but not limited to, tourist or transient use, or as a vacation home, or bed and breakfast.

(4) *Transient.* Any person who, at their own expense or at the expense of another, exercises occupancy or possession, or is entitled to occupancy or possession, by reason of any rental agreement, whether in writing or otherwise, concession, permit, right-of-access, option to purchase, license, time-sharing arrangement, or any other type of agreement for a period of fewer than thirty (30) consecutive calendar days.

(b) *Short-term rentals prohibited.*

(1) Purpose. The City finds that short-term rentals constitute a commercial use of residential property, which conflict with the fundamental character of residential zoning districts, disrupt the residential character of neighborhoods, and have a negative impact on the livability of residential neighborhoods. The City further finds that, while short term rentals are prohibited under the current provisions contained in the City Code, an ordinance amendment clarifying those regulations is necessary. The City has received complaints from residents regarding short-term rentals, including but not limited to complaints related to noise, over- occupancy, and illegal parking. To ensure adequate housing options for residents, preserve the residential character of the City's residential districts, preserve property values, and reduce land use conflicts, the City determines, in furtherance of the public health, safety and general welfare, that it is necessary to limit short-term rentals to hotels, motels, lodging establishments, and similar accommodations which are appropriately licensed, zoned, and which have the appropriate infrastructure and services for such short-term use.

(2) Prohibition. Short-term rental in any residential zoning district in the City is prohibited. State licensed hotels, motels, and lodging establishments located in areas where permitted by the City's land use regulations are allowed, pursuant to all applicable law and rules.

(3) Enforcement.

a. An owner, operator, tenant, or occupant of any building or property in violation of the provisions of this section may be charged and found guilty of a misdemeanor and may be held responsible for the cost of enforcement in addition to penalties.

b. The City may exercise any and all remedies at law or in equity to ensure compliance with this section. All unpaid costs, charges and penalties may be certified as a special assessment levy against the property.

c. The City hereby further declares the short-term rental of a dwelling or dwelling unit may constitute a public nuisance pursuant to Chapter 18, Article IV of the Spring Park City Code and the City may exercise its authority to abate such nuisances.

d. To address violations of this Section, the City may exercise its enforcement authority pursuant to Chapter 1, Sec. 1-14 of the City Code and applicable state law.

(c) *Implementation.* In an effort to minimize the disruption of the adoption of this ordinance, the City shall not take any enforcement actions related to short-term rentals until December 31, 2020.

Section 2. This ordinance shall take effect following its adoption and publication.

Adopted by the City Council of Spring Park on _____, 2020.

CITY OF SPRING PARK

By: _____
Jerome Rockvam, Mayor

ATTEST:

By: _____
Theresa Schyma, City Clerk