

**INVER GROVE HEIGHTS
PLANNING COMMISSION AGENDA**

**TUESDAY, DECEMBER 3, 2019 – 7:00 p.m.
City Council Chambers - 8150 Barbara Avenue**

- 1. CALL TO ORDER**
- 2. APPROVAL OF PLANNING COMMISSION MINUTES FOR NOVEMBER 19, 2019**
- 3. APPLICANT REQUESTS AND PUBLIC HEARINGS**
 - 3.01 1ST CLASS AUTO SALES - CASE NO. 19-47CV**

Consider the following requests for the property located at 6370 Concord Blvd:

 - a) A **conditional use permit amendment** to amend the approved site plan to allow for an additional building for an auto sales business

Planning Commission Action _____
 - b) A **variance** to allow a structure to be located within the rear yard setback

Planning Commission Action _____
 - 3.02 CITY OF INVER GROVE HEIGHTS – CASE NO. 19-27ZA**

Consider an **Ordinance Amendment** to Chapter 10-15-26 Home Occupations, to allow the use of accessory buildings as part of a home occupation.

Planning Commission Action _____
- 4. OTHER BUSINESS**
- 5. ADJOURN**

This document is available upon 3 business day request in alternate formats such as Braille, large print, audio recording, etc. Please contact Kim Fox at 651.450.2545 or kfox@invergroveheights.org

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Wednesday, November 19, 2019 – 7:00 p.m.
City Hall Chambers - 8150 Barbara Avenue

Chair Maggi called the Planning Commission meeting to order at 7:00 p.m.

Commissioners Present: Pat Simon
Tony Scales
Joan Robertson
Brett Kramer
Jonathan Weber
Elizabeth Niemioja
Armando Lissarrague
Annette Maggi
Dennis Wippermann

Commissioners Absent:

Others Present: Heather Botten, Associate Planner
Heather Rand, Community Development Director

APPROVAL OF MINUTES

The minutes from the November 6, 2019 Planning Commission meeting were approved as submitted.

PRAIRIE ESTATES, LLLP – CASE NO. 19-48C

Reading of Notice

Commissioner Simon read the public hearing notice to consider a request for a conditional use permit amendment to modify the existing site plan to add garages, along with other property improvements, and any variances related thereto, for the property located at 6121-6199 Carmen Avenue. 26 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the applicant is requesting a conditional use permit amendment to modify the existing site plan by adding 26 garage spaces to the property known as Prairie Estates, which is zoned R-3C, Multi-Family Residential. In addition, the applicant would be remodeling the existing residential units, improving the community space, and adding connectivity to the development, including a possible sidewalk connection to 63rd Court. While most of the proposed improvements would be occurring over existing hard surface, there would be a 4% increase in impervious surface. The R-3C zoning district allows for a maximum of 40% impervious surface; however, the proposed improvements would bring the total to 46% on this property. Multi-family residential districts do not have the same CUP process to exceed the amount of impervious surface as single-family residential neighborhoods do, therefore, they are requesting a variance. Ms. Botten noted that there was a date error in both Conditions No. 1 which will be amended to reflect the submitted plans. Staff recommends approval of the request with the conditions listed in the report and the change to both Conditions No. 1. Staff did not hear from any of the surrounding property owners.

Opening of Public Hearing

Ken Isaacson, Twin Cities Housing Development Corporation, advised he was available to answer any questions.

Chair Maggi asked the applicant if he read and understood the report.

Mr. Isaacson replied in the affirmative.

Commissioner Niemioja was excited about this project and the fact that the additional impervious surface would help with connectivity and ADA compliance.

Mr. Isaacson agreed, stating the proposed improvements would enable someone in a wheelchair to work themselves around the entire site which is not possible today.

Chair Maggi closed the public hearing.

Planning Commission Discussion

Chair Maggi stated this seemed like a reasonable request and would be an improvement for this area.

Commissioner Robertson stated the individuals living there deserve these amenities and she was pleased with the proposed site plan.

Planning Commission Recommendation

Motion by Commissioner Niemioja, second by Commissioner Scales, to approve the request for a conditional use permit amendment to modify the existing site plan to add garages, along with other property improvements, and a variance to exceed 40% impervious surface in the R-3C, multi-family zoning district, for the property located at 6121-6199 Carmen Avenue with the conditions listed in the report and the practical difficulty listed in the report as well as the fact that it improves ADA compliance, with the two changes to Conditions No. 1 noted by staff.

Motion carried (9/0). This item goes to the City Council on November 25, 2019.

Mr. Isaacson advised that his company acquired this property on July 1, 2019 and they plan to be an actively engaged owner.

OTHER BUSINESS

City of Inver Grove Heights – Case No. 19-52X

Steve Dodge, Assistant City Engineer, explained that the Planning Commission is being asked to review four capital improvement projects for consistency with the Comprehensive Plan. He advised that City Project 2019-09D is a partial reconstruction of the 64th Street area. This project will be paid for from non-assessed stormwater utility funds as this area appears to have an under-capacity stormwater system.

City Project 2016-09G includes 60th Street, 62nd Street, and Bacon Avenue improvements. This is an unimproved road that got paved many years ago. The City is proposing to bring it up to urban standards. This road is accessed off Babcock Trail and dead ends at the walking trail along Highway 52. Because the road is so narrow, construction will take up the full width of the road. Therefore, staff is proposing to widen a portion of the existing pedestrian trail to be used for residential vehicle accessibility from the hours of 7 AM to 7 PM. Once the project is completed the area will be closed off at each end and this would continue as a pedestrian trail but will also serve as a future public safety emergency access for the neighborhood. These improvements will be paid for out of the Pavement Management Fund.

Commissioner Niemioja asked who would be using the improved trail during construction.

Mr. Dodge replied it would be for residential access only; construction traffic would use Babcock Trail.

Commissioner Niemioja asked what material the temporary road would be made of.

Mr. Dodge replied that it would be upgraded with gravel during the construction of 62nd Street.

Commissioner Robertson asked if they would need to clear some of the existing foliage in order to widen the trail enough to accommodate residential traffic.

Mr. Dodge replied in the affirmative, stating the trail will be closed to pedestrian traffic during this construction project.

Commissioner Weber asked about the ownership of the two lots south of 44.

Mr. Dodge replied that Lot 44 was owned by the City and the two lots south of it were owned by either MNDOT or the City.

Jake Moser, Civil Engineer, explained that City Project 2019-09F is an edge mill and overlay for Carter Path and Carter Court which will be paid for through special assessments and the Pavement Management Fund.

Commissioner Niemioja asked if residents were notified of this improvement project.

Mr. Moser replied in the affirmative, stating there was also a public informational meeting held prior to the City Council receiving the feasibility report.

Commissioner Simon asked for clarification of the proposed casting adjustments.

Mr. Moser explained that they will add two inches of bituminous to match the elevation of the manholes so there is no jarring bump when driving over it. Regarding City Project 2019-09C, Mr. Moser explained that this Cahill Avenue mill and overlay will be paid for through special assessments and the Pavement Management Fund. Only the commercial properties will be assessed.

Commissioner Scales asked when this road segment was built.

Mr. Moser replied that the more seriously distressed northern portion of the road was built in 1994, followed by some intersection improvements done in 2003.

Commissioner Scales asked if there were more roads in the City that were built around this time and were in serious disrepair.

