

# *City of Falcon Heights Planning Commission*

City Hall  
2077 Larpenteur Avenue West

Tuesday, October 27, 2020  
7:00 p.m.

## **A G E N D A**

A. CALL TO ORDER: 7:00 p.m.

B. ROLL CALL:

John Larkin _____	Tom Williams _____
Matthew Kotelnicki _____	Scott Wilson _____
Joel Gerich _____	Scott Phillips _____
VACANT	
Council Liaison Gustafson _____	
Interim Staff Liaison Krzos _____	

C. APPROVAL OF MINUTES

1. September 22, 2020

D. PUBLIC HEARING

1. Amendment to Chapters 54 & 113 regarding residential edible landscaping.

E. INFORMATION AND ANNOUNCEMENTS

1. Vacant properties update

F. ADJOURN

Next meeting: November 24, 2020

**City of Falcon Heights  
City Hall  
2077 Larpenteur Avenue West**

**Minutes  
Planning Commission Meeting  
Tuesday, September 22, 2020  
7:00 PM**

**A. CALL TO ORDER:**

The meeting was called to order by Chair John Larkin at 7:05 PM.

**B. ROLL CALL:**

Present: Larkin, Williams, Gerich, Wilson

Absent: Kotelnicki, Phillips

Present Staff Liaisons: Staff Liaison Markon, Ryan Krzos from WSB

Absent Liaison: Council Liaison Gustafson

**C. APPROVAL OF MINUTES:**

August 25, 2020

The first order of businesses is the Minutes, and Chair Larkin said that he hopes everyone had a chance to read through them. Larkin said he has just one request, that it is noted that his name was incorrect in section "D" of the meeting Minutes.

**The minutes were approved by roll call, 4-0.**

**D. PUBLIC HEARING**

Larkin said that the agenda for this meeting will be: discuss minutes from the last meeting and then open up a public hearing. Chair Larkin said that we will have two things on the public hearing, the first to be discussed is an amendment to a PUD for the Hendrickson project, and the second will be the consideration of a residential beekeeping ordinance.

1. Amendment to Section 113-209 Urban Farm planned unit development district (see Request for Planning Commission Action)

Chair Larkin said he would at this time open up the public hearing. And the first item on the agenda is the amendment to Section 113-209, the urban farm Planned Unit Development district. Larkin said he would let Liaison Markon introduce that amendment. Liaison Markon said that we have not talked about the Hendrickson for some time. They got their main approval from the City Council back in November 2018 to begin building and they started construction in December / January of early 2019, and finished up this during the spring time, late spring early summer, accepting new residents. During the late spring time, as we were going through all the final approvals, staff inquired about the pavers

which have been on all the plans, to my knowledge since more or less since the beginning of the planning process. The grass pavers are located along the east side of property between the east side and then the property line and right on the other side of the property line are the garages for the Larpenteur Manor Apartments. We came to the conclusion that those pavers were not installed. They are on the site plan, the landscaping plans, and have been there, as far as I can tell, throughout the entire approvals process here, and then the building plans that we got that the City approved for the construction. So once we made this determination those pavers weren't part of the plans, we as a staff met and discussed, we met with the general contractor on site to discuss, and then we had our Fire Marshal Mike Poeschl and the acting Fire Chief, Tim O'Neill from Roseville fire department look at it. They both made site visits to go over the technical aspects of what those pavers may be used for. And at the time when they were included in all the plans, the thought was that it would be helpful to some extent for the firefighting or life-saving type effort. As we discussed in the last meeting, and then as was included in the staff report, looking at it now, looking at the situation without the pavers, the fire department made the determination that they are by no means necessary. The building is a 100% sprinkled. There is access by hoses, all around, that they could wrap around the building without any difficulty. Liaison Markon said that any potential extrication of people from that side of the building most likely wouldn't happen. It could potentially happen, and in talking with both of our fire department representatives they said that you could throw a ladder up on the outside of the building. The pavers were not designed and not intended for a ladder truck to go through there. It was more or less designed for a light duty truck and they could park on either side of the parking area of the loop in front of building or on the backside on the south side of the building. So it's still very accessible. In addition there is a power line that runs right along the property line, and both of our fire department representatives felt that it would potentially hinder because of how close the property line is to the building. With all those pieces in place, and talking to the property owner, their feeling was that they would rather not include them in the final scope of the project, and so what we determined at the time was that the best way to remove them from the scope would be to make a Planned Unit Development amendment. Liaison Markon said that the PUD guides the entire project and the site plan and the landscaping plan that are on file, show the pavers as part of the plan. That was what was recorded as part of the PUD. And so in order to remove them from the scope, it is best to do an amendment and have new plans that show that the pavers are no longer part of it. At this point the Planning Commission tonight will hopefully hold a public hearing and make recommendation to the City Council, whether or not you feel the pavers are necessary or not. Based on that, the recommendation will go to the, most likely, the next City Council meeting on October 14th and the City Council will make a final determination. If the City Council votes to adopt the amendment and the new plans, then the pavers would not have to be installed. If the City Council votes to deny the amendment, then the pavers would have to be installed by the building owner or a contractor. Our staff recommendation, based on the recommendation from the fire department at this point, would recommend that you approve the amendment. From the staff perspective, we concur that the pavers are not necessary for the project and they could be removed, and so we

