

# Planning Commission

May 11, 2020 – 7 pm

## REGULAR MEETING AGENDA

This meeting will be held via Webex in accordance with the local emergency declaration made by the City under Minn. Stat. § 12.37. The public may monitor this meeting by watching on Comcast cable channel 16, by streaming on [CCXmedia.org](http://CCXmedia.org), or by calling 1-415-655-0001 and entering the meeting code 283 104 240. The public may participate in this meeting during public comment sections by calling 763-230-7454 and following the prompts.

Additional information about monitoring electronic meetings is available on the [City website](#). For technical assistance, please contact the City at 763-593-8007 or [webexsupport@goldenvalleymn.gov](mailto:webexsupport@goldenvalleymn.gov). If you incur costs to call into the meeting, you may submit the costs to the City for reimbursement consideration.

### 1. Call to Order

### 2. Approval of Agenda

### 3. Approval of Minutes

April 27, 2020, Regular Planning Commission Meeting

### 4. Informal Public Hearing – Amendment to Future Land Use Map

Applicant: Paul Jacob

Address: 7345 Country Club Drive

Purpose: To modify the guided land use from Low Density Residential to Retail/Service

### 5. Informal Public Hearing – Amendment to Zoning Map

Applicant: Paul Jacob

Address: 7345 Country Club Drive

Purpose: To modify the zoning designation from Single-Family Residential (R-1) to Commercial

### 6. Narrow Lots – Discussion

– End of Televised Portion of Meeting –

To listen to this portion, please call 1-415-655-0001 and enter meeting access code 283 104 240

### 7. Council Liaison Report

### 8. Reports on Meetings of the Housing and Redevelopment Authority, City Council, Board of Zoning Appeals, and other meetings



This document is available in alternate formats upon a 72-hour request. Please call 763-593-8006 (TTY: 763-593-3968) to make a request. Examples of alternate formats may include large print, electronic, Braille, audiocassette, etc.



**9. Other Business:**

**a. Election of Officers**

**10. Adjournment**

# Planning Commission

April 27, 2020 – 7 pm

## REGULAR MEETING MINUTES

This meeting was held via Webex in accordance with the local emergency declaration made by the City under Minn. Stat. § 12.37. In accordance with that declaration, beginning on March 16, 2020, all Planning Commission meetings held during the emergency were conducted electronically. The City used Webex to conduct this meeting and members of the public were able to monitor the meetings by watching it on Comcast cable channel 16, by streaming it on CCXmedia.org, or by dialing in to the public call-in line. The public was able to participate in this meeting during public comment sections, by dialing the public call-in line.

### 1. Call to Order

The meeting was called to order at 7:00 by **Chair Blum**.

#### Roll Call

Commissioners present: Rich Baker, Ron Blum, Adam Brookins, Andy Johnson, Lauren Pockl, Ryan Sadeghi, Chuck Segelbaum,

Commissioners absent: Ari Prohofsky

Staff present: Jason Zimmerman – Planning Manager, Myles Campbell – Planner

Council Liaison present: Gillian Rosenquist

**Jason Zimmerman, Planning Manager**, announced the original agenda stated a public hearing for Schuller's Tavern but due to a delay, that hearing will be at the next meeting on May 11, 2020.

### 2. Approval of Agenda

**Chair Blum**, asked for a motion to approve the agenda.

**MOTION** made by **Commissioner Baker**, seconded by **Commissioner Sadeghi** to approve the agenda of April 27, 2020, as submitted. Staff called a roll call vote and the motion carried unanimously.

### 3. Approval of Minutes

**Chair Blum** asked for a motion to approve the minutes from April 13, 2020.

**MOTION** made by **Commissioner Johnson**, seconded by **Commissioner Brookins** to approve the meeting minutes from April 13, 2020, as submitted. Staff called a roll call vote and the motion carried unanimously.

### 4. Presentation of 2019 Planning Commission Annual Report

**Jason Zimmerman, Planning Manager**, displayed the presentation on the screen and introduced the report as well as the next step for reviewing the draft 2020 work plan.



This document is available in alternate formats upon a 72-hour request. Please call 763-593-8006 (TTY: 763-593-3968) to make a request. Examples of alternate formats may include large print, electronic, Braille, audiocassette, etc.



The 2019 report started with an overview of the year and that the number of applications sent to the PC dropped again, creating a five-year low. Almost all applications reviewed were Conditional Use Permits, CUPs, and ranged in degree.

A large number of meetings were taken up with the discussion of three new zoning text amendments. The Commission recommended approval of firearms sales restrictions, approval of architectural and materials standards for projects in most zoning districts, and approval of a revised Mixed-Use Zoning District.

**Zimmerman** went on to display a number of graphs illustrating the number and types of applications reviewed by the Planning Commission in 2019.

The presentation went on to review staff led discussions and presentations, as well as a number of PUD amendments that were not reviewed by the Planning Commission. These PUD Amendments were either administrative, or reviewed directly by Council.

There were eight major projects reviewed in 2019 and two previously approved projects that began construction in 2019.

**Zimmerman** moved on to the 2020 Proposed Work Plan:

- 2040 Comprehensive Plan
  - Phase III of the Downtown Study
    - completion of the City's Bicycle and Pedestrian Network
    - framework for future redevelopment of key properties
  - Adjust Institutional Subdistricts to align with new categories
  - Rezone properties to be consistent with the Future Land Use Map
  - Update the Medium density Residential Zoning District
- Zoning Code Amendments/Updates
- Planning Application Review and Evaluation
- Commissioner Training and Education

**Zimmerman** finished the presentation and the Chair opened for Commissioner questions and comments. **Commissioner Johnson**, thanked staff and commented on if there were more items for the Commission to address in a shorter amount of time than the 2040 plan. **Johnson** also mentioned the process for managing and measuring projects/tasks and if staff should report back to the Commission. **Zimmerman** responded that a lot of the items discussed are ones on staff radar and items tracked, however a process for reporting progress can be looked in to.

**Chair Blum** added that identifying what success looks like is ideal. Ensuring effectiveness is measured is a conversation that can be had in advance of a project. **Baker** echoed these statements and added creating metrics now may be premature. **Johnson** brought up tobacco sale restrictions and the unintended consequences of not addressing other health dangers. **Zimmerman** reminded the Commission that Council directed them to address tobacco sales only.

**Blum** addressed Commission attention to page two on the report, highlighting the mission statement of the group. He mentioned the possibility of editing language or shifting items to highlight the work the group does for the people, not public agencies.

This led the Commissioners and staff in to a conversation about continuity in purpose and mission statements. The conversation continues on a possible statement focused on meeting the needs of the people as well as meeting the needs of the environment. **Commissioner Segelbaum** reminded the group that the language stems from the bylaws and changing that process will be layered. He went on to state that if there were changes to the bylaws, mission, or purpose, it should be done looking forward into 2020, not on the 2019 report. **Baker** agreed with this statement.

**Councilmember, Gillian Rosenquist**, informed the group that City Council has spent a long time creating a mission and vision and the Planning Commission operates under that purview.

**Blum** stated that he will summarize notes on the conversation and submit them to the City Council when giving the annual report at their meeting.

#### 5. Presentation of the 2019 Board of Zoning Appeals Annual Report

**Myles Campbell, Planner**, presented the BZA annual report to the Planning Commission. The report started similar to the Planning Commission one with an introduction to staff, mission, purpose. **Campbell** went on to review the BZA requests, 33 variances were heard and 30 of those were in a residential zoning district. **Campbell** went in greater depth on variance type by utilizing graphs, he showed approval and denials, as well as a breakdown of project type. Utilizing the same categories, **Campbell** showed historical trends in the last five years as well as a map to illustrate locations. **Commissioner Segelbaum** asked for clarification on the approved-modified item and what the standards are to meet that qualifier. **Campbell** responded that generally those items have a request from the applicant, and after a discussion with BZA or staff, the request is modified. There has been a request for a setback and after discussion, the setback distance was modified and then approved. Staff offered to review metrics and ensure consistency year over year.

**Commissioner Pockl** asked if staff knew the rate of Golden Valley's approval rating for variances compared to other, similar sized, cities. **Campbell** responded that he didn't have that information but staff could look into it. He followed up by stating that it's impossible to predict requests made, one can't predict approvals or denials. The variables are great and often dependent on the applicant doing their own research throughout the application.

**Television portion of the meeting concluded at 7:59 pm**

#### 6. Council Liaison Report

- Council Member Rosenquist** and **Planning Manager Zimmerman** recapped the three items that were approved by the HRA at its last meeting: A Housing Strategic Plan which will guide the City's housing efforts in the next five years, a Fair Housing Policy to help address housing complaints, and a preliminary notification to Hennepin County that the City is considering adopting an HRA levy in 2021. **Rosenquist** stressed that a final decision on a levy will not need to be made until later in the year and will be dependent on many factors including state of the local economy. She also summarized the items on the agenda for the City Council meeting of April 21.

**8. Reports on Meetings of the Housing and Redevelopment Authority, City Council, Board of Zoning Appeals, and other meetings**

**Planning Manager Zimmerman** told the Commissioners that the Board of Zoning Appeals would have two new members in 2020.

**9. Other Business**

**Planning Manager Zimmerman** reviewed the Public Hearing Protocol for Planning Commission document that had been discussed at an early meeting. Staff had made the requested changes but agree to one more adjustment to provide the Chair with the flexibility to address individual questions from those speaking during the public hearing immediately or to wait until after the public hearing is closed. The document will be updated on the City website.

**10. Adjournment**

**MOTION** made by **Commissioner Pockl**, seconded by **Commissioner Baker** and the motion carried unanimously to adjourn the meeting at 8:45 PM.

---

Adam Brookins, Secretary

---

Amie Kolesar, Planning Assistant



# MEMORANDUM

## Planning Department

763-593-8095 / 763-593-8109 (fax)

**Date:** May 11, 2020  
**To:** Golden Valley Planning Commission  
**From:** Jason Zimmerman, Planning Manager  
**Subject:** Informal Public Hearing – Future Land Use Map Amendment for 7345 Country Club Drive

**Property address:** 7345 Country Club Drive

**Applicant:** Paul Jacob

**Property owner:** Ramez Jacob

**Zoning District:** Single-Family (R-1) Residential

**Lot size:** 21,402 sq. ft. (0.49 acres)

**Current use:** Bar/Restaurant (Schuller's Tavern)

**Future land use:** Low Density Residential

**Adjacent uses:** Single-family homes, Golden Valley Country Club, Meadow Ridge Senior Living



2018 aerial photo (Hennepin County)

## **Summary of Request**

Paul Jacob is proposing to amend the Future Land Use Map to guide the property at 7345 Country Club Drive for Retail/Service use instead of the current guidance as Low Density Residential. In addition, he proposes to rezone the property from Single-Family Residential (R-1) to Commercial. These changes are necessary in order to eventually construct an outdoor patio on the property, providing a new amenity that the applicant hopes will enhance the experience for current patrons and attract new customers.