Mr. Dodge stated according to the geotechnical studies they have done throughout the City, approximately one third of the City streets are in disrepair. In order to stretch the taxpayer dollars, they do a mill and overlay when possible versus a complete reconstruction to extend the life of the pavement.

Commissioner Niemioja asked when construction would take place for the Cahill Avenue project.

Mr. Moser replied summer 2020.

Commissioner Robertson believed that the projects were consistent with the main goals of the City's comprehensive plan.

Motion by Commissioner Scales, second by Commissioner Weber, to recommend that the capital expenditures for the four projects are consistent with the comprehensive plan.

Motion carried (9/0).

The meeting was unanimously adjourned at 6:31 p.m.

Respectfully submitted,

Kim Fox
Recording Secretary

P L A N N I N G R E P O R T
CITY OF INVER GROVE HEIGHTS

HEARING DATE: December 3, 2019

CASE NO: 19-47CV

APPLICANT: 1st Class Auto Sales

PROPERTY OWNER: Northern Holdings LLC

REQUEST: A Conditional Use Permit Amendment to amend the approved site plan and a variance from the rear yard setback.

LOCATION: 6370 Concord Boulevard

COMPREHENSIVE PLAN: Mixed Use

ZONING: B-3, General Business

REVIEWING DIVISIONS: Planning
Engineering

PREPARED BY: Heather Botten
Associate Planner

BACKGROUND

1st Class Auto Sales is requesting an amendment to the existing CUP to allow for the construction of a new building on the property. The structure would be a one story, 26 x 32 foot building that would be used for a detail area for vehicles sold on the property. A variance from setbacks is also being requested as the building would be set 5 feet from the rear property line.

EVALUATION OF THE REQUEST

The following land uses, zoning districts, and comprehensive plan designations surround the subject property:

North – Auto Sales; zoned I-1, Limited Industry; guided MU, Mixed Use

East - Rail Road and Park; zoned P, Public/Institutional; guided P, Public

West – Vacant; zoned R-1C, single-family; guided MU

South – Holiday; zoned I-1; guided Mixed Use

SITE PLAN REVIEW

Setbacks. The proposed building would comply with the required setbacks from the front and side property lines. The building would be located approximately 5 feet from the rear property line, in line with the existing structure on the property. The setback variance is discussed later in this report.

Parking. The building would be constructed primarily over existing parking lot hard surface. The property would be utilized as a sales lot. The customer parking must be marked and shall

not contain vehicle inventory. No employee, customer, or inventory parking shall be allowed on the street or in the right-of-way.

No junk vehicles are allowed to be kept on site. A junk vehicle is defined as any motor vehicle which for a period of 30 days or more: is not in operable condition; partially dismantled; used for the sale of parts or as a source of repair or replacement parts for other vehicles; kept for scrapping; dismantling or salvage of any kind; or not properly licensed.

Exterior Building Materials. The building would have horizontal lap siding on all four sides. The building complies with exterior materials standards.

Lighting. No new lighting is being proposed at this time. All parking lot lighting and building lighting shall be designed so as to deflect light away from the public streets. The source of light shall be hooded, recessed, or controlled in some manner so as not to be visible from adjacent property or streets.

Signage. All signs for the site, including wall and pylon, require a separate sign permit and shall conform to the sign size requirements of the B-3 zoning district.

Engineering. The Engineering Department has reviewed the plans and is working with the applicant on utilities, stormwater and grading requirements. Engineering has made recommendations on conditions that are included at the end of this report. No additional storm water treatment facilities are required. A storm water facilities maintenance agreement was approved for the property with a CUP amendment request in 2013. The new owner is working with the Engineering Department to bring the property into compliance with the past agreement.

GENERAL CONDITIONAL USE PERMIT REVIEW

This section reviews the plans against the CUP criteria in the Zoning Ordinance (Section 10-3A).

1. *The use is consistent with the goals, policies and plans of the City Comprehensive Plan, including future land uses, utilities, streets and parks.*

The use is consistent with the goals, policies, and plans of the Comprehensive Plan.

2. *The use is consistent with the City Code, especially the Zoning Ordinance and the intent of the specific Zoning District in which the use is located.*

The applicant's property is zoned B-3, General Business. An auto sales lot is a conditional use in the B-3 district; the proposed use would be in compliance with the Zoning Ordinance.

3. *The use would not be materially injurious to existing or planned properties or improvements in the vicinity.*

The proposed building would not have a detrimental effect on public improvements in the vicinity of the property.

The building is setback to the far east side of the lot maximizing its setback from the road with a 100 foot rail road right-of-way before you get to Heritage Village park which is located directly east of the site.

4. *The use does not have an undue adverse impact on existing or planned City facilities and services, including streets, utilities, parks, police and fire, and the reasonable ability of the City to provide such services in an orderly, timely manner.*

This use does not appear to have any negative effects on City facilities or services.

5. *The use is generally compatible with existing and future uses of surrounding properties, including:*

i. Aesthetics/exterior appearance

The proposed building addition would be constructed with similar materials as the existing building.

ii. Noise

The proposed addition would not generate noises that are inconsistent with B-3 zoning.

iii. Fencing, landscaping and buffering

No changes are being proposed to the landscaping on the site.

6. *The property is appropriate for the use considering: size and shape; topography, vegetation, and other natural and physical features; access, traffic volumes and flows; utilities; parking; setbacks; lot coverage and other zoning requirements; emergency access, fire lanes, hydrants, and other fire and building code requirements.*

Access to the site is not changing. The proposed building is for uses accessory to the existing car sales and would not generate additional traffic to the area. All required permits shall be pulled by the applicant in regards to the construction of the new building.

7. *The use does not have an undue adverse impact on the public health, safety or welfare.*

This use does not appear to have any negative effects on the public health, safety or welfare.

8. *The use does not have an undue adverse impact on the environment, including, but not limited to, surface water, groundwater and air quality.*

There is an approved storm water facilities maintenance agreement for the property; the property owner shall comply with the conditions of this agreement.

VARIANCE REVIEW

City Code Title 10, Chapter 3. Variances, states that the City Council may grant variances when they are in harmony with the general purposes and intent of the zoning ordinance and consistent with the comprehensive plan and establishes that there are practical difficulties in complying with the official control. In order to grant the requested variances, City Code identifies criteria which are to be considered practical difficulties. The applicant's request is reviewed below against those criteria.

1. *The variance request is in harmony with the general purpose and intent of the city code and consistent with the comprehensive plan.*

The request is consistent with the comprehensive plan as the property would continue to be utilized as an auto sales lot. In respect to the use of the land, impervious surface, other setbacks and code requirements, the request is in harmony with the provisions in the zoning ordinance.

2. *The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.*

Concord Boulevard provides a number of different land uses along this corridor including commercial, industrial, restaurants and older single-family homes. The applicant is proposing the building within the most reasonable area of the property that provides the least amount of land alteration while meeting the needs of the applicant. The building addition does not appear to conflict with any other performance standards of the zoning ordinance such as size, impervious surface or building materials.

3. *The plight of the landowner is due to circumstances unique to the property not created by the landowner.*

The five foot rear setback has been the established setback for structures on this property that was first developed prior to 1965. The property is long and narrow with a 100 foot railroad right-of-way to the east.

4. *The variance will not alter the essential character of the locality.*

The request is not out of character for the neighborhood and the proposed use of the building would be consistent with the zoning of the property and with the uses associated with a car sales lot.

