

City of Falcon Heights
Planning Commission
City Hall
2077 W. Larpenteur Avenue

Tuesday, July 25, 2006
7:00 p.m.

A G E N D A

- A. CALL TO ORDER: 7:00 p.m.
- B. ROLL CALL: DeLeo____ Lukermann____ Lageson____
Mercer-Taylor____ Rodich____ Ryan____
Tracy____ Council Liaison Kuettel____
City Administrator Worthington____ Staff Liaison Jones____
City Attorney____
- C. APPROVAL OF MINUTES: May 23, 2006
- D. PUBLIC HEARING: Setback variance at 1564 Burton Street
- E. AGENDA ITEM 1: Discussion of variance application for 1729 Snelling and recommendation to City Council
- F. PUBLIC HEARING: Recodification of the City's Zoning Code
- G: AGENDA ITEM 2: Discussion of zoning recodification and recommendation to City Council
- H: INFORMATION AND ANNOUNCEMENTS
- I. ADJOURN



CITY OF
FALCON HEIGHTS

2077 W. Larpentour Avenue
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MEMORANDUM

To: Members of the Planning Commission
CC: Justin Miller, City Administrator;
Laura Kuettel, Council Liaison
From: Deb Jones, Staff Liaison *DJ*
Subject: **Planning Commission Meeting on July 25, 2006**
Date: July 17, 2006

There are two major items (and two public hearings) on your agenda for next Tuesday.

First, there is a request for a setback variance at 1564 Burton. The details are in the packet. This property is at the south end of that double frontage block between Coffman and Burton in University Grove. Several years ago the Planning Commission considered a similar variance request for the residence at the north end of the block. As always, this agenda item will begin with a public hearing.

The second item on your agenda is a public hearing (required by statute) on the draft zoning chapter in the new code. Although we did not have a quorum last month, those who were here began discussion of the chapter. You will probably need to have additional discussion after the hearing. We hope you may be ready for a recommendation to the Council this month. Please see the staff report for additional information and a response from Andrea Poehler on the variance code question that came up last month.

Packet notes:

- There are no minutes in this packet because the June meeting was canceled due to lack of business and no quorum. The May minutes are up for approval; you received those last month.
- We did not attach a copy of the draft zoning chapter because you already have that also.
- I am holding the final portion of the drive-through packets for you, but you can always download them from the website. The Council is sending this matter back to you with a fairly clear-cut sense of the code changes they expect. This will be reported during "Information and Announcements."

As I informed you via email, a section of the City website has been set up to give you online access to your packet documents.

http://falconheights.govoffice2.com/index.asp?Type=B_LIST&SEC={745191BF-90F2-4385-AC3B-58F8FA0D2987}

This section is temporarily private. You can log on using the following:

Username: plancomm

Password: variance

It is vital that we have a quorum present at the meeting, please let Staff know if you are unable to attend. I am out of town until the morning of the 25th, so if you have any questions please direct them to the City Administrator.



ITEM: Variance request for 1564 Burton Street - Todd Hegg, owner/leaseholder.

SUBMITTED BY: Deborah Jones, Zoning and Planning Director

REVIEWED BY: Justin Miller, City Administrator
Roger Knutson, City Attorney

EXPLANATION:

Summary:

1564 Burton Street (PIN# 202923120079) is located at the south end of the narrow block between Coffman and Burton, Folwell and Hoyt in the University Grove neighborhood. There is no alley. The property at 1564 Burton is one of only three residential lots in the city with three street frontages, in this case, front, south side and rear. The dwelling, a modern frame house originally designed by Ralph Rapson, is set at an angle on the lot, with a tuck-under garage facing Burton. At some time in the past the original lot was significantly reduced in area to allow the extension of Coffman Street from Folwell to Hoyt. The principle structure encroaches into setback on both the Burton (west/front) and Coffman (east/rear) sides. The owner is presently building an addition onto the north side of the house where there is a limited amount of buildable space.

The applicant wishes to build an enclosed three-season porch, 14 feet wide and 10 feet deep, on the front of the house cantilevered over an existing patio adjacent to the lower-level front entry. The proposed porch would encroach an additional 5.5 feet into the required front yard beyond the existing encroachment of 8 feet at the southwest corner of the house. It should be noted that the area of the encroachment is already occupied by the patio, a significant architectural feature. The owner believes that the porch was part of the original design of the house, although it was never built. The existence of a sliding glass door opening from the living room on the upper level directly over the patio appears to support this claim.