## **Background**

Although Schuller's Tavern has operated at this location for decades, the guided land use has been designated as Single-Family or Low Density Residential since at least 1977 and likely for a period of time before that. A Zoning Map from the first part of 1956 shows the property zoned as Commercial, but at some point later that year it was rezoned to Single-Family Residential (R-1) along with other parts of Golden Valley.

In 2012, the property owner submitted an application essentially identical to the current one in order to reguide the property for Retail/Service use and to rezone it to Commercial. The Planning Commission recommended denial at that time, and the City Council tabled the request without taking action. In 2013, the City Council discussed the possibility of reguiding this property at a Council/Manager meeting and declined to support doing so. In 2014, the topic was once again on a Council/Manager agenda and this time the Council indicated they were open to considering the changes. The property owner subsequently indicated in a letter to the City Council that they intended to move forward with the process, but no action was taken.

The primary concern expressed by the Planning Commission and City Council in 2012 was the permanence of the zoning change that was being considered. If, after the property was rezoned, Schuller's were ever to close, the site would remain zoned for Commercial use and any number of businesses could locate there by-right or with a Conditional Use Permit. The City would have little to no control over any future commercial use and there was concern that some of these could be detrimental to the surrounding single-family neighborhood. In addition, many residents from the area spoke at the public hearings expressing concern about the likely increase in noise associated with an outdoor patio as well as additional parking and general disruptions along the streets in front of their homes as a result of a greater number of patrons using the patio.

## **Existing Conditions**

Schuller's Tavern sits on a triangular piece of land directly south of the Golden Valley Country Club and just north of a single-family neighborhood. A senior facility and other non-residential uses are located within a block or two to the west of the site.

There is a large parking lot with approximately 113 parking spaces in the widest portion of the lot while a one-story building sits in the narrower portion. The proposed outdoor patio would sit in the far western portion of the lot in an area that is currently lawn.

Updates were made to the interior of the building in 2020 to make it ADA compliant. The sanitary sewer line was also inspected in early 2020 in order to determine if it met the City's Inflow and Infiltration standards. A Certificate of Compliance was issued in early March.

### **Required Process**

The path to constructing an outdoor patio has many steps, even beyond the change in guided land use and the rezoning which each require a two-thirds affirmative vote at City Council. While a bar/restaurant did not require a Conditional Use Permit to operate when Schuller's was established, the current zoning code does have that requirement and the change in zoning designation would trigger it. Assuming the City grants a Conditional Use Permit, the final hurdle is that the existing building is non-conforming with respect to a handful of current zoning requirements (mostly around setbacks). These non-conformities would need to be approved via variances at the Board of Zoning Appeals before plans for the outdoor patio could move forward. In addition, the patio itself would need a variance to be located within the front yard, or first 35 feet of the site.

### **Neighborhood Notification**

The City's adopted Neighborhood Notification Policy requires a neighborhood meeting be held for proposals that would change the designation of a property from residential to commercial. However, due to the social distancing guidelines established by the State of Minnesota and the State of Emergency declared by the City Council, this requirement was altered and instead of a neighborhood meeting, a letter was sent to property owners within the notification radius in late March and extended time was allowed for comments to be collected by City staff in advance of the public hearing before the Planning Commission.

Staff received three written comments on the proposal (attached) – two were in opposition and one was in favor of the change. Those in opposition cited the likelihood of additional noise and congestion associated with the installation of an outdoor patio, the potential incompatibility of other potential commercial uses with the surrounding residential neighborhood, and the possibility the change could be classified as spot zoning.

### **Staff Review**

The City Code does not set specific standards for changing a future land use designation, and the City Council – with the input of the Planning Commission – has a great deal of latitude in deciding if the request is consistent with the overall direction and vision of the Comprehensive Plan. In making a determination, the City should take into account the land use descriptions outlined in the Comprehensive Plan as well as any potential impacts on the character of the area.

The 2040 Comprehensive Plan has the following description of the Retail/Service land use:

This category includes land used for the provision of goods and services, which encompasses a large variety of establishments such as shops, restaurants, medical offices, hotels, and entertainment facilities. This land use is located near high-

density residential, office, and institutional uses while generating employment and providing services in the community.

The Low Density Residential land use is described as follows:

This category includes primarily single-family detached units but may include single-family and two-family attached units in scattered locations as appropriate. This land use should be surrounded by other land uses with minimal impacts, such as institutional and open space.

Amending the Future Land Use Map to allow Retail/Service uses at this site would not only provide an opening for Schuller's Tavern to expand its business with an outdoor patio, but would lay the groundwork for other business activity at this location should Schuller's close at some point in the future. While many might support Schuller's given its long history as a bar and social gathering place, and would perhaps feel comfortable accommodating any increase in patron activity on the property (via the new outdoor patio) or in the neighborhood (as vehicles come and go from the site), many other possible uses allowed under the proposed land use designation might be less tolerated.

Staff believes the proposed change in land use would create the opportunity for negative impacts to the single-family neighborhood that surrounds the subject property in terms of noise, light, parking congestion, and late night activity in the near term and the possibility of greater impacts from other commercial uses in the longer term. Given the shape of the lot and the manner in which it extends and is partially surrounded by single-family homes, a change to a Retail/Service land use designation does not appear to be consistent with the Comprehensive Plan's stated goal of Minimizing Conflicts and Impacts of Change (Land Use Goal 2) and the objectives of Protecting Existing Residential Neighborhoods (Objective 1) and Supporting Non-Residential Growth Opportunities while Respecting Adjacent Properties (Objective 2).

#### **Recommended Action**

Based on the findings above, staff recommends denial of the requested amendment to the Future Land Use Map, changing the guided land use for 7345 Country Club Drive from Low Density Residential to Retail/Service.

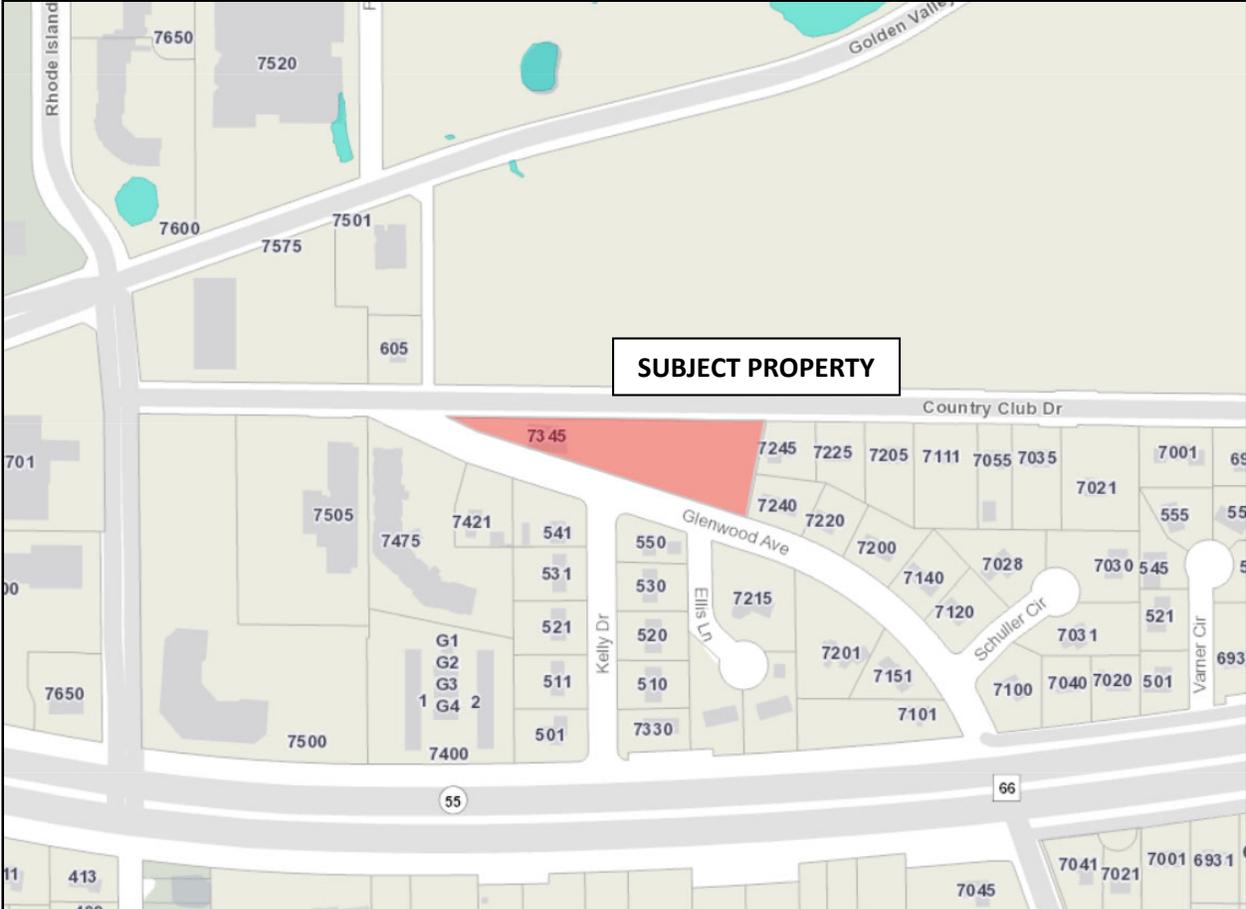
#### **Attachments:**

Location Map (1 page)

Future Land Use Map from 2020 Comprehensive Plan (1 page)

Letters from Neighbors (4 pages)

Minutes from Planning Commission meeting dated July 9, 2012 (8 pages)



**2020-2040  
General Land Use Plan**

**Future Land Use**

**Residential**

- Low Density – up to 5 units per acre
- Moderate Density – 5 to 8 units per acre
- Medium Density – 8 to 30 units per acre
- High Density – 20 to 100 units per acre