5. *Economic considerations alone do not constitute an undue hardship.*

Economic considerations do not appear to be a basis or a sole basis for either of these requests.

ALTERNATIVES

A. **Approval:** If the Planning Commission finds the application acceptable, the following request should be recommended for approval:

- Approval of a **Conditional Use Permit Amendment** for automobile and off highway vehicles sales to allow a 26'x32' building to be constructed subject to the following conditions:

1. The site shall be developed in substantial conformance with the following plans on file with the Planning Department except as may be modified by the conditions below.

Site Plan

dated 11/7/19

Building Elevations

dated 11/11/19

2. The City Code Enforcement Officer, or other designee, shall be granted right of access to the property at all reasonable times to ensure compliance with the conditions of this permit.
3. All signage shall be in conformance with the sign regulations of the City.
4. All display pennants, flags, searchlights, balloons, and other similar devices shall be limited to no more than 10-days per calendar year. Use of such devices shall require a sign permit.
5. Customer and employee parking shall be clearly signed and no display vehicles shall be allowed in this area.
6. No junk vehicles, as defined by City Code, shall exist on the property. There shall be no storage of vehicle parts on the property.
7. All final plans shall be subject to the review and approval of the City Fire Marshal.
8. Any new rooftop or ground mounted equipment shall be substantially screened from view as seen from a reasonable viewing perspective.
9. The conditions of the storm water facilities maintenance agreement shall be met by the property owner to ensure long term maintenance of the facilities.
10. The applicant shall meet all the conditions outlined in the City Engineers review letters and subsequent correspondence

11. Resolution No. 13-56 shall become null and void and shall be replaced by the terms of this conditional use permit

- Approval of a **Variance** to allow a five foot rear yard setback for a new building subject to the following conditions:

1. The site shall be developed in substantial conformance with the following plans on file with the Planning Division except as modified herein:

Site Plan 11/7/19

2. The applicant shall meet all the conditions outlined in the City Engineers review letters and subsequent correspondence.

Practical difficulty: The shallow depth of the property limits the buildable area. The five foot rear setback has been the established setback for structures on this property that was first developed prior to 1965. The proposed building would be a reasonable use of the commercial property and does not appear to have any impact on abutting properties.

- B. Denial.** If the Planning Commission does not favor the proposed application, the above requests should be recommended for denial. With a recommendation for denial, findings or the basis for the denial should be given.

RECOMMENDATION

Based on the information in the preceding report and the conditions listed in Alternative A, staff is recommending approval of the conditional use permit amendment and variance.

Attachments: Exhibit A – Zoning and Location Map
Exhibit B – Narrative and Building Elevation
Exhibit C- Site Plan



6370 Concord Blvd Case No. 19-47CV



THIS DRAWING IS NEITHER A LEGALLY RECORDED MAP NOR A SURVEY AND IS NOT INTENDED TO BE USED AS ONE. THIS DRAWING IS A COMPILATION OF RECORDS, INFORMATION AND DATA LOCATED IN VARIOUS CITY, COUNTY AND STATE OFFICES AND OTHER SOURCES AND IS TO BE USED FOR REFERENCE PURPOSES ONLY. THE CITY OF INVER GROVE HEIGHTS IS NOT RESPONSIBLE FOR ANY INACCURACIES HEREIN CONTAINED.

Map produced by the City of Inver Grove Heights GIS Dept.
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Exhibit A
Zoning and Location Map

Map not to scale

Heather Botten

From: James Crumble <jamescrumble@1stclassautosalesmn.com>
Sent: Monday, November 11, 2019 8:00 AM
To: Heather Botten
Subject: 6370 Concord Blvd. Revised Narrative

1st Class Auto Sales

6370 Concord Blvd. Inver Grove Heights, MN 55076

Written Narrative (Revised)

Proposed plans would include and consist of the removal of 1 tree located on the south side of the current structure on the property. Planned structure will be attached via a 10'X4'X8' hallway/breezeway. Rain Garden will be located between existing structure and proposed building to remain in compliance with current storm water facilities maintenance agreement entered in to and effective as of May 13, 2013 with the City of Inver Grove Heights, Dakota County, Minnesota. The 26' x 32' x 9' Garage will be constructed of wood and have one 9' x 7' overhead garage door, one 16' x 7' overhead garage door, 1 entry door and 1 window. Structure will be placed on a 26'X32' ft. 9" thick cement slab foundation. The garage will have a 24" eave overhang on four sides, 1/2" OSB roof sheathing, Aluminum soffit, and horizontal vinyl siding on all 4 sides. Overall length will be 32' ft. Sidewall height will be 9' ft. Overall square footage will be 832 sq. ft. Roof framing type will be traditional wood truss with a truss/Rafter spacing of 24 inches with a roof pitch of 4/12. Exterior wall framing will be wood with a 2X4 spacing. Roof will be fully shingled. All 4 sides will have horizontal vinyl siding matching the color of the current structure on the property. The construction of the proposed structure will not impede on any city utilities, private utilities, adjacent property lines, railroad property, or cause any obstructions of any kind to any existing structure. Primary and sole use of proposed structure would be for private use and would remain in compliance with the current conditional use permit.