feel this amendment is just fine. With that Liaison Markon said he would be happy to take any questions and then we can open the public hearing. The representative from the property owner is here and he may like to speak as well. Chair Larkin asked if there are any questions for Liaison Markon? Gerich asked if access for emergency vehicles was the only City concern? Liaison Markon asked Gerich if that we wouldn't have that capability anymore, or that was the main reason for including the pavers in the first place? Gerich answered both. Liaison Markon said from what he heard, "yes". He said he thinks that a Commission member mentioned from our last Zoom Planning Commission meeting that the previous fire chief recommended it, that a vehicle could make it through there, but then fast forward to now, the fire chief from Roseville said from a tactical perspective, he didn't feel like we would actually do that, so with his recommendation we probably won't do it. On the north side of the parking lot turn-around there is a surmountable curb and that is part of the scope so vehicles could go across, but on the south side of the building there isn't a likewise surmountable curb because the parking lot that is behind the property is owned by the Good Acre, so we couldn't force them to redo their PUD and Liaison Markon doesn't know what the discussions were at the time, so he is not sure if they were putting a curb in there or not. So the fact is that you really can't drive all the way through, it isn't know if they had a plan for that with the vehicles or not, and based on the recommendation from Chief O'Neill, we probably wouldn't take a vehicle back there anyway to this point. Gerich asked that so it was put there basically on recommendation a few years ago and with the review from the Roseville Fire Chief, it doesn't seem necessary? Liaison Markon answered "yes". Chair Larkin asked if there were any more questions for Liaison Markon. With that, Larkin said he will open the meeting up to the public. The public is free to say something, if not you don't need to, it is just to let you know that the next phase is to close the public meeting and we will internally discuss this. At that time, if there are questions, we can ask you at that time. Liaison Markon asked members of the public to use the microphone and introduce themselves. Larkin said that he just wanted to make certain that there is no one in the public that wants to make a statement at this time. So with it clear that no one in the public would want to speak, Larkin closed the public meeting. John Otteson, one of the partners that owns the building, approached the microphone and podium and announced himself. Larkin asked for any questions from the commission to John Otteson. Hearing none, Larkin said that really the only question he had was just procedural. As he understands it, the two new drawings are now going to substitute for the ones that are already in the PUD and so the current drawings and in the PUD for both landscape and the site plan will be removed and these new plans will be inserted. Liaison Markon said that's correct and he said we have the draft ordinance at the very end of this section for tonight's packet. It's a very simple ordinance. For the PUD in Falcon Heights, our plans and developments are fully written into the City code, so all the development plans we currently have on file are dated October 31, 2018, and so we will be striking the site plan and landscaping plan from that current set of plans and adding the new section that reads subsection "4B" development plans dated September 3, 2020, which will be these two new plans. So those two new plans would guide as far as the site plan and landscaping plan goes and if there any changes to the other plans somewhere down the line, the drainage plan, elevations, those would