**Commercial**

- Office
- Retail/Service

**Industrial**

- Light Industrial
- Industrial

**Mixed Use**

- Neighborhood
- Community

**Institutional**

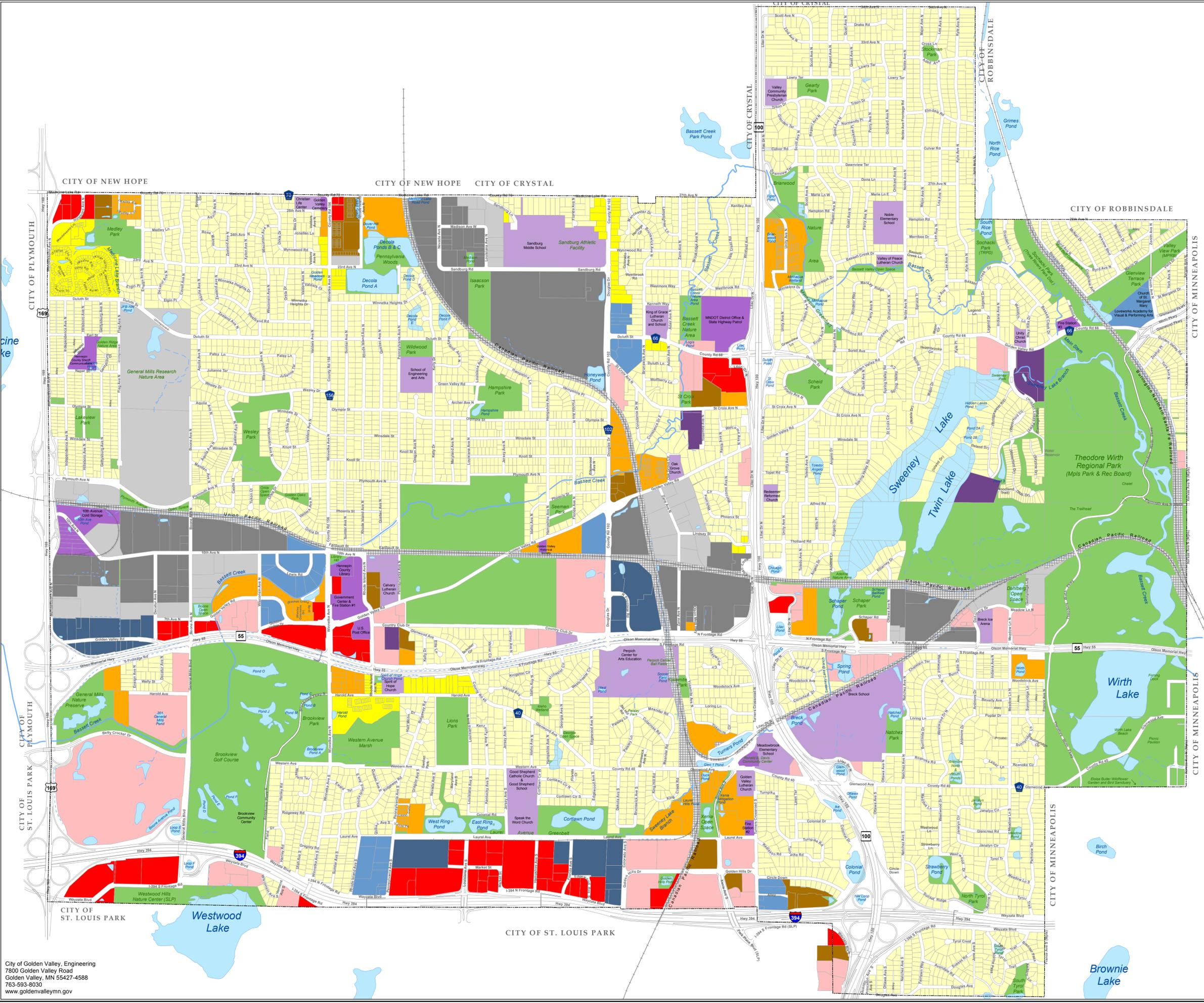
- Assembly
- Civic
- Medical

**Open Space**

- Parks and Natural Areas
- Water Feature

**Right-of-Way**

- Railroad
- Right-of-Way (public and private)



April 3, 2020

I live on Kelly drive and as a neighbor of Schuller's Tavern, our family is IN SUPPORT of their rezoning request from residential to commercial.

I can be contacted at this e-mail address with any other questions.

Thanks,  
Sam Lezon

April 15, 2020

Hello Golden Valley Planning team,

I recently received a letter regarding the request for rezoning of 7345 Country Club Drive (Schuller's) from Single-Family residential to Commercial. I am writing to oppose this type of rezoning in my neighborhood. I certainly look forward to attending the WebEx meeting and sharing opinions, but given the very unique times we're all in – felt it appropriate to share my thoughts and concerns first via letter in case I'm unable to attend for any reason.

In regards to Schullers' request for an outdoor patio, I'm not sure I understand their concern that it's "harder as the years go on to compete with surrounding businesses." All other businesses with patios are in commercially zoned areas. With so many empty business fronts in our local strip mall (and sadly more to come after this pandemic), I simply don't see a burning platform rezone for this oddly specific request.

In addition, their building is dated and old with peeling paint, the parking lot filled with potholes, and the patrons are noisy enough when smoking outside or heading to their cars – occasionally parked in front of my home and overflowing from the parking lot. I'm not sure how I'm supposed to be confident in their ability to maintain an enclosed patio that wouldn't be a neighborhood nuisance when I don't have a lot of confidence already in the upkeep and care today.

This leads to my primary concern - rezoning a lot in my neighborhood into a commercial zone and the long-term impacts this may have. While the Jacobs family can make any argument they may about their business, none of that would matter if the parcel were sold to any other commercial business. Given the extra volatile nature of the industry now, it seems like a valid concern. I would not want this very desirable lot near my home to be fair game for commercial business. It would certainly bring noise, traffic, light pollution, and additional congestion to a neighborhood planned for homes and not commercial businesses. This is the whole point of zoning and why I would be incredibly disappointed to see this lot rezoned to commercial.

I appreciate you taking the time to read through my concerns and take them into consideration as decisions are made. And thank you for getting creative to allow us to share opinions in such a very different environment than we're all used to.

Stay well,

Caroline Jansen

530 Kelly Drive

( ) -

Dear Planning Commissioner,

This letter is regarding the property at 7345 Country Club Drive (Schuller's Tavern) and the upcoming Planning Commission meeting on April 27th. Specifically the request from Schuller's Tavern requesting the reguiding of the property from Low Density Residential to Commercial – Retail/Service and rezoning the property from Single-Family Residential (R-1) to Commercial.

We are residents at 7421 Glenwood Ave which is located directly across the street from Schuller's Tavern. Schuller's Tavern is grandfathered into our residential neighborhood as a non-conforming use. This zoning allows Schuller's to remain open in their current state, but they are not allowed to expand their footprint, which has protected our neighborhood from further impacts. Before we purchased our property, we met with City Staff about whether Schuller's would be able to expand and we were told there were not able to, due to the zoning restrictions. When the Jacob's purchased their property in 1989, they were aware of these same restrictions. The Schuller's request now wants to change their zoning to Commercial to allow for an expansion of an outdoor drinking area/patio, and granting the request will cause great disturbance and would greatly change the character of the neighborhood.

Our neighborhood has been designated low density residential on the General Land Use Map of Golden Valley since 1959. It has been zoned single family residential since the 1970's, all within the period that Schuller's has been in business. In our opinion, this has been to allow Schuller's to remain in business while protecting the neighborhood from this type of expansion and preventing the loud noise and disturbance an outside drinking area/patio like this would cause. If there had been a historic desire for expansion of the Schuller's property by the City, it would have been part of these plans.

The City of Golden Valley has recently completed their Vision of the Communities future with the 2040 Comprehensive Plan. This plan was crafted in 2016-2018 with the input of residents, businesses, City Commissions, and the City Council and approved by the Metropolitan Council. The Comprehensive plan guides re-development in the City. The Future Land Use of our neighborhood and of Schuller's is identified in the Plan as Low Density Residential, not Commercial or Mixed Use. A number of other new potential Mixed Use Areas were also identified within this Plan, none of these including our Area or Schuller's Tavern.

The plan also identified four Planning Districts, one of which is the Downtown West District (the four quadrants surrounding Winnetka Ave N and Golden Valley Rd) which contain our neighborhood. The city initiated a Downtown Study for this District to determine if anything within that area required further exploration for targeted re-development opportunities, to determine where redevelopment pressure may occur, as well as suggest which parts of the city should be protected from extensive change. Specifically four Sites within the Downtown West District were identified in this process and our neighborhood was not one of them nor was there any discussion about changes in zoning to Schuller's.

So not only in historic planning, but in future City planning, this area has been identified to remain zoned as residential. We feel Schuller's request is simply **a spot zoning request** that doesn't fit any of the Cities long term land use or development plans and would open this option up to other people making similar zoning requests to open a commercial business within other residential zoned area.

Schuller's request has come up in the past. In 2012 the Planning Commission reviewed a similar request and recommended for denial. The Planning Commissioners stated in their meeting notes:

- they didn't feel any commercial use would work at this property, due to the distance to residential properties and this is the reason for zoning and general land use map are the way they are
- that re-designating the land use and re-zoning the property opens it up to too many other possible land uses so it doesn't make sense to amend the general land use map.

- there isn't any way to construct a patio without re-zoning, which opens a Pandora's Box; and while a unique property, it would be stretching the purpose of the general land use plan and zoning designation to allow this and they were not in favor of the change

A planning council member who voted against the denial, did so because he was opposed to the planning council trying to find ways to solve Schuller's attempt to get a patio, as that is not what the commission is for. Another commission member stated they were not optimistic that any zoning category would solve this properties problems.

So my question is what has changed since 2012 that would suddenly make this Schuller's zoning request change palatable or acceptable? There has been no change in the Land Use, Zoning, or the Cities long term plan for this area.

- We understand Schuller's upgraded their bathrooms and they are able to do this under their current Zoning, but just doing this doesn't mean they can get their property re-zoned to Commercial.
- A rationale Schuller's states in a letter we received them about this process is they need this change in zoning to stay competitive. They have operated under these limitations relative to expansion since they bought this establishment 31 years ago. Within the City Zoning Ordinances and from the Board of Zoning Appeals it references that economic considerations alone do not constitute practical difficulties in getting a zoning change and we do not feel this should be the reason this request is granted.
- We understand there are other Bars/restaurants/pubs in Golden Valley that have outside seating and patios, but they are located in commercially zoned areas where this expansion is allowed and there activities will not disturb the residents of a neighborhood. Unfortunately Schuller's is not located in one of these areas and they were aware of this when they purchased the property.