James Crumble
651-340-0255 - Office
651-313-3308 - Cell

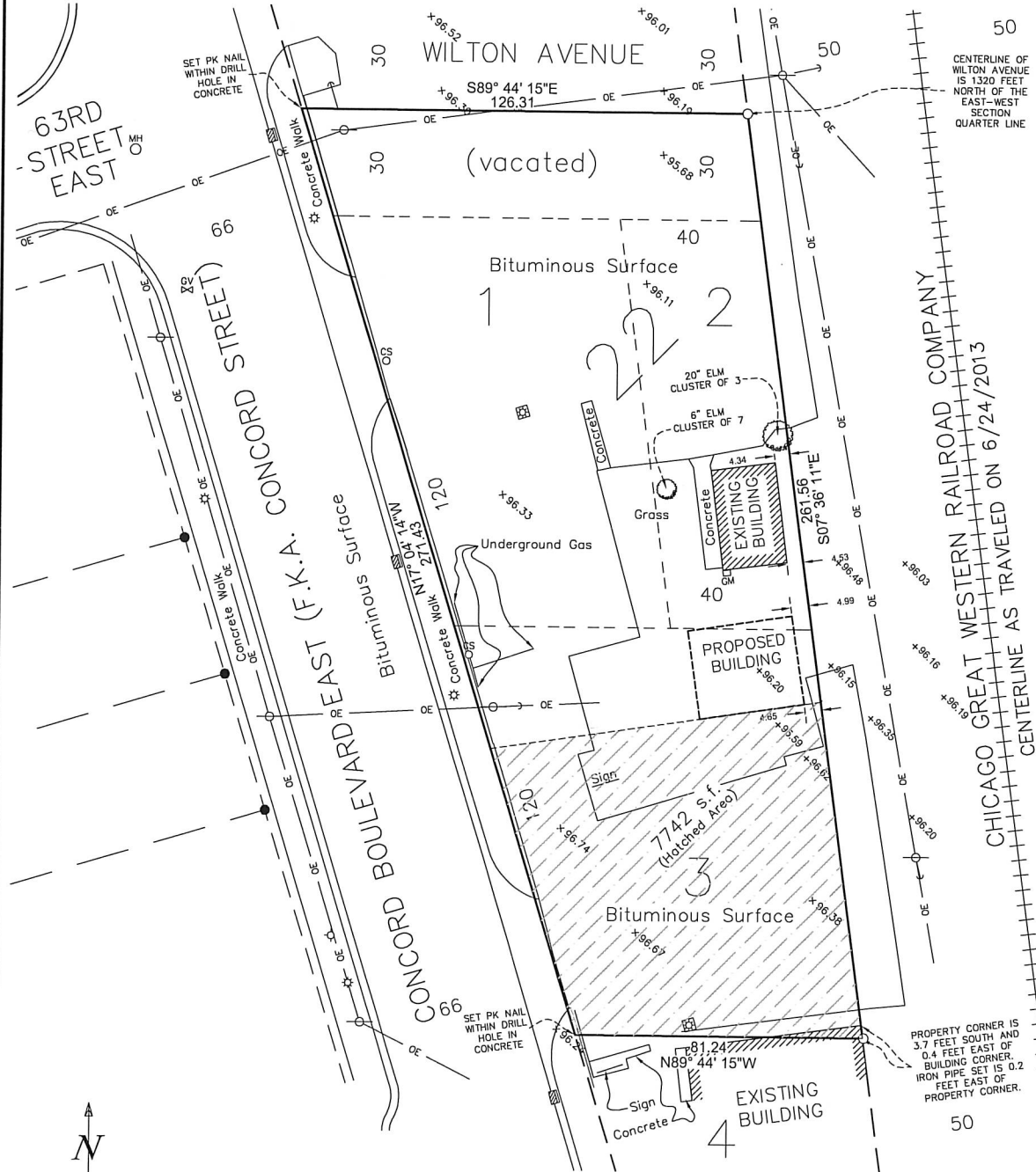
SKETCH FOR 1st Class Auto Sales

PROPERTY ADDRESS

6360 and 6370 Concord Blvd. E.
Inver Grove Heights, MN 55076

DESCRIPTION:

Lots 1, 2, and 3, together with that part of vacated Wilton Avenue which accrued thereto by reason of the vacation thereof, Block 22, Inver Grove Factory Addition, Dakota County, Minnesota. Subject to easements of record, if any.



LEGEND

- Iron Monument Found
- Iron Monument Set
- ⊙ Power Pole
- Electric Box
- ⊛ Light Pole
- AC □ Air Conditioner
- EM □ Electric Meter
- GM □ Gas Meter
- ⊕ Hydrant
- GV □ Gate Valve
- CB □ Catch Basin
- x 99.0 Existing Elevation
- OE — Overhead Electric
- UG — Underground Gas

NOTES

Bearings are on an assumed datum.
Elevations are on an assumed datum.

BENCHMARK:

Top Nut Hydrant = 100.0 feet (assumed)
NW corner of Concord Boulevard East
and 63rd Street East.

DATE 11/7/19



1440 Arcade St. Suite 250
Saint Paul, MN 55106
Phone: 651-766-0112
Fax: 651-776-0206
E-mail: info@mpasso.com

PLANNING REPORT

CITY OF INVER GROVE HEIGHTS

MEETING DATE: December 3, 2019

CASE NO: 19-27X

APPLICANT: City of Inver Grove Heights

REQUEST: Zoning Ordinance Amendment

REVIEWING DIVISIONS: Planning

PREPARED BY: Heather Botten
Associate Planner

HB

BACKGROUND

Earlier this year Council directed Staff to review Chapter 10-15-26 Home Occupations relating to a possible update of the code to allow the storage of business equipment and materials in accessory structures. The Planning Commission discussed this item on July 16, 2019 and provided a wide variety of perspectives and opinions which could lead the amendment down many different paths. Subsequent to the Planning Commission meeting, staff brought the item to a City Council worksession for discussion on how they would like to proceed. City Council provided direction to review the home occupation ordinance relating to:

- the use of accessory buildings in large lot residential, not in urban lots
- maintain the current ordinance of not allowing outside employees
- require IUP's for home occupations that are operated out of accessory buildings.

ZONING CODE REVIEW

The City currently allows home occupations that comply with Chapter 10-15-26 of the City Code. This includes requirements such as the business being engaged in only by persons living in the dwelling and only when the business is conducted entirely within the principle structure, not in an attached or detached accessory structure. This has included all aspects of a business, including the storage of commercial or industrial related equipment or materials in accessory buildings. This does not prohibit someone bringing their business truck or van home overnight as the City Code allows for a resident to have one commercially licensed vehicle not over a one-ton capacity to be parked at a residence of the owner/operator of said vehicle.

Examples of permitted home occupations include daycares, beauty shop, and professional home offices such as accounting or insurance.

When discussing a possible code amendment to expand the home occupation ordinance, some things to consider are:

- Would the homeowner of the stored material have to own the equipment stored on the property or could they store equipment for their employer or even their neighbor?
- If a *contractor's shop - indoor* is allowed on residential property it may be difficult to regulate what is stored inside the buildings; if tree trimming parts are ok, what about mulch/rock, merchandise purchased with the intent to sell on-line, or car parts?

- Should there be a maximum percentage of space utilized in the accessory building to not interfere with the primary residential use of the property?
- Would trailers (enclosed or open) be allowed if they are stored outside?
- Should there be hours of operation to try and limit the impact to the neighbors?

Lot size. When looking at rural lots, the lots sizes can vary from 1 acre lots in a rural residential PUD to 5 acres plus in Agricultural zoning. The minimum lot size in the E-1 district is 2.5 acres. There are legal non-conforming lots that do not meet the minimum lot size requirement based on the zoning district. If a change is proposed staff would suggest having a minimum lot size along with limiting the zoning districts.

Setbacks. An accessory structure in the E-1 district requires setbacks that are 10 feet for side yard and 50 feet for rear yard. Accessory structures greater than 1,000 gross square feet require 50 foot setbacks. If a building is constructed in an Industrial district that is abutting a residential district a **100-foot** setback would be required. Consideration should be taken to have larger setbacks for structures that would be used for something other than a residential use.

Parking/storage. There would be a definite impact on garage parking spaces and storage areas. Converting an accessory building into storage for a business eliminates enclosed parking spaces and storage space for the residential use. This could result in more vehicles, toys and yard equipment being parked or stored outside, on the driveway or yard. Adding more paving for parking pads next to the driveway increases impervious surface which adds a burden to the storm water system as well as aesthetic impacts for the neighborhood.

Code enforcement. The Rental and Code Enforcement Coordinator provided information relating to a small handful of home occupation complaints and the enforcement process. This information is provided to demonstrate the process relating to home businesses complaints from Inver Grove residents.

Public process. With the exception of beauty salons, commercial kennels and commercial stables, home occupations are a permitted use and do not require neighbor notification. When utilizing an accessory building for a home business there may be additional neighborhood impacts such as noise and higher traffic volumes. There are different avenues for regulation. One would be a license with the City where neighbor notification would not necessarily be required but if there is a violation to the license it could be revoked. There is also conditional use permit (CUP) or interim use permit (IUP) processes; similar public process but a CUP runs with the land and an IUP would have an expiration date.

RECOMMENDATION

Staff continues to not support a change to the home occupation ordinance to allow the use of accessory buildings for business purposes based on the fact that businesses located in accessory buildings in residential areas are deemed incompatible and could compromise the quality of life in a residential neighborhood. This could result in adverse impacts to neighborhoods such as higher traffic volumes, noise, change in aesthetics, etc. It would also conflict with the City's comprehensive plan policy to maintain the rural character of established neighborhoods in the Agricultural and Estate residential districts.