need additional amendments if it came up over the years, but with these two plans having the pavers in them, when everything was approved, in order to remove them from the scope we need to adopt the two new plans and adopt it all as an ordinance. Wilson asked Liaison Markon if he could confirm that these new plans are the only change, to the east side of the building? Liaison Markon said "yes" the only change to the October 31, 2018 versions of the plans is that the paver grass notations have been removed. Williams asked what material is in there now (on the east side). The answer from John Otteson was "grass". I am seeing on the drawings the word "seed". John Otteson said the plans now read "sod" or "grass". John Otteson said that he encourages us all to take a tour. Wilson says that he actually did. He ran on that side of the building today. He said he first wants to applaud the developers on the building, it looks beautiful. Really good finishes were put on the building. Wilson said that every time he ran by he thought that it is a really well done building, so thank you for that. When he was running by there, the grass looked good and the French drain looked very nice, but it is very narrow with the power lines there. Wilson said that if he was a fire fighter, he would certainly not want to drive a truck through there, and if the Roseville Fire Chief and the Falcon Heights acting Fire Marshal are fine with the way it is now, he definitely agrees with them. They are the experts. Larkin says all he really needs, if there are no more questions, is someone to put a motion for the Planning Commission, to recommend to the City Council, adoption of the summary ordinance as written in the packet. Wilson says he will motion that the Planning Commission adapts this ordinance as written to the City Council. **With a vote, the Planning Commission unanimously approved recommending adapting the amendment to Chapter 113, as written in the packet, for the next City Council meeting.**

## 2. Amendment to Chapters 54 & 113 regarding residential beekeeping (see Request for Planning Commission Action)

Chair Larkin said the second item on the agenda is the amendment to Chapter 10 and 113 regarding residential beekeeping. And again he will let Liaison Markon introduce the proposed amendment. Liaison Markon says that his is by no means the first time this body has seen this draft ordinance. We discussed it last at the August Planning Commission meeting. In addition to that, where it started the Environment Commission has taken quite a few looks at this, the City Council discussed it at their early September workshop and then last Tuesday the Environment Commission met and recommended approval of the ordinance. A few changes have been made since a month ago when the Planning Commission last saw and it is thanks to the Planning Commission and the City Council brought up a couple questions and points of concern that we looked back at and were able to change so I do thank all of our commissions and the Council for their diligence on these projects, these are really important and I'm glad to we have so many folks take a look at them. So a couple changes have been made since the last meeting. We simplified the flyway barrier provisions. Those I think noted in just about every meeting we discussed where we discussed this ordinance. Folks said what exactly does this mean? So we tried to simplify it so that any property if the hives are being kept within 25 feet of any property line, then we would need to have a fence or a flyway barrier of some sort. It has to

enclose the entire rear and side yard. Before it said something about extending 10 feet then he had some funky triangles you could think about. Williams asked if 10-foot measurement is out now. Liaison Markon answered correct, 10 feet is out and now if the bees are kept within 25 feet of a property line then you would have to fence it in. And again the flyway barrier, the reason for that is to keep the bees on a more vertical path. If you didn't have that, bees would tend to just fly horizontally and just go across a back yard, but with the flyway barrier they're much more likely to go up and over and then back into their hive from a vertical standpoint. So the flyway barrier is important especially if they're close to property lines so we wanted to simplify that for folks so that is easier to understand what we would be asking of them and what will be required of them. And then the other piece we tried to simplify was the notification and permitting. So what the proposed ordinance reads at the moment is that the City would be responsible for notifying nearby property owners that a beekeeping permit has been applied for. And then similar to what we do for PUDs, the example we just had, every property owner within 350 feet was notified with the example letter that he just had here tonight that we were having a public hearing tonight. The City would be responsible for something similar to the residents within 100 feet of a property that has applied for a beekeeping permit. So those folks would have 14 days to respond. So, the process would be that the City receives an application we go through the site plan we understand that this is approved at the moment. The City would send out a form letter that we would come up with that would say that a resident at 123 Main Street has applied for a beekeeping permit. City code reads that as a nearby property owner we are notifying you, and if you have a medically documented allergy to bees, you have to submit that to the City within 14 days, and then the City could deny a beekeeping permit for someone who lives nearby with an allergy. We left it as that the City "could" deny the permit. It is not an automatic denial, but we will take the information and then discuss with the nearby property owner what the conditions may be, or how heightened their concern may be for bees. We put that in there that the City would be responsible for maintaining all that information, as opposed to before in the original proposed ordinance, it said that the applicant would be responsible for some of that. And, as we looked at it and discussed it more, you know this is something that would be better handled by the City for various reasons. So, the City will take that on. In addition to that, I think it was in the Planning Commission where this question first came up, is that if a property owner moves, or leaves, or someone new comes in, or if someone who is currently living there discovers that they, or perhaps their child, has an allergy, what do we do at that point. So that in "E6" in the ordinance is that if someone, an owner-occupant and within 100 feet is found to have a medically documented allergy to bees after the permit has been issued, they can submit that allergy documentation to the City at any point and then we will take it under advisement whether or not to deny them, using the same process as is the initial permit application, potentially severity or concern, those sorts of thoughts, and then the city administrator, based on that information, could revoke the permit and we would give plenty of time to go over the options and figure out how to shut down their hives if that came up, and we hope that it doesn't of course, but we did want to have that provision in the ordinance if it did. Those are the main changes over the last month. Again the Environmental Commission did recommend it at their meeting a week ago, and