No one disputes that it would be nice for Schuller's to have a patio and we are sure many of their patrons would favor this. However there are reasons why we have long range plans and zoning in place and that is to guide development thoughtfully. If this zoning is changed to commercial, Schuller's could be expanded in size well beyond a patio or it could be sold and another business could come in and develop it into something else that fits commercial zoning. This is why denying the change to commercial and keeping the current non-conforming zoning is so critical to protecting the character of our neighborhood.

This is a bigger issue than whether it is nice to be able to have a drink or eat outside and it comes down to whether the Cities long-term planning is driving development and zoning decisions in the City and will help protect our neighborhood. We appreciate your consideration of our letter and hope the Planning Commission will again recommend denying Schuller's request to change their Zoning to Commercial to the City Council. Please feel free to contact us with any questions.

Sincerely Yours,

John and Cate Hiebert  
7421 Glenwood Ave  
Golden Valley MN 55427



**3. Informal Public Hearing – General Land Use Plan Map Amendment –  
7345 Country Club Drive – CPAM-51**

Applicant: City of Golden Valley

Address: 7345 Country Club Drive (Schuller's)

Purpose: To change the designation on the General Land Use Plan Map from  
Low Density Residential to Commercial-Retail

Grimes stated that this is a General Land Use Plan Map Amendment brought forth by the City Council. He explained that the City is the applicant and only the City Council can amend it since it is the City's plan. He stated that at the June 12, 2012 Council/Manager meeting Schuller's Restaurant asked the City Council to consider changing the General Land Use Plan Map designation from Low Density Residential to Commercial-Retail in order to allow them to construct an outdoor patio. Grimes explained that staff and the City Attorney believe that the addition of a patio would be considered an expansion of an existing non-conforming use which is not allowed per City Code. He stated that he researched the history of this property in order to try to figure out how long this property has been designated Low Density Residential. The first Comprehensive Plan (1959) had the property designated Low Density Residential and it has been zoned Single Family Residential since at least the early 1970s. He added that there are a number of steps involved before expanding the restaurant would even be possible. The General Land Use Plan Map would have to be amended, the property would then have to be rezoned, a Conditional Use Permit to allow for a restaurant would have to be obtained and variances would be required because the building is non-conforming with setback requirements.

Waldhauser asked about uses that would be allowed if the property were rezoned. Grimes stated that one of the concerns he has is regarding the uses that would be allowed if the property were zoned Commercial. He said offices, retail uses, restaurants, auto-related uses with a Conditional Use Permit and anything else allowed in the Commercial zoning district would be allowed at this property if it were rezoned. He added that the building could also be torn down and a different one built. He explained that another concern is the impact of the land use changes on the residential and institutional properties adjacent to the property. Staff believes the General Land Use Plan Map should not be changed.

Waldhauser asked if Schuller's would be allowed to reconfigure the building. Grimes said they are allowed to maintain, repair and replace the existing building, but they cannot expand it.

Schmidgall referred to the potential new Light Commercial zoning district and asked what types of uses would be allowed if the property was rezoned Light Commercial. Grimes stated that many of the same uses as the Commercial zoning district, with the exception of auto-related uses, could potentially be allowed in the Light Commercial zoning district.

Schmidgall asked if there is any other way a patio could be added to this property. Grimes reiterated that as long as the patio is going to be used by their customers it would be considered an expansion and in order to expand, the property would need to be rezoned.

Segelbaum asked if the General Land Use Plan Map and Zoning re-designations could go through the amendment process simultaneously since the two plans ultimately have to match. Grimes stated that there is a period of time allowed after the General Land Use Plan Map is amended to change the Zoning designation.

Kluchka referred to the General Land Use Plan Map and asked what the "semi-public facilities" category means. Grimes stated that is the designation for nursing homes, hospitals, etc.

Kisch questioned if Schuller's would need a Conditional Use Permit if the Zoning of the property were to change. Grimes said yes and explained that if the property were to be rezoned it opens all sorts of issues with the Building Code, Zoning Code and other requirements.

Kluchka asked how the building got built in the first place. Grimes explained that it was built in 1929 before the City had a Zoning Code. He added that at that time Country Club Drive was more of a crossroad than it is currently.

Segelbaum asked if the request gets to the Conditional Use Permit phase if conditions could be placed on it regarding noise, hours, etc. Grimes said yes and stated that because this property is in a unique area, next to residential properties, there may be more conditions than usual such as sound mitigation, screening, and lighting. Segelbaum stated that the opportunity to address some of the concerns could arise during the potential Conditional Use Permit process.

Schmidgall said he would enjoy Schuller's having a patio but he is nervous to think about what else could potentially be located at this property if it were to be rezoned. He asked if the City could pass an ordinance to allow the patio addition. Grimes said no, the City could not pass an ordinance approving a patio. Schmidgall asked if covenants could be put in place or if a Conditional Use Permit or Rezoning could be revoked if Schuller's ever left this location. Grimes said he thinks there would be property rights issues involved with that kind of action. He reiterated that if the City wants to allow Schuller's to expand than the process that has been discussed is the way it has to be done.

Segelbaum asked if the Single Family Residential zoning district could be amended to add a bar use. McCarty asked if the occupancy could be limited. Grimes stated that Schuller's adding more seats to their restaurant equals an expansion which means the General Land Use Plan Map and Zoning for the property would need to change.

Kluchka asked Grimes to summarize the recommendation in the staff report. Grimes stated that staff is recommending denial of the amendment to the General Land Use Plan Map finding that the property has been guided Low Density Residential since 1959 implying to the surrounding homeowners that the property cannot be expanded as a

commercial venue, there have been significant concerns from the neighborhood regarding the negative impacts this could have and establishing the property as Commercial-Retail would allow other commercial uses on this property.

Waldhauser stated that most of the commercial uses that could potentially operate at this property would be similar in use to the current use such as a small restaurant or small office building. She added that the only objectionable use would be the auto related uses.

Kluchka asked about the City Council's discussion of this proposal. Grimes stated that Schuller's brought their idea of constructing a patio to the City Council and that the majority of the Council thought this proposal was something they would like to consider so the direction by the Council was to start the process by having the Planning Commission consider amending the General Land Use Map designation. He added that on the surface this proposal doesn't seem to be a big deal, but there are some legitimate concerns by the neighbors regarding noise, etc. and the City has to be realistic about being able to enforce any conditions that could be placed on the property.

Steve Sands, 1400 Sumter Avenue North, representing Schuller's, gave the Planning Commissioner's a drawing of the proposed patio and landscape design. He also submitted a petition from bar patrons who support the proposed patio addition. He stated that Schuller's has had offers from people to purchase the property, but they have turned them down. He referred to a rumor circulating that Schuller's paid people for their signatures on the petition he submitted and explained that signatures were not bought, but Schuller's did give some gift cards to people as a way of saying thank you.

Ray Jacob, Schuller's owner, stated that he has been in the restaurant business since 1961. He said he owns three restaurants and two of them have patios under construction. He reiterated that he has had many offers to sell Schuller's but he is not interested in selling because his plan is to pass the restaurant on to his children. He said his business is down and they've had to reduce staff. As a result he is trying to improve business by adding a patio. He stated that Schuller's supports many activities, groups and events in Golden Valley such as softball, volleyball, tennis, church events and school events. He added that he has had some of his employees since 1968 and that he is good to his employees and his customers.

Mark Jacob, representing Schuller's said the restaurant has always been a place that is close to his heart and he could never sell it, they just want to update it.

Waldhauser asked Ray Jacob when he purchased the property. Jacob said he bought the property in 1989.

McCarty asked when they started reducing staff. Mark Jacob said they started reducing staff approximately two years ago.

Segelbaum asked Ray and Mark Jacob if they could address the concerns they've heard from the neighbors.

Mark Jacob showed the illustration of the patio design and explained that there will be trees added as a buffer and screening. Waldhauser asked if they are planning any other modifications to the building. Ray Jacob said he would like to install more windows on the west to better view and monitor the proposed patio. Mark Jacob added he is also concerned that he cannot re-build the structure if it were to burn down. Grimes clarified that legally non-conforming uses may be continued, including repair, replacement, restoration, maintenance or improvement, but not including expansion.

Cera asked the Jacobs if they've had a neighborhood meeting. Ray Jacob said they have not. Kisch reminded the Commission that this item was brought forward by the City and that Schuller's is not the applicant at this point in the proposal.

Waldhauser opened the public hearing.

Peter Pluwak, 510 Kelly Drive, said knows the owners say that Schuller's is a family restaurant but he has seen cars leave Schuller's parking lot and hit mailboxes. He said there are two group homes on Kelly Drive and a nursing home on Glenwood and that wheelchair-bound people go up and down Kelly Drive where there are no sidewalks so he concerned about more traffic in the area and accidents happening.

Cate Zottola, 7421 Glenwood Avenue, said she purchased her property in a residential neighborhood not a commercial area. She said that property values in her neighborhood have gone down and any change to the zoning of the Schuller's property will have unintended consequences. She said she talked to the City when she purchased her home and was assured that the Schuller's property was zoned residential and that it had been for many, many years and she purchased her home knowing that it would be a challenge to change the zoning on the Schuller's property. She said she understands Schuller's desire to expand however she believes that would come at a high price especially if the use were to change to an undesirable business. She said Schuller's is requesting this because they feel they are not competitive without an outdoor patio space but they knew their limitations when they purchased the property. She referred to the City's variance regulations and stated that economic considerations alone shall not constitute a hardship. She stated that an expansion of Schuller's would bring incremental noise, outdoor alcohol consumption, traffic and disruption into this generally quiet part of the City. She said the bar patrons can come and go, but this is her neighborhood and she can't go anywhere else and is stuck listening to the noise. She encouraged the Planning Commission to deny this request.

John Hiebert, 7421 Glenwood Avenue, said the Mayor referred to Schuller's as an icon and he cannot find anywhere in the City Code where it lists Schuller's as an icon. He said Schuller's knew when they bought this property that they couldn't expand. He said he's taken a lot of time trying to educate himself on how this process works. He stated that the Schuller's property has been designated Low Density Residential on the General Land Use Plan map since 1959 and there is a reason why it's been that way. This property has been zoned Single Family Residential since the 1970s, therefore it is a non-conforming land use that is allowed to remain in its current location, but it is not allowed to expand.

He said the zoning is the way it is in order to protect the residential neighborhood and he respectfully suggests that the proposal be denied.

Ed Vizard, 7101 Glenwood Avenue, said he would like to see the patio constructed because it would be a good thing for the business and it should not be a big deal to put in a patio. However, changing the zoning to Commercial is a big deal. He said the concern is what will happen if Schuller's is no longer there. He said the City is dealing with a business that has been at this location for 80 years so he doesn't understand why the City can't find a way to allow a patio. He said it sounds to him like the Council is trying to open a "commercial wedge" in what is a neighborhood enclave. That is what should be considered, not the merits of a patio, but what the rezoning will do the neighborhood.