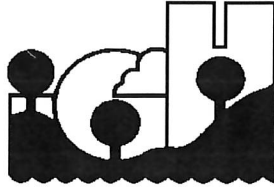
Staff discussed different alternatives and came up with the recommendation that if the City decides to allow the use of accessory buildings as part of a home business the following should apply:

- An IUP would be required for all home occupations that utilize an accessory building, including the storage of equipment for a business.
- An accessory building may be used for a home occupation provided the lot is 2.5 acres or more in size and is located in an E-1 or A zoning district.
- No outdoor storage would be allowed relating to the home business, including trailers.
- A home occupation shall be clearly incidental and secondary to the residential use of the premises, should not change the residential character thereof, and shall result in no incompatibility or disturbance to the surrounding residential uses.

Included for informational purposes are the home occupation ordinances for the neighboring cities of Eagan, West St. Paul, and South St. Paul which all prohibit home occupation activity in accessory buildings. Also included for your review are the cities of Plymouth who allow an accessory building to be used for storage in relation to a home business, Bloomington who, with approval, allows home business activities in accessory buildings, and North St. Paul who allows home occupations with an interim use permit.

Attachments: Memo from the Rental and Code Compliance Coordinator
Chapter 10-15-26: Home Occupations
Example ordinances:

Eagan
West St. Paul
South St. Paul
Plymouth
Bloomington
North St. Paul



CITY OF INVER GROVE HEIGHTS

MEMORANDUM

TO: Planning Commission

FROM: Nicole Cook, Rental and Code Compliance Coordinator

SUBJECT: Home Businesses

DATE: 7-17-19

Per City Council direction, the Code Compliance program is a complaint-based program. While there are likely many home business violations in the city, staff is limited and unable to proactively monitor and address them all. Generally, complaints are received due to noise, parking, and storage violations that are negatively impacting neighboring property owners.

Once a complaint is received on a home business violation, an inspection is done. If a violation is found:

- A notice is sent to the property owner advising them of the home business regulations and asking for compliance by a certain date. After that date has passed, a second inspection is done.
- If the second inspection finds compliance isn't met, a second notice is sent to the property owner. The second notice looks much like the first. It includes a deadline for compliance, but with additional language explaining that if compliance is not met, the owner may be cited for a misdemeanor which requires an appearance in court. After this deadline has passed, a third inspection is done.
- If the third inspection finds compliance still hasn't been met, a citation is issued requiring an appearance in court. From there, the court decides what happens and when.

If an extension is requested, staff can work with the property owner on a deadline for compliance.

Complaints on home businesses can be difficult to enforce as they often involve noise, employees coming and going, and parking violations that occur sporadically and may not be happening at the time of inspection. Residents are asked to contact the police to report noise and parking concerns as they are happening. Additionally, since employee vehicles aren't clearly marked, enforcement can be challenging as the onus is on staff to distinguish between an employee vehicle or a vehicle of a friend or family member of the property owner.

Home businesses can also be difficult to verify. Residents will often say they're not operating a business, rather doing work for friends and family members. Staff will often hear the reported business is just a

personal hobby or project (working on vehicles, woodworking, etc.). Without an online advertisement or something to clearly indicate there is a business on-site, enforcement can be challenging.

Neighbors may see the business owner loading business equipment or product into a garage or shed, however staff has no authority to enter an accessory structure to confirm what's being stored in it, also making enforcement difficult.

If an inspection is done and the property appears compliant, the case is closed. Some residents will comply for a time and then resume operations. Again, due to staffing constraints there is no additional follow-up to monitor for continued compliance.

Per your request, here is specific enforcement action taken on some of the home businesses from the list previously provided to you.

➤ **99th STREET EAST**

RP (reporting party) stated in a written complaint:

"3 skid loaders, 2 - 1-ton snow plows, 2 storage metal (shipping) storage containers and 1 large front end loader with a bucket and plow blade is all sitting on the property. I know the owner has his own business, but is this allowed. Looks like a shit hole with all of the equipment around. The front end loader is parked right along the tree line by the driveway."

ACTION TAKEN:

- June 2019: Construction business confirmed through inspection. First notice sent
- June 2019: Property owner contacted staff stating he knew who had filed the complaint and had spoken with his neighbors about it. He is working to move and remove the equipment. Next inspection scheduled for August.

➤ **ASTRID AVENUE**

RP stated the property owner is operating some sort of business that involves buying and selling items. RP states there are numerous shipments brought to the house several times a week with a steady flow of traffic from customers. Outdoor storage of items such as hot tubs, scrap wood, machinery, several doors, several windows, etc.

ACTION TAKEN:

- June 2019: Business confirmed through inspection. First notice sent
- June 2019: Property owner contacted staff stating the business was related to agricultural use, which is allowed on an agricultural lot. He sent staff photos of flowers and produce being assembled for sale and explained he brings the items to local farmers markets. He stated the employees are just friends and family members who help with this. Staff explained so long as the business was agricultural it would be allowed, but if he is operating another business involving the other items he had been storing outside (machinery, doors, hot tubs, etc) that would NOT be allowed. While open storage is regulated on residential lots, it is not regulated on AG lots. No further action taken.

➤ **ALVERNO AVENUE**

RP stated the owner's sons are operating a scrapping business and the property has turned into a scrapyard. Business confirmed through inspection

ACTION TAKEN:

- July 2018: This home business case resulted in the largest abatement staff has performed to-date. After several notices were sent and extensions granted, there was little change/clean-up of the property which resulted in a citation. While the citation inconvenienced the property owner with court dates, it did not correct the problem and the property remained in shambles with scrap metal throughout. Staff hired a contractor and an abatement was performed over the course of several days. There was no assessment as the property owner paid the \$8,000 bill in full.

➤ **CLEADIS WAY**

RP reported there is a snow removal and landscaping business on the property with business and employee vehicles coming and going and business equipment stored on site. States the traffic is frequent and vehicles are loud.

Business confirmed through inspection and decals on vehicles with business name listing back to the house.

ACTION TAKEN:

Notice sent to property owner advising them of the Home Occupation ordinance. Owner called staff to ask for additional time and explained they were working to find another location for their equipment. They had talked to their employees and asked that they meet on the job site vs at the house. Staff advised the owner could have his personal truck with the business decal at the house but could not store the equipment and several business trucks at the home. Owner stated he used the trailer for both personal and business use. Staff advised he could keep it at the home, but if another complaint was received that the trailer was being frequently moved for business purposes, it would need to be stored off-site as part of the complaint concerned traffic and noise. Compliance met.

➤ **CONCORD BLVD**

RP stated there is an illegal dog kennel being operated from the home and provided staff with an advertisement on Rover.com. RP stated dogs are being left outside barking and some dogs have been escaping the fence and roaming the neighborhood.

Business confirmed through inspection and online advertisement.

ACTION TAKEN:

- The City received a total of three complaints about the kennel business; two from neighbors (due to barking and dogs at-large) and one from a client. Three notices were sent to the property owners asking that they cease business operations. Because there was no change, a citation was issued. The owners then began slandering staff for "harassing" them and threatened staff's job. Due to this, the CD Director and City Administrator became involved. The property owners requested a meeting with city staff but did not show up. After several months of discussions with the property owners and court dates, the property owners removed the online advertisement and business activity stopped.