similar to the previous item that we just discussed, if this is recommended as is or with any changes, that would go to the City Council with their first meeting in October. In the later two sections of the ordinance, it does say it that this would be a permitted accessory use. It is in the single-family zone, but then when you look at all the other residential zones it says that whatever is allowed as an accessory for the R-1 is allowed for the R-2 and the R-3 and the R-4 and so and so forth. So we don't need to write it into those individual ones, everything just refers back to this 113-174, the one family district. And then Section 3 of the proposed ordinance notes that, however in the R-4 district that the keeping of chickens and bees is not allowed, only in R-1 and R-2. Larkin says that since we're talking about zoning designations, something that came up in our other subcommittee on vacant properties is when you look at our City master plan we call out PUDs separately on the zoning map, so do we need to denote a PUD separately within the code, or is that already covered under an R-1 or R-2? Liaison Markon answered that typically it would already be covered. Liaison Markon and Chair Larkin had a brief discussion about how the PUD designation applies to the beekeeping ordinance. Larkin said so we don't need to worry about calling them out in this particular case. Liaison Markon said, for example, if the folks at the Hendrickson wanted to start up beekeeping, they would have to apply for another amendment, and it would be added to the PUD as an accessory. Larkin said that the only other thing that he had was on Page 1 under Section 1, it says whereas honeybees are bio indicators of the environment, pollution and pollinators for food crops and other.... he assumes it is supposed to say "native" not "ative"? Larkin asked if there were any other questions about this? Gerich asked if there is a specific reason this did not make it through, or it didn't get brought forward eight years ago? Liaison Markon said that he hasn't looked too extensively at this, and there just aren't too many notes for reasons. His understanding from what he has heard is that there wasn't a lot of "umff" from the Council, and he thinks that there was some concern from some folks about potential allergy reactions. But he doesn't know much beyond that. Gerich says it seems very thorough to start with and clearly a lot of thought was put into it. He was just curious. Liaison Markon answered that we didn't change much of it, and it is 95% of the same stuff. And if you look at other cities that have a beekeeping ordinance, it's very similar, so it's kind of boilerplate. We're by no means the first city to consider something like this. Liaison Markon said that he doesn't have a real good sense for why it didn't move forward eight years ago. Wilson asked who decides, once there is medical documentation, if it's severe enough is that the City Administrator? Liaison Markon answered that it would be, and he would assume they would take under advisement recommendations and consultations from folks at the bee lab or other medical professionals. Wilson says there are a lot of different levels of bee allergies. He said he has a very severe bee allergy but not deadly unless he gets stung three or four times on certain parts of his body which has happened, and he survived, but he just wanted to make sure that if there is somebody couldn't say hey, I have a severe allergy and can't shut this down if it's not something that's really life-threatening. Liaison Markon said certainly "yes" and we would want to take all the levels and all the understanding that we could when making a decision. Wilson said we're lucky that the bee lab is across the street, so that's very helpful. As long as you're going to go to the experts for all of that, thank you. Williams asked what would qualify as an