Karen Reeves, 605 Pennsylvania Avenue, said she has to shut her windows and can't hear her TV because of the noise from Schuller's. She has heard people at 2 am when they get in their cars and go home. She can't leave; she has to live here with the noise. She said she respects the local business and Schuller's does a good business as is. She said the property will be worth a lot more if it is rezoned to Commercial and she is concerned about what other type of use could go in if it were rezoned. She asked that the City not allow the patio.

John Gentrup, 7101 Glenwood Avenue, said he thinks the patio will go a long way in beautifying the peninsula and he thinks a patio would be a good idea. He said he thinks businesses in general face a lot of onerous difficulties when they try to make changes so he would be in favor of this proposal.

Steve Sands, 1400 Sumter Avenue North, noted that some of the residents have said that Ray Jacob knew the property was zoned residential when he bought it, which is true, but the residents also knew that Schuller's was there when they bought their properties. He said he is not convinced that staff's and the City Attorney's opinion regarding the process to allow a patio is correct. He said there are a lot of bars in Northeast Minneapolis that have been around since the 1930s, they have patios and are within 20 feet of a residential property so they seem to have a way to deal with this type of situation in Minneapolis and they he can't figure it out in Golden Valley. He stated that Mr. Jacob is not asking for the world with this request. He said they would stop serving by 8 pm and have people off the patio by 9 pm and noted that the noise ordinance regulations don't apply until 10 pm. He said he understands the neighbor's concerns about a different use in the future however the property really has no commercial value because it is not visible from any major road and any future uses would have to be approved by the City. He said there has been some talk about installing the patio on the north side of the property but that would also require variances. Also, a patio on the north side would be a liability because of golf balls from the country club and the servers would have to go up and down steps on that side of the building. He reiterated that Schuller's is a community gathering place and has been an asset to the community.

Waldhauser stated the she understands the difficult position Schuller's is in but the Planning Commission can't change the laws, or the process.

Cate Zottola, 7421 Glenwood Avenue, stated that as a resident who lives across the street, she has observed things that Schuller's isn't policing now including people smoking and parking where they are not allowed. She said that an expansion to Schuller's would make her quality of life suffer.

Kluchka asked Zottola about the traffic on Kelly Drive. Zottola said Kelly Drive has fairly heavy traffic that increases at happy hour and with motorcycles on Saturdays.

Ray Jacob, stated that he has told people not to park where they are not supposed to and the only other people that park there are the police who come at lunchtime. He said he does the best he can to monitor his customers.

Seeing and hearing no one else wishing to speak. Waldhauser closed the public hearing.

McCarty said this is a difficult proposal because while it is nice to be able to sit outside, he has a hard time considering rezoning this property because of what it could become in the future. He added that if there was another way to consider allowing a patio he would.

Kisch said he is also concerned about rezoning the property. However, due to the site configuration it probably couldn't handle a significantly different use. He agreed that it would be nice to allow people to sit outside and that there are ways to mitigate noise and other issues, he just doesn't feel there is a current zoning district that he would be comfortable recommending at this point, but he feels this opens up the discussion to explore a new or different zoning district.

Grimes suggested that if the City Council considers different zoning language they should do so before they amend the General Land Use Plan Map.

Kluchka asked if there has been a demand or queries from other developers for this type of neighborhood bar concept. Grimes said no. He noted that the Applebee's restaurant didn't make it and that there are other locations in the City where a bar with a patio would be allowed. The Schuller's property is just very unique.

Segelbaum said it seems like Schuller's has made some effort to talk to the neighbors. He said he thinks re-designating the land use and rezoning the property opens it up to for too many other possible uses so it doesn't make sense to him to amend the General Land Use Plan Map.

Cera stated that Golden Valley is not Minneapolis the two cities developed and grew completely differently. He said he doesn't feel any commercial use would work at this property because of the distance to residential property. He said there are reasons the Zoning Map and the General Land Use Plan Map are the way they are.

Waldhauser said she thinks it would be good for Schuller's to invest in their property and that a patio would be an amenity to the neighborhood as long as the noise issues are resolved, but there isn't any way to construct the patio without rezoning which opens up a Pandora's Box of other issues. She agreed that this is a unique property but it would be

stretching the purpose of the General Land Use Plan and the zoning designation to allow this, so she would not be in favor of recommending approval at this point.

Schmidgall noted that the City will be considering a new Light Commercial zoning district and that this might be an appropriate location to consider that new zoning district. He said he would like to move this discussion forward by recommending approval of this proposed land use amendment. Grimes explained that the Light Commercial zoning district is being considered for the Douglas Drive/Highway 55 area and he isn't sure that the uses being proposed for the Light Commercial zoning district would satisfy the neighbor's concerns. He stated that the Planning Commission could tell the Council that the only way the Commission is comfortable moving forward with this request is if any proposed new zoning language would be acceptable. He added that the City Council will be reviewing the proposed new Light Commercial zoning district language again before it comes back to the Planning Commission for review.

McCarty said he doesn't feel that this one property is enough to justify months of discussion of a new type of zoning district that could be still be different from what is considered in other areas as well. Kluchka said he would like to better understand the implications of a new zoning district. Segelbaum said he would like to see the Planning Commission recommendation include that there be a different type of zoning option available.

**MOVED** by Kisch, seconded by Schmidgall to recommend approval of changing the designation on the General Land Use Plan Map from Low Density Residential to Commercial-Retail for the property located at 7345 Country Club Drive (Schuller's) with the caveat that as it moves forward the Planning Commission would like to further explore additional zoning opportunities.

Grimes said it seems like there is a real concern about the property being zoned Commercial as per the City Code today. So perhaps the message to the City Council is that under the status quo the Planning Commission doesn't want to see the General Land Use Plan Map changed but if the Council gives direction to study the zoning maybe the Commission could come up with different zoning language. He added that he doesn't know if recommending approval of the General Land Use Plan Map is sending the right message.

McCarty added that he thinks the Planning Commission can still have a conversation regarding new zoning language at the direction of the City Council without approving this proposed amendment. He said approving this proposal is not to generate a discussion of different zoning districts it is to generate the possibility of a patio for Schuller's and a rezoning of the property.

Kisch withdrew his motion, Schmidgall withdrew his second of the motion.

**MOVED** by Segelbaum, seconded by Schmidgall and motion carried 5 to 2 to recommend denial of changing the designation on the General Land Use Plan Map from Low Density Residential to Commercial-Retail for the property located at 7345 Country Club Drive

(Schuller's) with the strong recommendation that the City Council directs the Planning Commission to further explore the creation of different types of zoning categories that might permit this type of request. Commissioners Cera and McCarty voted no.

Cera explained that he is in favor of recommending denial of this request, but he voted against it because he is against the Planning Commission looking for ways to solve Schuller's attempt at getting an outdoor patio. McCarty said he agrees with Cera and thought the minutes will reflect the Planning Commissions thoughts of the issue without having to ask the Council for direction on exploring new zoning categories. Schmidgall said he doesn't want the property to be rezoned, but he feels Segelbaum's motion is key to driving further discussion. Waldhauser said she is not optimistic that any new zoning category that will solve this property's problems.

**--Short Recess--**

**5. Reports on Meetings of the Housing and Redevelopment Authority, City Council, Board of Zoning Appeals and other Meetings**

No reports were given.

**6. Other Business**

Planning Commission Bylaws Amendment

**MOVED** by Cera, seconded by Kisch and motion carried unanimously to amend the Planning Commission Bylaws to make them consistent with the existing City Code.

**7. Adjournment**

The meeting was adjourned at 9:11 pm.

---

David A. Cera, Secretary



# MEMORANDUM

Planning Department

763-593-8095 / 763-593-8109 (fax)

**Date:** May 11, 2020  
**To:** Golden Valley Planning Commission  
**From:** Jason Zimmerman, Planning Manager  
**Subject:** Informal Public Hearing – Zoning Map Amendment for 7345 Country Club Drive

**Property address:** 7345 Country Club Drive

**Applicant:** Paul Jacob

**Property owner:** Ramez Jacob

**Zoning District:** Single-Family (R-1) Residential

**Lot size:** 21,402 sq. ft. (0.49 acres)

**Current use:** Bar/Restaurant (Schuller's Tavern)

**Future land use:** Low Density Residential

**Adjacent uses:** Single-family homes, Golden Valley Country Club, Meadow Ridge Senior Living



2018 aerial photo (Hennepin County)

## **Summary of Request**

Paul Jacob is proposing to amend the Zoning Map to rezone the property at 7345 Country Club Drive as Commercial instead of the current zoning as Single-Family Residential (R-1). This request complements a proposed change to the Future Land Use Map to guide the property for Retail/Service use instead of Low Density Residential use (see accompanying memo). These changes are necessary in order to eventually construct an outdoor patio on the property, providing a new amenity that the applicant hopes will enhance the experience for current patrons and attract new customers.

## **Staff Review**

The City Code does not set forth specific standards for changing a zoning designation, and the City Council – with the input of the Planning Commission – has a great deal of latitude in deciding if the request can be considered to be consistent with the broader zoning map for the City. In making a determination, the City should take into account the purpose of zoning as outlined in the City Code, which is “to regulate land use within the City, including the location, size, use, and height of buildings, the arrangement of buildings on lots, and the density of population within the City for the purpose of promoting the health, safety, order, convenience, and general welfare of all citizens of the City.” (Sec. 113-2)

The Zoning Chapter includes the following purpose statement for the Commercial Zoning District:

The purpose of the Commercial Zoning District is to provide for the establishment of commercial and service activities which draw from and serve customers in the community and are located in areas which are well served by collector and arterial streets.

The Single-Family Residential (R-1) Zoning District has the following purpose:

The purpose of the Single-Family Residential (R-1) Zoning District is to provide for detached single-family dwelling units at a low density along with directly related and complementary uses.