➤ **UPPER 79th CT**

RP stated the property owner buys items, then stores them in the driveway and yard covered in tarps until they can be sold. States property is unkempt and messy.

Business confirmed through inspection and conversation with property owner.

ACTION TAKEN:

- This case involved the Police, Fire, and Building Departments. Staff sent two notices to the property owner advising that while it's not illegal to buy and sell items on Craigslist, there should be no evidence of the business from the street and items should not be stored in the driveway and yard. After several site visits, it was determined the owner was suffering from depression and hoarding which was tied to the business. Police and Fire had been called for illegal burning (trash). Staff worked with the property owner and county to have dumpsters brought in and the property cleaned. Portions of the home had been uninhabitable due to the hoard, but staff worked with the owner who was able to clean the house and make it habitable again. The owner came into compliance, though staff still receives periodic complaints of outdoor storage.

➤ **ADAM AVENUE**

RP stated there is a landscaping business being operated from the property. RP was able to provide the name of the company and stated the trucks are loud and operations begin at 6:30 each morning, often disturbing the neighborhood. RP stated work trucks and trailers are being stored in the street overnight, including a woodchipper. One of the vehicles is not licensed.

Business confirmed through online advertisement and inspection.

ACTION TAKEN:

- Two notices were sent to the property owner advising them that their landscaping business would need to be relocated. The owner contacted staff to say the many vehicles stored in and around the property belonged to friends, not employees. After staff spoke with them about the advertisement, the owner admitted to the business and stated their son was operating it but would be leaving for school soon and all of the equipment and vehicles would be removed. Compliance met, no further complaints.

10-15-26: HOME OCCUPATIONS:

- A. Generally: In general, occupations and businesses in the city are to be conducted in commercial and industrial zoning districts, not in residential zoning districts. Exceptions to this generality include agricultural activities within agricultural zoning districts as regulated in this title, daycare as defined in section [10-2-2](#) of this title, and home occupations, provided they conform to the standards of this section.
- B. Definition: "Home occupation" means any gainful occupation meeting all of the following requirements:
1. Engaged in only by persons residing in the subject dwelling.
 2. Conducted entirely within the dwelling, not in attached or detached accessory structures.
 3. Evidence of the occupation shall not be visible from the street.
 4. No signs other than those permitted in R districts are permitted.
 5. No stock in trade is stored on the premises.
 6. On site retail sales are not involved.
 7. Entrance to the home occupation is gained exclusively from within the dwelling.
 8. When the home occupation is a beauty/barber shop, entrance to the home occupation shall be a separate, direct entrance and shall not be from within the dwelling.
- C. Professional Home Occupations: A professional person may use his/her residence for consultation, emergency treatment, or performance of religious rites, but not for the general practice of his/her profession when such general practice will involve the need for more than three (3) parking spaces for the occupant and visitors. No accessory building or attached garage shall be used for such home occupation. (Ord. 1098, 11-8-2004)
- D. Other Home Occupations: Home occupations include minor repair services, photo or art studios, dressmaking, teaching limited to three (3) students at any one time, in home daycare as licensed by the state, licensed massage therapy in accordance with the regulations of [title 4, chapter 8](#) of this code and similar uses; however, a home occupation shall not be interpreted to include tourist homes, restaurants or similar uses. (Ord. 1311, 3-28-2016)

IGH

Eagan

Section 11.70 Subd 23

Home occupations. Home occupations shall be subject to the following requirements:

- A. The occupation shall be clearly incidental and secondary to the use of the dwelling unit for residential purposes and shall not change the character thereof.
- B. No more than three persons shall be engaged in the home occupation, one of whom resides outside of the dwelling.
- C. No home occupation activity shall be allowed within a detached or attached accessory building or garage.
- D. Evidence of the home occupation shall not be visible from the street.
- E. No signs shall be present other than those permitted in R zoning districts.
- F. No home occupation shall involve over-the-counter sales.
- G. Entrance to the home occupation shall be gained from within the principal structure.
- H. The home occupation shall not utilize more than three off-street parking spaces for the occupant and visitors.

Eagan

West. St. Paul

153.052 PERMITTED ACCESSORY USES.

Within any R-1A One-Family Use District, the following uses shall be permitted accessory uses:

- (C) Home occupations as defined herein, provided that:
 - (1) Only persons residing in the dwelling shall be engaged in the occupation;
 - (2) The occupation shall be conducted entirely within the principal structure;
 - (3) Evidence of the occupation shall not be visible from the street;
 - (4) No stock or warehousing for the occupation shall be stored on the premises;
 - (5) Over-the-counter retail sales are not involved;
 - (6) There shall be no more than three parking spaces for the occupant and visitors;
 - (7) No accessory building or attached garage shall be used for the home occupation; and
 - (8) Property cannot be used as a meeting location for employees.

WSP

South St. Paul

Sec. 118-121. - R-1, single-family district.

(2) Accessory uses.

a. Garages used as an accessory to the dwelling and located upon the same lot or an adjacent lot under single ownership, intended or capable of providing for the storage of motor vehicles and in which no business, occupation or service for profit is in any way conducted, as regulated herein by the performance standards [section 118-208](#).

f. Home occupations, as defined in [section 118-8](#), provided that:

1. Entrance to the home occupation is gained from within the structure;
2. The occupation shall be conducted entirely within the principal structure;
3. No accessory building or attached garage shall be used for the home occupation;
4. Evidence of the occupation shall not be visible from the street;
5. No stock or warehousing for the occupation shall be stored on the premises;
6. No more than three parking spaces are needed at any given time in addition to the parking spaces required by the resident occupants;
7. Home occupations such as massage are limited to no more than one client waiting for services and no more than one client receiving services at any given time; and
8. Home occupations such as teaching are limited to three students at any given time.

SSP

Plymouth

SECTION 21145. - HOME OCCUPATIONS (some parts removed to condense the ordinance for IGH council review)

21145.01. - Purpose. The purpose of this section is to maintain the character and integrity of residential areas and to provide a means through the establishment of specific standards and procedures by which home occupations can be conducted in residential neighborhoods without jeopardizing the health, safety and general welfare of the surrounding neighborhood. In addition, this section is intended to provide a mechanism enabling the distinction between those home occupations having minimal or no secondary impact, and those which have potential for adverse effects upon surrounding properties.

21145.03. - Procedures and Permits.

Subd. 1. **Permitted Home Occupations.** Permitted home occupations, as defined in this Chapter, are exempt from permitting and licensing requirements but shall comply with the applicable provisions of Section 21145.04.

Subd. 2. **Licensed Home Occupations.** Licensed home occupations, as defined in this Chapter, shall require a "home occupation license" which shall be applied for, reviewed and processed in accordance with the procedural provisions of Section 21030.04, Subd. 2.(a) of this Chapter.

Subd. 3. **Declaration of Conditions.** The Zoning Administrator and City Council may impose such conditions on the granting of a home occupation license as may be necessary to carry out the purpose and provisions of this section.

Subd. 4. **Effect of Permit.** A "home occupation license" may be issued for a period of one (1) year after which the license may be reissued for periods of up to three (3) years each by the Zoning Administrator.

Subd. 5. **Transferability.** Home occupation licenses shall not run with the land and shall not be transferable.

21145.04. - Requirements.