existing flyway barrier. Liaison Markon answered fences, fences are the main thing. Williams asked if they have large gaps between the fence slats? Liaison Markon said we didn't get into specifics with that. Williams asked if it is a situational type thing. Liaison Markon said "yes". We want to make certain that the bees are going where they are supposed to be going without being too restrictive. Trying not to be too onerous for folks. Because we're also allowing any existing fences would count. This came up a lot in the Northhome neighborhood where there's a lot of little backyards a lot of fences that are already put in place, and if someone is applying for bees but they don't own the fences on either side of them if they are maintained by the other property owners, we wouldn't want to put the burden on them to take them down or put fences on top of fences because we don't like that either. So we are trying to grandfather. Williams asked so case-by-case? Liaison Markon said it would be. Williams asked also if someone is going to go there and look? Liaison Markon answered "yes" we are requiring a site plan to show what is going to be there. Chair Larkin I think based on our previous discussion and what we have now, this is well done. I think it's covered a lot of the concerns that were raised earlier and it's been clarified Larkin said he really doesn't have any other comments. He really thinks it is ready to go. Wilson said he thought that the Environmental Commission did a really good job as well. Larkin asked if someone wants to put forward a motion to recommend adapting of the residential beekeeping ordinance to the City Council. Gerich said he would make the motion to recommend to the Council to adopt the ordinance. Wilson gave a second. **By unanimous vote, The Planning Commission is recommending to the City Council adaption of the ordinance.** Liaison Markon said he doubts that folks will be applying this ordinance tomorrow, so he thinks this is an early 2021, getting everything ready to go. Larkin said he really didn't open up the public hearing but nobody was in the room, only those listening or watching at home, but he can open it now and then close it because there's nobody here. Liaison Markon said he did call in to the office this afternoon and his colleges said that they did not have any public comments that they received in the last couple days, before Friday. Larkin said as a note their wasn't any sent in by e-mail or phone call also. Larkin says that concludes both public hearings then.

## E. INFORMATION AND ANNOUNCEMENTS

### 1. Vacant properties update

Chair Larkin said the next part of the agenda is just information and announcements. The first topic is on vacant property. Larkin said we have a subcommittee formed of himself, Tom Williams and Scott Phillips that has met three times so far. Larkin began the topic by summarizing the subcommittee discussions that included the use of the Hopkins Minnesota ordinance for vacant properties as reference. Following Larkin's description of the proposed vacant property ordinance, questions and a discussion between commission members took place. After the discussion, Chair Larkin said that the committee would likely be discussing the topic in greater detail during future meetings.

### 2. Garden ordinance update



Chair Larkin said the next topic on the agenda is the garden ordinance update. Larkin deferred to Liaison Markon to provide an update on the ordinance. Following Liaison Markon's description of the update of the residential and vegetable garden ordinance, questions and a discussion between commission members took place. After the discussion, Liaison Markon said that he would suspect that within the next couple months there would be a draft ordinance and a public hearing as the next steps in the ordinance process.

#### Dino's Drive-Through

Chair Larkin said the last topic would be Dino's proposed drive-through. Liaison Markon said he reached out to the Dino's property owners a couple weeks ago just to let them know that he was leaving Falcon Heights and that he was still holding onto a provisional application and a check from them. He emailed them and he heard back from one of their representatives. What they are proposing at the moment is to move forward with the drive through lane, but no speaker system. Following Liaison Markon's description of the Dino's drive-through proposal, questions and a discussion between commission members took place. After the discussion, Liaison Markon said that he has passed his notes along to Ryan Krzos (interim staff liaison) and he anticipates that they will be in touch soon. Liaison Markon said there will be quite a few changes that will need to be in place, but Dino's said that they want to make this happen.