The following principal uses are listed as being permitted by-right in the Commercial Zoning District:

1. Bakeries
2. Barbershops and/or beauty parlors
3. Catering establishments
4. Comfort stations
5. Delicatessens
6. Dressmaking and tailoring establishments, including retail sales of clothing
7. Clothing, shoes and/or accessories sales (retail)
8. Electric repair shops
9. Electronic equipment sales
10. Financial institutions

11. Floral shops (not to include nurseries)
12. Furniture sales and repair
13. Hardware, paint, and decorating stores
14. Hotels/motels
15. Lodge halls
16. Messenger and telegraph services
17. Offices, including medical and dental
18. Pharmacies
19. Photograph supplies and/or galleries
20. Plumbing shops
21. Post offices
22. Printing shops
23. Public garages
24. Recreation buildings and structures (public and private), including gymnasium, racquetball, etc.
25. Class I restaurants
26. Seasonal farm produce sales
27. Shoe repair shops
28. Skating rinks (ice or roller) privately owned and operated for profit
29. Shopping centers (general retail - convenience shopping)
30. Tanning parlors
31. Theaters
32. Trade school or training centers, both public and private
33. General retail services and/or sales that are consistent with the purpose of the Commercial Zoning District and not otherwise listed as a conditional use in Subsection (e) of this section
34. Adult-oriented services that require City licensing pursuant to other provisions of the City Code; and
35. Essential services, Class I.

The following uses are listed as conditional uses in the Commercial Zoning District and may be allowed after review by the Planning Commission and approval by the City Council:

1. Animal hospitals, veterinary clinics, and/or pet grooming facilities
2. Auto repair shops, including tire and auto accessory repair and installation
3. Car washes
4. Convenience food stores
5. Drive-through retail establishments, such as banks, cleaners, Class II restaurants, and similar uses
6. Mortuaries

7. Off-street parking for adjacent commercial or industrial uses
8. Outdoor sales, including car lots, auto, and equipment rentals
9. Outdoor storage and/or sales of horticultural nursery sites, temporary farmers market, and itinerant sales
10. Pool halls
11. Class III restaurants, bars, night clubs, etc.
12. Sales or show rooms (auto, machinery, boats, etc.)
13. Service stations
14. Unattended business operations, such as vending machines, coin- or token-operated machines and equipment, and similar uses
15. Heliports
16. Child care centers
17. Marine engine repair
18. Adult day care center
19. Essential services, Class III, except for peaking stations and substations
20. Brewpubs; and
21. Principal or conditional uses in buildings greater than three stories in height.

The issue of spot zoning was raised during the 2012 Planning Commission deliberations and in one of the letters submitted by the public. The attached memorandum from the City Attorney discusses the concept of spot zoning and concludes that the City may choose to rezone the property in a manner that does not conform to the Comprehensive Plan, even when the rezoning is inconsistent with some of the surrounding uses, provided the decision is supported with a factual record that shows the decision was not arbitrary and capricious and was reasonably related to the promotion of public health, safety, morals, and general welfare.

The City may choose to grant the Schuller's rezoning request, provided there are adequate factual findings in the record to support the decision. Some examples of factual findings that would support a decision to rezone include:

- Findings linking the rezoning to beneficial changes to the social or economic fabric of the area.
- Findings that rezoning the property would create an appropriate transitional area between the City's downtown area to the west, which contains properties zoned Institutional, Office, and High Density Residential (R-4), and the single-family homes to the east and south.
- Findings that the rezoning is unlikely to significantly impact the value of the abutting properties.

However, just because there are potential findings to support a rezoning that does not mean the rezoning must or should be approved. To the contrary, after weighing the facts presented so far, staff believes the proposed zoning change would not be in the best interest of the City and offers the following findings in support of that conclusion:

1. The change in zoning, from Single-Family Residential (R-1) to Commercial, would likely negatively impact the residents who live in the surrounding homes as it would allow the applicant to introduce a new activity that has the potential to increase noise, light, and other activity on the site and on adjacent streets.
2. An outdoor patio is, by definition, more likely to cause disruptions due to its immediate proximity to surrounding properties and the lack of walls or other screening mechanisms which could muffle the sound of conversation by patrons.
3. The applicant has indicated a reason for installing the outdoor patio is to attract new customers. Additional cars parked on the streets near Schuller's have the potential to create further disruptions as patrons leave the premises at night, exacerbating a situation that already generates concerns from homeowners.
4. A change in zoning would open the door to other Commercial businesses should Schuller's close, either by-right or through a Conditional Use Permit. Some of these uses could be even more impactful than the current bar/restaurant use. Given the current economic environment resulting from COVID-19, the chances of this happening might be greater now or in the immediate future than in recent years.

Given these concerns, it is staff's opinion that rezoning the subject property to Commercial would not promote the health, safety, order, convenience, and general welfare of all citizens of the City.

**Recommended Action**

Based on the findings above, staff recommends denial of the requested amendment to the Zoning Map, changing the zoning designation for 7345 Country Club Drive from Single-Family Residential (R-1) to Commercial.

**Attachments:**

Memo from the City Attorney dated May 8, 2020 (2 pages)  
Zoning Map dated May 6, 2020 (1 page)



# MEMORANDUM

City Attorney

763-593-8096

---

**Date:** May 8, 2020  
**To:** Jason Zimmerman, Planning Manager  
**From:** Maria Cisneros, City Attorney  
**Subject:** Spot Zoning

---

## Issue

What is spot zoning and does it preclude the City from rezoning a property in a way that is not consistent with the City's comprehensive plan or the zoning of surrounding properties?

## Short Answer

Spot zoning refers to impermissible zoning changes, typically limited to small plots of land, which establish a use classification inconsistent with surrounding uses and create an island of nonconforming use within a larger zoned district.

A City may choose to rezone a property in a manner that does not conform to the comprehensive plan, even when the rezoning is inconsistent with some of the surrounding uses, provided the decision is supported with a factual record that shows the decision was not arbitrary and capricious and was reasonably related to the promotion of public health, safety, morals and general welfare. Decisions supported in this way are not considered spot zoning.

## Analysis

The term spot zoning applies to impermissible "zoning changes, typically limited to small plots of land, which establish a use classification inconsistent with surrounding uses and create an island of nonconforming use within a larger zoned district." *State by Rochester Ass'n of Neighborhoods v. City of Rochester*, 268 N.W.2d 885, 891 (Minn.1978). In some cases, courts have found that a zoning change constitutes spot zoning when the change fails to conform to an existing comprehensive plan. While spot zoning is not allowed, it is clear that cities may make zoning changes that are inconsistent with an adopted comprehensive plan so long as the change is not arbitrary and capricious and it is reasonably related to the promotion of public health, safety, morals and general welfare. *Id.* 268 N.W.2d at 890.

For example, in *State by Rochester Ass'n of Neighborhoods v. City of Rochester*, 268 N.W.2d 885, the Minnesota Supreme Court held that the City of Rochester's decision to rezone a parcel from low-density residential to high-density residential was not arbitrary and capricious where the property was located within three blocks of the central business district and was already adjoined on two sides by high-density residential and institutional uses, though bounded on one side by single-family residences.

Thus, the City may choose to rezone a property in a manner that does not conform to the comprehensive plan, even when the rezoning is inconsistent with some of the surrounding uses. To avoid spot zoning, such decisions must be supported with a factual record that shows the decision was not arbitrary and capricious and was reasonably related to the promotion of public health, safety, morals and general welfare.

# Official Zoning Map

## Zoning Districts

- (R-1) Single-Family Residential
- (R-2) Moderate Density Residential
- (R-3) Medium Density Residential
- (R-4) High Density Residential
- (MU NHD) Mixed Use Neighborhood
- (MU REG) Mixed Use Community
- (O) Office
- (C) Commercial
- (LI) Light Industrial
- (I) Industrial
- (I-1) Assembly: Churches, Schools
- (I-2) Civic: Libraries, Museums, Colleges
- (I-3) Medical: Rest Homes, Nursing Homes, Sanitariums
- (I-4) Golf Courses, Parks, Playgrounds, City Offices
- (I-5) Cemeteries
- Not Zoned
- 59 Planned Unit Development (PUD)
- I-394 Overlay Zoning District (A, B, & C)

### Flood Plain Management Zoning Overlay District

See the "Official Flood Zone Profile and Map" on file with the City - The collection of flood profiles contained in the Flood Insurance Study, Volumes 1 of 2 and 2 of 2, Hennepin County, Minnesota, all jurisdictions, dated November 4, 2016, including the Flood Insurance Rate Maps for the City of Golden Valley, panels 27053C0194F, 27053C0213F, 27053C0214F, 27053C0332F, 27053C0351F, 27053C0352F and 27053C0354F, dated November 4, 2016.

### Shoreland Overlay District

See Section on Shoreland Management for setback distance from protected waters.

Print Date: 3/30/2020

Sources:  
Hennepin County Surveyors Office for Property Lines (2020).  
City of Golden Valley for all other layers.



### Approved Amendments: Official Zoning Map

Ordinance Number	City Council Adoption Date	Comments
Visit the Planning Department at City Hall for a list of amendments approved since adoption.		