Subd. 1. **General Provisions.** All home occupations shall comply with the following general provisions:

- (a) No home occupation shall produce light, glare, noise, odor or vibration that will in any way have an objectionable effect upon adjacent properties.
- (b) No equipment shall be used in the home occupation which will create electrical interference to adjacent properties.
- (c) Any home occupation shall be clearly incidental and secondary to the residential use of the premises, shall not change the residential character thereof, and shall result in no incompatibility or disturbance to the adjacent residential uses.
- (d) No home occupation shall require internal or external alterations or involve construction features not customarily found in dwellings except where required to comply with local and state fire and police recommendations.
- (e) The home occupation shall meet all applicable fire and building codes.
- (f) There shall be no exterior display or exterior signs or interior display or interior signs which are visible from outside the dwelling.
- (g) All home occupations shall comply with the provisions of the City Nuisance Ordinance.
- (h) No home occupation shall be conducted between the hours of 10:00 p.m. and 7:00 a.m.
- (i) Excepting incidental materials, no commodities shall be sold on the premises.
- (j) Not over twenty-five (25) percent of the gross floor area of the home (excludes attached or detached accessory structures) shall be used for a home occupation.
- (k) Parking of commercial vehicles/trailers shall comply with Section 21105.11, Subd. 2 of this Chapter.

Plymouth

- (l) No more than one delivery to or shipment from the home in conjunction with the home occupation by a vehicle over 20,000 gross vehicle weight rating (GVWR) shall be made per week (Sunday through Saturday) to the property.
- (m) There shall be no exterior storage of equipment, materials, or trailers used in the home occupation, except for the one (1) fully enclosed trailer that may be allowed pursuant to Section 21105.11 of this Chapter.
- (n) All home occupations shall be conducted entirely within the principal dwelling, except that up to fifty (50) percent of the total floor area of accessory structures (e.g., attached garage, detached garage, shed) on a site may be used for storage of equipment, trailers, or materials related to the home occupation, provided that no assembly, display, manufacturing, repair, or other business operations are conducted within an accessory structure. Furthermore, in no case shall the total floor area of accessory structures devoted to related storage of materials, trailers, or equipment exceed 500 square feet.

Subd. 2. Permitted Home Occupations. In addition to compliance with all of the general provisions outlined in Subd. 1 of this subsection, permitted home occupations shall comply with the following provisions:

- (a) No person other than those who reside on the premises shall be employed by the home occupation.
- (b) Not more than one (1) client or customer per day shall come to the premises in question for purposes pertaining to the conduct of the home occupation.
- (c) On-street parking facilities shall not be utilized to accommodate parking demand.

Subd. 3. Licensed Home Occupations. In addition to compliance with all of the general provisions outlined in Subd. 1 of this subsection, licensed home occupations shall comply with the following provisions:

- (a) No person other than those who reside on the premises shall engage in business activities on the premises. The business may employ others provided no more than two (2) employee vehicles are regularly parked outside, and provided all work activities by employees are performed off the premises.
- (b) Examples of licensed home occupations include: massage therapy, barber and beauty services, photography studio, lessons, saw sharpening, small appliance repair and the like.
- (c) The home occupation may involve any of the following: stock-in-trade incidental to the performance of the service but not sold on the premises, repair service or manufacturing which requires equipment other than customarily found in a home.
- (d) Licensed home occupations may be allowed to accommodate their parking demand through utilization of on-street parking. In such cases where on-street parking facilities are necessary, however, the Zoning Administrator shall maintain the right to establish the maximum number of on-street spaces permitted and increase or decrease that maximum number when and where changing conditions require additional review.
- (e) There shall not be more than ten (10) client appointments per day upon the premises.

Subd. 4. Prohibited Home Occupation Activities.

- (a) Auto repair, whether for consideration or not, of vehicles which are not registered to a resident of the dwelling, or to a son or daughter, sibling, parent, grandparent, or grandchild of a resident on the property.
- (b) Businesses, educational programs or similar gatherings which meet on a regular basis and have more than five (5) non-residents in attendance at a time.
- (c) Gun or ammunition sales/repair.
- (d) Music instruction or recording studios, unless conducted within a single-family detached dwelling.
- (e) Pet care facilities, except for pet grooming.

21145.06. - Inspection.

The City hereby reserves the right upon issuing any home occupation license to inspect the premises in which the occupation is being conducted to ensure compliance with the provisions of this section or any conditions additionally imposed.

Bloomington

21.302.13 HOME BUSINESSES.

(a) *Purpose.* To accommodate residents who desire to start a home business while ensuring that said businesses:

(1) Are imperceptible from normal residential activity and do not adversely impact the character of the surrounding residential area;

(2) Are secondary and incidental to the residential use of the dwelling unit; and

(3) Do not adversely affect the health, safety or welfare of other persons residing in the area.

(b) *Review and approval.*

(1) A conditional use permit is required for Type II home businesses. See § [21.501.04](#) for conditional use permit requirements.

(c) *Types of home businesses.*

(1) *Type I.* Type I home businesses are of a type that the City Council has historically found do not adversely affect the health, safety or welfare of other persons residing in the area. Examples of Type I home businesses are listed below. This list is intended to be illustrative not exhaustive.

(A) Professional home offices or studios;

(B) Home beauty shops;

(C) Tutoring, music, fitness, or dance instruction for no more than two students at any one time;

(D) Licensed therapeutic massage;

(E) Watch repair, dressmaking, tailoring and similar crafts; or

(F) Animal grooming for no more than four animals at any one time.

(G) Firearm Office where no firearm(s) or ammunition are stored or inventoried on the premises.

(2) *Type II.* Type II home businesses are businesses of a type that the City Council has historically found to have the potential to adversely affect the health, safety or welfare of other persons residing in the area. Examples of Type II home businesses are listed below. This list is intended to be illustrative not exhaustive.

(A) Music, dance, or fitness schools;

(B) Repair shops not expressly prohibited by the city code;

(C) Cottage food operations, subject to the requirements in M.S. § 28A.152, as it may be amended from time to time;

(D) Photography studios and similar uses; or

Bloomington

(E) A Type I home business reclassified as a Type II home business by virtue of a conditional use permit approved by the City Council.

(3) *Prohibited home businesses.* The following home businesses are prohibited without limitation:

- (A) Motor vehicle or boat repair, service or painting;
- (B) Small engine and major household appliance repair;
- (C) The sale, lease, or trade of firearm(s) or ammunition, where firearm(s) or ammunition are stored or inventoried on the premises;
- (D) Manufacturing;
- (E) Taxidermy shops;
- (F) Unlicensed massage;
- (G) Escort businesses;
- (H) Body art establishments; and
- (I) Animal kenneling.

(d) *Standards.*

(1) *Health, safety and welfare.*

(A) Home businesses must not endanger the health, safety or welfare of the community by reason of blight, noise, smoke, dust, odor, glare, vibration, fire hazard, increased vehicular traffic including deliveries, unsanitary or unsightly conditions, or similar conditions that have a reasonable likelihood of disturbing the peace, comfort, repose or quiet enjoyment of the indoor and outdoor spaces of neighboring residential properties.

(2) *Where allowed.* See § [21.209](#) of this code for the classification of home businesses within the zoning districts.

(A) Type II home businesses are not permitted in accessory dwelling units, two-family dwellings, townhomes, or in multi-family dwellings.

(3) *Prohibited activities.* Activity that produces light, glare, noise, odor, dust, smoke or vibration perceptible beyond the boundaries of the premises and distinguishable from neighboring residential uses is prohibited.