#### Justin Markon leaving his City position

Chair Larkin asked for any other things we want to bring up. Wilson announced a huge thank you to Staff Liaison Markon for everything. It is a huge loss for Falcon Heights, but we are all very excited for you and your family and your new job. Thank you very much. Liaison Markon said "thank you all very much. I've said it a few times and I'll say it for the last time (since I am leaving), my work with the commissions is truly some of the most enjoyable. I love working on the two things we did tonight, those sorts of really digging deep in the policy and the sausage making process is stuff that I really, really enjoy. The garden committee stuff that I have been able to do the last couple of months has been really enjoyable too, being able to get down in the dirt and looking at this kind of stuff. I will certainly miss these types of meetings. I don't have that where I am going next. Very quickly, we are moving north as of Thursday this week." Liaison Markon says as a formal introduction for Ryan Krzos, he'll be our new liaison for a couple months here. Ryan is with WSB. John (Larkin) and Tom (Williams) I'm sure you will remember him from a couple years ago I as an interim and throughout our comp plan process. Chair Larkin said that with that, we are adjourned.

#### F. ADJOURN

Adjourned by Chair Larkin at 8:20 PM.



**The City That Soars!**

## REQUEST FOR PLANNING COMMISSION ACTION

<b>Meeting Date</b>	October 27, 2020
<b>Agenda Item</b>	Agenda D1
<b>Submitted By</b>	Ryan Krzos, Interim Community Development Coordinator

<b>Item</b>	Amendment to Chapters 54 & 113 regarding residential edible landscaping.
<b>Description</b>	<p>The City Council approved Interim Ordinance 20-04 in May 2020 to allow the City to study gardening in Falcon Heights. Shortly after the adoption of the Interim Ordinance, the City Council directed City Staff to convene a subcommittee of City Commission members to lead the effort in drafting a new Ordinance. The Garden Subcommittee consisted of members from the Environment and Planning Commissions. The subcommittee met five times between July and September to discuss the Ordinance. In late July, staff developed a web survey to gather feedback from community members about their thoughts on gardening in the city. Over the two and a half weeks that the survey was available, 322 people completed the survey.</p> <p>The subcommittee centered discussion around two concepts; residential gardens (gardening by owners or renters within their property), and community gardens (gardening by multiple individuals not residing on the property). The Ordinance drafted by the subcommittee allows residential gardening of edible landscaping as an accessory use in residential and business districts. In general, the parameters for residential gardening of edible landscaping follow those that were established for native landscaping. As such, edible gardens would not be limited in overall area, but would have to follow setback requirements. The Ordinance also states that retail sales of produce from residential gardening of edible landscaping activities would not be allowed.</p> <p>The Subcommittee originally contemplated an allowance for community gardening of edible landscaping which would have been required to follow a number of procedures and requirements. The subcommittee initially considered a neighborhood consent provision, but after consultation from the City Attorney's office, removed that provision on due process grounds. The Subcommittee was also presented an option to allow community gardens as a conditional use. However, the consensus of the subcommittee was that they feel they could not formulate conditions that would universally address all circumstances. Ultimately, the subcommittee decided to remove community gardens altogether from the ordinance, thereby prohibiting the use. It should be noted that existing community gardens would be allow to continue as they do currently with legal nonconforming status.</p>

	<p>The Environment Commission discussed the draft Ordinance at their October 12<sup>th</sup> meeting, and passed a motion to recommend the City Council approve the amendment. The Planning Commission will review the Ordinance at their October 27th meeting and hold a formal public hearing. The Ordinance would come back to the City Council for final approval.</p>
<b>Action(s) Requested</b>	<p>Staff request a Public Hearing on the draft ordinance and a recommendation of approval to the City Council.</p>

**ORDINANCE NO. 20-XX**

**CITY OF FALCON HEIGHTS  
RAMSEY COUNTY, MINNESOTA**

**AN ORDINANCE AMENDING CHAPTERS 54 AND 113  
OF THE FALCON HEIGHTS CITY CODE**

THE CITY COUNCIL OF FALCON HEIGHTS ORDAINS:

**SECTION 1** Chapter 54 – Vegetation is amended as follows. Additions are shown with an underline, and deletions are shown with a ~~strikethrough~~.

***Section 54-38 – Regulations for private property***

- (b) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Edible landscaping* means the intentional planting, caring for, or otherwise cultivating plants that could produce food that is consumed by people. These plants include fruit and nut trees, berry bushes, vegetables, herbs, or edible flowers.