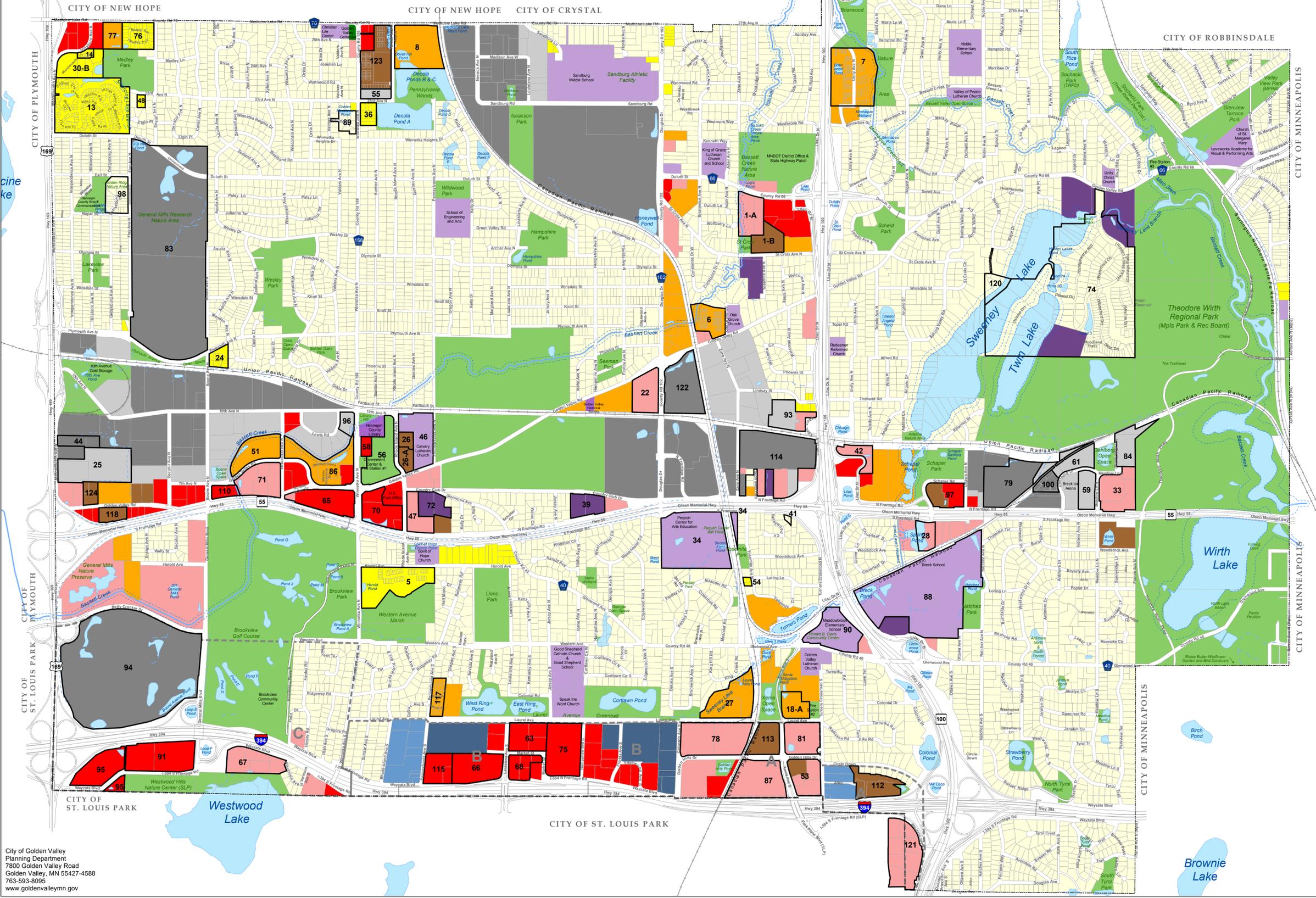
### ORDINANCE NO. 271, 2ND SERIES

This is to certify that this is the Official Zoning Map referred to in Section 11.17 of the Zoning Chapter of the City Code of the City of Golden Valley.

Adopted this 22nd day of November 2002.

*Linda R. Loomis*  
LINDA R. LOOMIS, MAYOR

Attest: *Donald G. Taylor*  
DONALD G. TAYLOR, CITY CLERK





**MEMORANDUM**  
**Physical Development Department**  
763-593-8095 / 763-593-8109 (fax)

---

**Date:** May 11, 2020  
**To:** Golden Valley Planning Commission  
**From:** Jason Zimmerman, Planning Manager  
Myles Campbell, Planner  
**Subject:** Proposed Adjustments to Narrow Lot Regulations

---

**Summary**

The City Council has directed the Planning Commission to engage in discussion around the zoning regulations for narrow lots (generally those under 65 feet in width and specifically for those 50 feet or less in width) and to propose any recommended changes to help mitigate impacts on surrounding properties. Based on past conversations with Commissioners and subject experts and with feedback from residents, staff will lead a discussion on possible changes to the current requirements.

**Requested Action**

Having last discussed narrow lot regulations at the March 9 Planning Commission meeting, staff is looking to review what was presented and resume conversation around what potential code changes should move forward to a public hearing. At the conclusion of the May 11 meeting, staff hopes to reach consensus on a range of topics in order to be able to prepare and distribute informational materials to the public via a virtual clearing house.

**Topics to be Addressed**

There are seven regulatory areas for narrow lots that staff has identified in the past that are under consideration for adjustment:

1. Side Yard Setbacks
2. Garage Requirements
3. Building Envelope Size/Shape
4. Side Wall Articulation
5. Secondary Front Yard Setback
6. Lot Coverage
7. Impervious Percentage

While the changes to any one of these areas may seem minor, when taken together they can result in significant alterations to the size, shape, and character of a new home on a narrow lot.

### **Side Yard Setbacks**

Staff recommends adjusting the minimum side yard setback for lots under 50 feet in width by setting it at no less than 5 feet. Current regulations allow minimum side yard setbacks of as little as 4 feet. This change would give slightly more yard space along the north or west side of a home – providing more options for directing surface stormwater flow – and when combined with the side yard setback to the south or east of the adjacent property would result in 13 to 15 feet of spacing between structures.

Not allowing a setback of less than 5 feet also addresses an area of concern for the City’s Inspections Division, which requires additional fireproofing of structures if they are positioned less than 5 feet from the property line.

One consideration in setting this setback side is the width of the building envelope that would result. For a 50 foot wide lot, the building envelope would be 35 feet; for a 40 foot wide lot, the building envelope would be 27 feet.

### **Garage Requirements**

Staff recommends adjusting the garage requirements for lots 50 feet in width or less by allowing homes to be built with a one-stall garage and by limiting the width of the front wall of a garage to 65% of the front façade. Current regulations require two garage stalls be constructed (or prove that a second stall can legally be added) and set no limits on the amount of the front façade that can be taken up by a garage wall. These recommended changes match what the City allows for 50 foot wide single-family lots in the Moderate Density Residential (R-2) zoning district.

Restricting the size of the garage on the front façade allows for greater creativity in design, more variety in floorplans, and the option of a wider front entry or other non-garage portion of the home. It has been the position of the Planning Commission in the past that garage-dominated façades are not desired.

For a 40 foot wide lot maximizing the width of the allowed building envelope, a garage would be limited to approximately 17.5 feet of width, leaving approximately 9.5 feet of non-garage façade.

### **Building Envelope Size/Shape**

Staff recommends adjusting the slope of the tent-shaped building envelope for lots under 65 feet in width and setting it at a 2:1 ratio to match the regulations applied to other single-family lots in the city. Current regulations allow the slope to increase to a 4:1 ratio, resulting in taller roof peaks and greater shading of adjacent properties.

Staff further recommends lowering the maximum wall height at the side yard setback line and setting it at 13 feet for lots 50 feet in width or less. Current regulations allow the wall to extend to 15 feet.

Reducing the ratio and lowering the side wall height would provide some relief for adjacent properties by reducing the massing and pushing any new two-story side wall further from the property line. It would, however, have a negative impact on the second stories of homes on narrow lots by reducing available headroom and narrowing floor plans.

In order to help compensate for the loss of this usable second story area, staff recommends allowing dormers to extend outside of the building envelope. If the height, width, and location of the dormers are successfully managed, they can be an interesting architectural feature that creates usable second floor space while still breaking up the shading the might otherwise fall on an adjacent property.

While additional input from designers is still needed, staff is contemplating regulations that push dormer walls back a minimum of 2 feet from the first floor wall, are limited to 9 additional feet of height as measured from average grade, and may not exceed 50% of the length of the first floor wall. Examples of various dormers are attached and staff would like to explore these options further with Commissioners at the meeting.

### **Side Wall Articulation**

Staff recommends prohibiting any structural elements used to meet the side wall articulation requirement from extending closer than 5 feet to the side property line. Current regulations allow certain elements, such as chimney chases or bay windows, to extend into the side yard setback area by up to 2 feet.

Eliminating this option helps preserve the distance between the principal structure on a narrow lot and the side property line and provides more open yard space for adjacent properties. The side wall articulation requirement would not be dismissed, but architects/builders would need to find other ways to create articulation when a wall is beyond 32 feet in length.

### **Secondary Front Yard Setbacks**

Staff recommends the setback for secondary front yards – or what are commonly viewed as exterior side yards on corner lots – be set at 15 feet for lots 65 feet in width or less with the caveat that this setback be reduced even further when necessary in order to keep the building envelope at the current 22 foot wide minimum. For some 40 foot lots, this would mean the secondary front yard setback could be reduced to 10 feet. Current regulations set all front yard setbacks at 35 feet.

This change would reduce the number of variances needed to develop existing corner lots that would otherwise be unbuildable. Up until 1983, a provision in the Zoning Code explicitly carved out an exception to the front yard setback on a secondary front yard in order to preserve a

buildable envelope. This regulation was removed as part of a larger code clean-up with no details recorded as to why this particular change was made or if the ramifications were considered.

A building envelope only 22 feet wide would present challenges in providing garage access from the primary, or shorter, front yard but this would hopefully be offset by the option to provide garage access along the secondary, or longer, front yard.

### **Lot Coverage**

Staff recommends modifying the amount of lot coverage allowed for lots under 6,000 square feet and setting it at 30%, similar to the amount set for lots over 10,000 square feet. Current regulations allow up to 40% of lots under 5,000 square feet to be covered by building footprints, and up to 35% of lots between 5,000 and 10,000 square feet. Lots greater than 10,000 square feet are limited to 30% lot coverage.

Restricting the percentage of the lot covered by structures would reduce the footprint available to construct a new home and provide additional space for stormwater to be managed. For a lot that measure 40 feet wide by 127 feet long, the maximum footprint size for a home would be 1,524 square feet.

### **Impervious Percentage**

Staff recommends no change be made to the current limits on the amount of impervious surfaces for single-family residential lots. Current regulations allow up to 50% of the lot area to be covered with impervious surfaces. Beyond the combined area of any building footprints (lot coverage), the impervious amount on an individual lot also incorporates driveways, patios, and other paved surfaces.

Staff believes the current impervious allowances are a good balance of providing options and flexibility in design without being overly restrictive. A well-conceived stormwater plan is the most effective solution to managing and directing stormwater to the proper locations (typically to the street). Therefore, staff does not recommend adjusting this regulation.

### **Comments and Analysis**

These proposed changes were shared with a local builder who has designed homes for narrow lots in Golden Valley. He expressed strong concerns with a few of the recommendations.

First, he was worried about the impact of the change to the building envelope (reducing the allowed slope and lowering the side wall height) due to the restrictions it would place on the design of the upper level of these homes. Although the allowance of some dormer space would help, he believes the protrusion of dormers outside of the building envelope would have a negative impact on neighboring properties as the massing would continue to loom over them and perhaps be even more severe.

Second, he was very concerned that creating regulations that encouraged, or even required, a single-car garage design would result in homes that were unattractive to buyers. The limitations

on attached garage width, coupled with maximum impervious coverage amounts, could make owning two cars impossible on some properties.

With his permission, staff has included the text of his comments below and included as an attachment the diagram he references:

In my opinion, the reduction of buildable width from 28' to 27', along with a rule of a 65% garage to house, will be the biggest negative impact. While the intent of the 65% rule for garage width is to maximize front exposure of house, the net result is actually very little has changed. In my "current rules" elevation using a 20' wide double garage, we have 8' left for entry. In the "proposed rules" elevation using a 27' wide house and 17.5' for garage, we only grew to 9.5' for entry. It does not accomplish diminishing garage dominance unless the design starts to really undersize the garage down to 11'-12' wide. Homeowners will not be interested in a garage that small.