(4) *Gross floor area (GFA).* Home businesses may occupy no more than 25 percent of the total gross floor area (GFA) of the principal residential dwelling unit.

(5) *Use of accessory buildings or garages.*

(A) Type I home businesses may not use or be located in accessory buildings or garages.

(B) As provided in subsection (b) below, the Planning Commission may approve Type II home business activities in accessory buildings or garages if it finds that the

Bloomington

proposed activities would not alter the residential character of the neighborhood if performed within an accessory building or garage.

(6) *Alterations.* No interior or exterior alterations may be made to dwelling units to accommodate a home business that would be:

- (A) Inconsistent with the residential character of the surrounding area; or
- (B) Not customarily found in a primary residential dwelling.

(7) *Separate entrances.* The space devoted to or used by the home business must not have its own separate entrance and must be completely contained within the principal residential dwelling unit so as to have no exterior visibility. Any entrance leading to the space devoted to or used by the home business must also lead to the remainder of the home.

(A) *Exception.* Type II home businesses permitted by the Planning Commission to operate from an accessory building or garage are exempt from this provision.

(8) *Exterior displays and signage.* Exterior display, exterior signage, advertisement or other exterior indication of a home business is limited to one non-illuminated sign not to exceed one and one-half square feet in area as per [Chapter 19, Article X](#).

(9) *Exterior storage.* Exterior storage or display of trailer, equipment or materials, tools, supplies, stock-in-trade, products or by-products used or produced in conjunction with a home business is prohibited.

(10) *Vehicle parking and storage.* Vehicles used in conjunction with a home business must comply with the parking and storage provisions of § [21.301.06](#) of this code.

(11) *Garbage disposal.* All rubbish and garbage disposal facilities must be properly screened in compliance with [Chapter 19](#) or [21](#) of this code and no single container may exceed the 96-gallon container size used for single-family residential property.

(12) *Primary residence requirement.* The owner of the home business must use the dwelling unit as the person's primary residence, as evidenced by the person's driver's license, vehicle registration, voter registration or other clear and convincing evidence.

(13) *Employees.*

(A) *Type I home businesses.* No more than one person having their primary residence elsewhere, as evidenced by the person's driver's license, vehicle registration, voter registration or other clear and convincing evidence, may work on the premises at any time.

(B) *Type II home businesses.* No more than two persons having their primary residence elsewhere, as evidenced by the person's driver's license, vehicle registration, voter registration or other clear and convincing evidence, may work on the premises at any time.

Bloomington

(14) *On site sales.* No retail, wholesale or other sales activity may be conducted on site other than by telephone, mail, internet or other electronic medium. Also no items may be displayed for sale on the premises.

(15) *Deliveries and pick-ups.* Type I and II home businesses may receive up to four deliveries and pick-ups per day.

(16) *Client visits.*

(A) *Type I home businesses.* The total number of clients upon the premises must not exceed six customers per day and must not exceed two clients at any one time.

(B) *Type II home businesses.* As provided in subsection (b) above, the Planning Commission may determine the number and intensity of client visits per day and time.

(17) *Hazardous materials.* Toxic, explosive, flammable, radioactive or other restricted materials used, sold, or stored on the site in connection with the home enterprise must conform to the city code and Uniform Fire Code for residential uses.

(e) *Enforcement.* The city will enforce the standards of this section based on verified, on-going violations.

(f) *Penalty.* Violation of the standards set forth in this section shall be enforceable in all of the following manners, without limitation: civil injunctive action; the assessment of civil administrative fines and penalties that are assessable against the property; as well as criminal misdemeanor prosecution.

19. *Home occupation.*

Noah St Paul

(a) *Purpose.* Home occupation standards and procedures are established to permit the conduct of home occupation activities while preserving the character of residential neighborhoods, promoting small businesses, and protecting the health, safety and welfare of those neighborhoods.

(b) *Definition.* **HOME OCCUPATION** is:

- i. Work for profit, performed on residential property, by the property owner, renter, occupier, or houseguest; or
- ii. Work for profit performed away from residential property, by the property owner, renter, occupier, or houseguest, where the residential property is being used as a home base, place of operation, office, headquarters, or similar, or is being used for the storage or repair of items or equipment used in the course of said work.

(c) *Level 1 home occupations.* Level 1 home occupations are those which have no potential neighborhood impacts. Level 1 home occupations are a permitted use. Level 1 home occupations may include, but are not strictly limited to:

- i. Art studio;
- ii. Dressmaking;
- iii. Barber shops;
- iv. Beauty shops;
- v. Secretarial services;
- vi. Foster care;
- vii. Professional offices such as legal, accounting, insurance or computer technician; and
- viii. Musical, dancing, and other instructions which consist of no more than two pupils at a time.

(d) *Level 2 home occupations.* Level 2 home occupations are those which have potential neighborhood impacts. A level 2 home occupation requires approval of the City Council. An interim use permit shall be obtained by any person operating a level 2 home occupation. Level 2 home occupations may include, but are not strictly limited to:

- i. Family day care;
- ii. Contractors;
- iii. Small engine repair;
- iv. Equipment repair;
- v. Building trades; and
- vi. Heating, plumbing, or air-conditioning services.
- vii. In cases where it is unclear whether a home occupation should be classified as level 1 or level 2, the Zoning Administrator shall make such a determination subject to City Council confirmation if requested by the operator of the home occupation.

NSP

(e) *General provisions.* All home occupations shall be subject to the following standards:

i. A home occupation required to have a state license shall show proof of this license to the city each year and shall maintain said license at all times while the home occupation is occurring.

ii. A home occupation shall be clearly incidental and secondary to the residential use of the premises, should not change the residential character thereof, and shall result in no incompatibility or disturbance to the surrounding residential uses.

iii. A non-illuminated nameplate a maximum of two square feet in area may be placed on the front façade of the principal structure. Otherwise, there shall be no signage, display, or advertisement visible from the exterior of the lot related to the home occupation.

iv. Home occupations shall not create a parking and loading demand in excess of that which can be accommodated in an existing driveway. Such occupation does not generate more than two vehicles at one time.

v. No interior or exterior alterations shall be permitted and no construction features shall be permitted which are not customarily found in a dwelling.

vi. No home occupation shall produce light, glare, noise, odor, dust or vibration discernable beyond the property line that will in any way have an objectionable effect upon adjacent or nearby property.

vii. No equipment shall be used in the home occupation which will create electrical interference to surrounding properties.

viii. There shall be no exterior storage of equipment or materials used in the home occupation, except that functioning, personal automobiles that are used by the owner of the home occupation may be parked on the site.

ix. Licensed tattoo establishments are not allowed as a home occupation.

(f) *Existing nonconforming home occupations.* Existing home occupations lawfully existing on the effective date of this section may continue as non-conforming uses. Any existing home occupation that is discontinued for a period of more than one year shall be brought into conformity with the provisions of this section prior to re-institution.

(g) *Inspection.* The city hereby reserves the right, upon issuing any level 2 interim use permit, to inspect the premises in which the occupation is being conducted to ensure compliance and the provisions of this section or any conditions additionally imposed.

(h) *Violations.* Any home occupation found to be in violation of this section shall be served with a notice from the Zoning Administrator. If the violation is not corrected within ten days, the approval for the home occupation shall be revoked.

(i) *Regulations.* All occupations conducted in the home shall comply with the provisions of this section, as well as applicable local, state, and federal laws as well as § [98.18](#) Nuisances Affecting Peace and Safety.

NSP