*Native plants* are those grasses (including prairie grasses), sedges (solid, triangular-stemmed plants resembling grasses), rushes, forbs (flowering broadleaf plants), vines, trees and shrubs that are plant species native to the state of Minnesota prior to European settlement.

*Noxious weeds* are annual, biennial, or perennial plants that the Commissioner of Agriculture designated to be injurious to public health, the environment, public roads, crops, livestock, or other property (Minnesota Noxious Weed Law, Minn. Stat. Sec. 18.75-18.91).

*Ornamental plants* means grasses, flowering annual, biennial, and perennial plants, shrubs, trees, and vines that may not be native to Minnesota, but are adapted. Ornamental grasses do not include turfgrasses.

*Turf grass* means commercially available cultured turf grass varieties, including bluegrass, fescue and ryegrass blends, commonly used in regularly cut lawn areas.

*Planned landscape area* means an area where ornamental plants, or native plants are planted pursuant to a plan.

*Rain garden* means a shallow excavated depression (typically no more than 18 inches deep) with loosened sub-soils in which ornamental or native plants that are adapted to moist conditions and have deep roots are planted for the purpose of infiltrating and filtering rain water and reducing storm water runoff. Temporary ponding of water in rain

gardens typically occurs for no more than 48 hours after rainfall assuming no subsequent rainfall.

Residential garden means an area of edible landscaping on a lot that is conducted by the property owners or residents of that lot.

*Restoration area* means an area where native plants are being, or have been, intentionally re-established

*Weeds* are (i) prohibited noxious weeds or (ii) any volunteer plant, except trees and other woody vegetation, which is not customarily or intentionally planted. For the purposes of this definition, weeds do not include dandelions or clover.

(c) Location of restoration areas, ~~and~~ planned landscape areas, and edible landscaping areas.

(1) Setback. A restoration area, ~~or a~~ planned landscape area, or residential garden must provide the following minimum setbacks:

- a. Front lot line, corner side lot line, or rear lot line abutting a street or alley: two feet, and two feet from publicly maintained pavement or sidewalk
- b. Interior side lot line or rear lot line not abutting a street or alley: two feet; provided, however, for the exception in the required side yard or rear yard setback, as described in section 54-38(c)(2).

(2) Mitigations for reductions in side or rear yard setback. A required interior side yard or rear yard (not abutting a street or alley) setback may be reduced to zero feet for a restoration area, planned landscape area, or residential garden if:

- a. A fence at least three feet in height is installed on the lot line adjoining the restoration area, ~~or~~ planned landscape area, or residential garden; or
- b. The restoration area, ~~or~~ planned landscape area, or residential garden abuts:
  1. A restoration area, planned landscape area, or residential garden on any adjoining lot;
  2. A public park or open space;
  3. A wetland, pond, lake or stream;
  4. Natural area; or
- c. The restoration area or planned landscape area is located on slopes equal to, or greater than, three feet horizontal to one foot vertical (3:1).

(d) Maintenance Standards. Every owner of property shall maintain the vegetation growing thereon according to the minimum standards set forth in this subsection:

- (1) The setback area required by section 54-38(c) shall be composed of a soil retention cover such as mulch, regularly mowed turf grasses or groundcovers maintained at six inches or less, native or ornamental plants maintained at ten inches or less, trees or shrubs, or as may be required by the city administrator to protect the soil and aesthetic values on the lot and adjacent property.
- (2) Non-woody vegetation in a planned landscape area shall be cut at least once annually between April 15 and July 15 to a height no greater than 10 inches.
- (3) It is unlawful to plant any tree or shrub within five feet of a property lot line abutting a right-of-way of a public street or alley.
- (4) Property owners shall prune trees and shrubs located on private property so they will not obstruct pedestrian sidewalk traffic, nor obstruct the view of any traffic sign, street, alley, or intersection. Overhanging portions of trees and shrubs must be pruned to maintain a minimum clearance of eight feet over all sidewalks, and 16 feet over all streets.
- (5) Properties shall be free of blight and blighting factors, as described in section 22-19.
- (6) Properties shall be free of public nuisances, as described in section 22-47.
- (7) The city may require the owner or occupant who has planted, or has allowed to be planted, native plants or other vegetation within a drainage or utility easement to remove the native plants or other vegetation from the drainage and utility easement at no expense to the city if the city determines the native plants or vegetation interferes with the utility easement. The city will not be responsible for damage to turfgrass and/or any landscaped areas resulting from public works improvements or snow removal activities within drainage and utility easements.
- (8) Retail sales of produce from edible landscaping activities shall not occur on the property.