I took an upper level of a home we have designed that fits current rules, and revised it to fit the proposed new height restrictions (tent), and tried to use as few dormers as possible. It took me 3 dormers along the side walls, all roughly 18' - 20' long, in order to fit the same 3 bedrooms, 2 baths and a laundry/hallway. I did have to sacrifice room sizes somewhat to get there, but it was doable, so this rule would depend on the limits set for using dormers. Several fairly large ones will be needed. Those 3 dormers however create vertical walls set directly on the minimum setback line. That will not diminish the shading impact much on the neighboring homes.

Staff agrees that the proposed changes will strongly encourage, if not require, some single-car households on lots between 40 and 50 feet wide. Similarly, houses on 40 foot wide lots constructed using a reduced building envelope may be forced to shrink the amount of floor area available on the upper level and/or utilize fewer bedrooms or baths in their design.

The question before the Planning Commission is are these sorts of tradeoffs acceptable, or even desired, given the concerns expressed by residents living next to or near these narrow lots?

### **Summary of Staff Recommendations**

Absent adjustments based on further discussions with the Commission, staff is recommending the following:

1. Set a minimum side yard setback of 5 feet, regardless of lot width.
2. Allow lots 50 feet in width or less to construct a home with only a one-car garage. Limit the garage to a maximum of 65% of the front façade.
3. Set the vertical:horizontal ratio of the building envelope at 2:1 instead of 4:1 for all lots.
4. Lower the side wall height from 15 feet to 13 feet at the side yard setback line for lots 50 feet in width or less.
5. Allow second floor dormers to extend outside of the building envelope within limits still to be determined for height, length, and setback from the first floor wall.

6. Prohibit any part of a principal structure (including articulation elements) from extending closer than 5 feet to the side property line.
7. Reduce the secondary front yard setback for corner lots 65 feet in width or less to 15 feet. Allow this setback to be reduced to 10 feet if necessary to maintain a 22 foot wide building envelope.
8. Modify the lot coverage maximum for lots under 6,000 square feet to be 30%.
9. No change recommended for impervious surface percentages.

### **Next Steps**

If consensus can be reached, staff would initiate work on a virtual clearing house for information related to the proposed narrow lot regulations and provide detailed explanations of each of the recommendations being made. During an extended comment period, the public would be able to submit questions to staff and to provide testimony that would be accepted as part of the record. The would accomplish two things: first, it would allow for a more thorough delve into the proposed changes in advance of the public hearing and, second, by providing an avenue for submission of written comments it should help reduce the complications associated with a virtual meeting during which there are multiple callers.

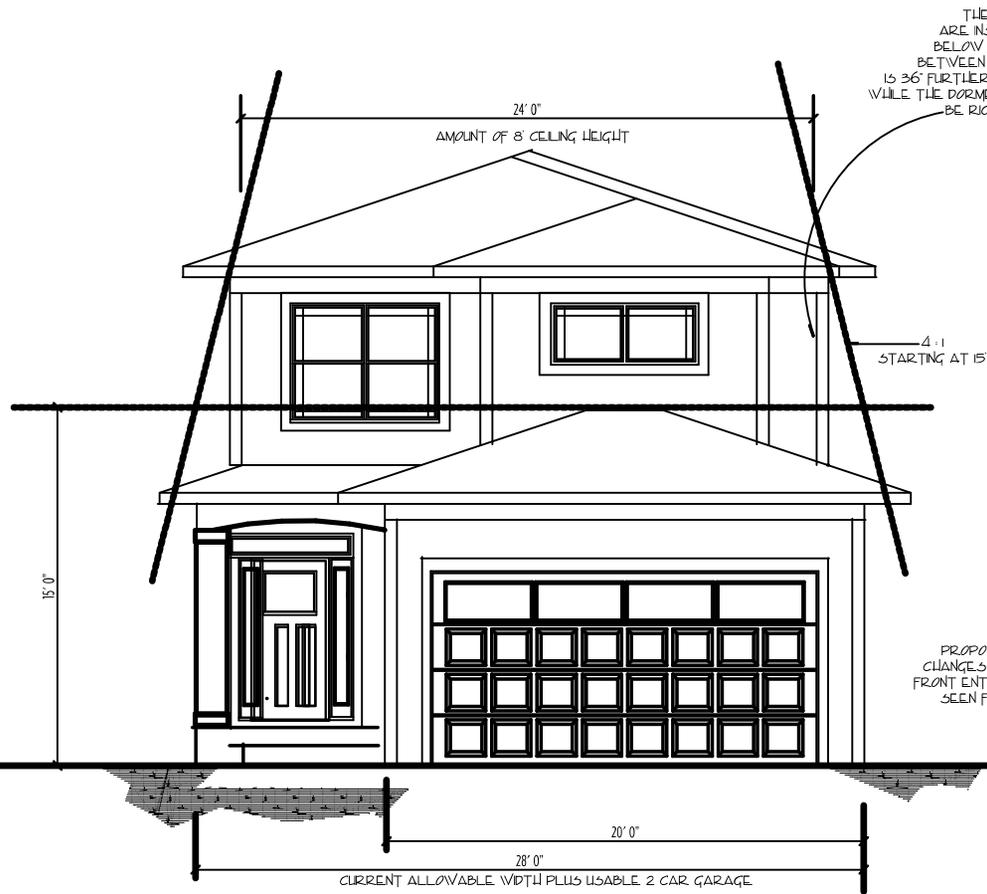
Target dates for future meetings include:

- Monday, June 8 – public hearing with Planning Commission
- Tuesday, July 7 – public hearing with City Council

### **Attachments**

Diagram of Existing vs. Proposed Regulations (1 page)

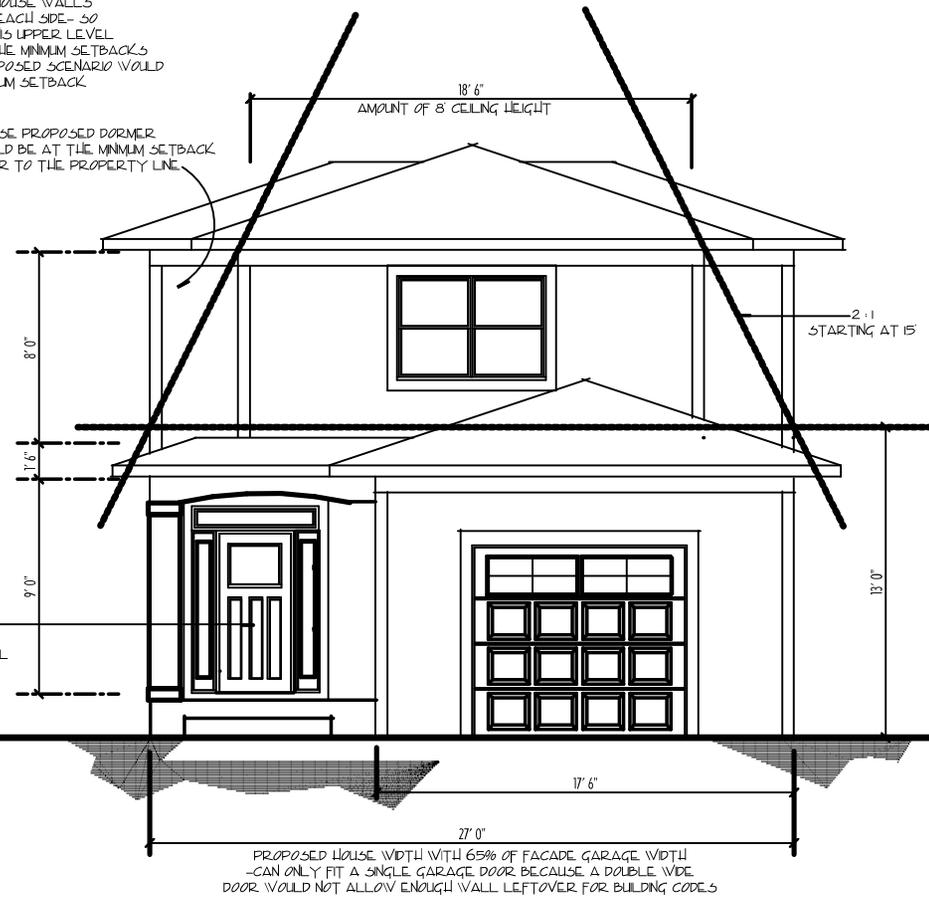
Images of Dormers (2 pages)



CURRENT REGULATIONS

THESE UPPER LEVEL WALLS ARE INSET FROM THE HOUSE WALLS BELOW BY APPROX 18" EACH SIDE - SO BETWEEN THE 2 SIDES THIS UPPER LEVEL IS 36" FURTHER AWAY FROM THE MINIMUM SETBACKS WHILE THE DORMERS IN THE PROPOSED SCENARIO WOULD BE RIGHT ON THE MINIMUM SETBACK

THESE PROPOSED DORMER WALLS WOULD BE AT THE MINIMUM SETBACK - CLOSER TO THE PROPERTY LINE

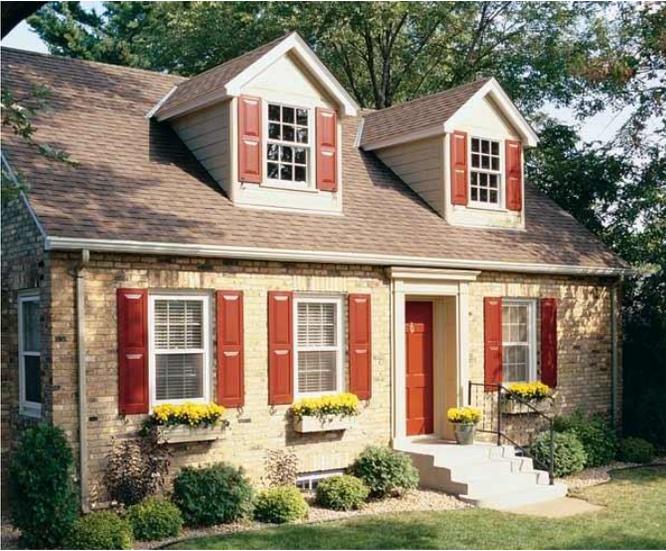


PROPOSED REGULATIONS

*GreenWood*  
Design Build, LLC

MN LIC # 9C025946  
5555 W. 78TH ST, SUITE 51 | EDINA, MN | 55435  
PHONE: (651) 303-5783  
WWW.GREENWOODDESIGNBUILD.COM  
COPYRIGHT 2020 GREENWOOD DESIGN BUILD, LLC

## Gable Dormers



## Eyebrow Dormer



## Shed Dormers