**SECTION 2** Subsection 113-174(d) is amended as follows. Additions are shown with an underline, and deletions are shown with a ~~strikethrough~~.

***Section 113-174 – One-family R-1 residential district***

(d) Permitted accessory uses. No accessory structures or use of land shall be permitted except for one or more of the following uses:

- (1) Home occupations meeting the definitions and requirements of section 113-391.
- (2) Private tennis courts, provided no portion of the paved or fenced area is within a required front yard or less than ten feet from a property line.
- (3) One private garage or carport and parking space as regulated in section 113-240.
- (4) Private automobile repair or reconditioning as regulated in section 113-250.

~~(5) Gardening and other horticultural uses where no retail sale of products is conducted on the premises. Planned landscape areas and edible landscape areas, including residential gardens, as defined and regulated in section 54-38.~~

(6) Keeping of domestic pets as required in the Code.

(7) Signs as provided in subsection (g) of this section.

(8) Decorative landscape features and fences as regulated herein.

(9) Accessory buildings other than detached private garages as regulated herein. The design and placement of the accessory buildings must be approved by the planner as being in harmony with the surrounding residential neighborhood.

(10) Buildings temporarily located for purposes of constructing on the premises for a period not to exceed the time necessary for such construction (approved by zoning administrator).

(11) One composting area, or one compost structure as defined in section 113-240(l), of plant material including leaves, grass clippings, plant trimmings, fruits, vegetables and peels, but excluding animal derived materials such as bones, meat scraps and dairy products, not to cover more than 25 square feet in area and five feet in height in the rear yard. A larger composting area requires a permitted accessory use permit. A compost area must be set back at least five feet from any property line. The compost shall be maintained according to accepted composting practices for the residential yard.

(12) Garage and residential boutique sales limited to four sales each calendar year per residential unit, not to exceed ten consecutive days or two consecutive weekends each.

(13) Keeping of chickens as regulated by the Code.

**SECTION 3** Subsection 113-177(e) is amended as follows. Additions are shown with an underline, and deletions are shown with a ~~strikethrough~~.

***Section 113-177 – B-1 neighborhood convenience district***

(e) Permitted accessory uses. The following uses shall be permitted accessory uses:

(1) Off-street parking and loading, signs, fences, and decorative landscape features as regulated herein.

(2) Temporary construction buildings (approved by zoning administrator).

(3) Accessory structures other than private garages as regulated herein. The design, placement, screening and size of the accessory buildings must be approved by the city council as being in harmony with the surrounding business district and neighborhood after review and recommendation by the planning commission.

(4) Essential service structures, provided no building shall be located within 30 feet of an abutting lot in an R district. The placement of the essential service structure must be approved by the city council as being in harmony with the surrounding business district and neighborhood after review and recommendation by the planning commission.

(5) Public telephone booths or drive-up service. The placement of the telephone booth or drive-up service must be approved by the city council as being in harmony with the surrounding business district and neighborhood after review and recommendation by the planning commission

(6) Planned landscape areas and edible landscape areas, including residential gardens, as defined and regulated in section 54-38.

~~(67)~~ Other as deemed to be normal, customary, and incidental by the zoning administrator.

**SECTION 4** Ordinance 20-04 is repealed in its entirety.

**SECTION 5** This ordinance shall be effective upon its passage and a summary published in the official newspaper.

**ADOPTED** this X day of XX, 2020, by the City Council of the City of Falcon Heights, Minnesota.

Moved by:

Approved by: \_\_\_\_\_

Randall Gustafson  
Mayor

GUSTAFSON  
LEEHY  
MIAZGA  
WEHYEE  
ANDREWS

\_\_\_\_ In Favor  
\_\_\_\_ Against

Attested by: \_\_\_\_\_

Sack Thongvanh  
City Administrator