The applicant cites the following reasons for the variance application:

- The three street frontages and angled location of the house preclude almost every option for building a conforming addition onto the house.
- The proposed porch, sited over the existing patio, would not appreciably extend the effective footprint or impervious land area of the house.
- The porch was part of the original Ralph Rapson design for the home and will fit in esthetically with the property and the neighborhood.
- The upper level sliding door presents a significant safety hazard for the family.

Analysis:

a. That the granting of the variance will not be detrimental to the public interest.

Staff finds that the granting of this variance will not be detrimental to the public interest.

b. That the granting of the variance will not substantially diminish or impair property values or improvements in the area.

Staff finds that the granting of this variance will not substantially diminish or impair property values.

c. That the granting of the variance is necessary for the preservation and enjoyment of substantial property rights.

Staff finds that the granting of this variance, while not the only solution for the preservation and enjoyment of substantial property rights, is a reasonable request with minimal impact.

d. That the variance will not impair an adequate supply of light and air to adjacent property.

Staff finds that the variance will not impair an adequate supply of light and air to adjacent properties.

e. That the variance will not impair the orderly use of the public streets;

Staff finds that the variance will not impair the orderly use of the public streets.

f. That the variance will not increase the danger of fire or endanger the public safety;

Staff finds that the variance will not increase the danger of fire or endanger the public safety.

g. Whether the shape, topographical condition or other similar characteristic of the tract is such as to distinguish it substantially from all of the other properties in the zoning district of which it is a part, or whether a particular hardship, as distinguished from mere inconvenience to the owner, would result if the strict letter of the Chapter were carried out.

This property is nearly unique in Falcon Heights, in that it has streets on three sides, the main structure is set at an angle on the property, and the home was custom-designed by a noted architect. At least half the original back yard was lost in the past to the extension of Coffman Street between Folwell and Hoyt. The options are very limited for building any kind of addition onto this dwelling without encroaching into setback on one side or another or severely compromising the unique architectural design. Strict interpretation of the city code also precludes adding another story on top of the house – even if this could be reconciled with the original architect’s plan and approved by the University and the Grove Association.

Therefore, the owner faces a particular hardship if he wants to make any addition to the structure to accommodate a growing family.

h. Whether the variance is sought principally to increase financial gain to the owner of the property, and to determine whether a substantial hardship to the owner would result from a denial of the variance.

Staff finds that no material or financial gain will occur in the granting of this variance. Staff finds that substantial hardship to the owner would result from a denial, in that original intention of the architect will not be carried out, leaving the house with a hazardous window opening on the upper level.

- i. **Whether the conditions which give rise to the application for the variance arose after the adoption of this Chapter of the Code of the City of Falcon Heights or any amendment thereto which placed the tract in a zoning district different from what it was under the Chapter. In the consideration of this item, the City shall make diligent inquiry as to all changes in the property and shall refuse to grant the variance if the problem is one that can be solved through a proper application of a conditional use permit or an amendment of the Zoning code. Financial hardship shall not be a basis for the granting of a variance when the owner purchased the property in reliance on a promise that a variance would be granted, and the City shall dismiss the appeal if it shall appear that the property was purchased on such reliance.**

Not applicable.

Staff Recommendation:

Staff recommends approval of the variance for the following reasons:

1. This property is exceptional (and almost unique) in having three street frontages and an angled principal structure.
2. The proposed variance would maintain and enhance the quality, value, safety and architectural integrity of the home. The original plans provided for a similar porch.
3. The effective encroachment would be minimal because the proposed addition is sited over the existing patio entry with high retaining walls on two sides.

Attachments:

- Variance application with attached letter
- Site Plan
- Concept drawing
- Photographs of existing entry
- Aerial photograph (2003)
- Letter to adjacent property owners with legal notice
- Letter of comment from neighbor

Action Requested:

1. Host public hearing on this variance with discussion following.
2. Make recommendation to the City Council.



**City of Falcon Heights
Planning Application**

JUN 30 2006

Action Requested By:

Name of Property Owner TODD HEGG

Phone (h) 651-603-6923 (w) 612-481-9931

Address of Property Owner 1564 BURTON ST.

Name of Applicant (if different) _____

Address _____ Phone _____

Property Involved:

Address 1564 BURTON ST.

Legal Description _____

Property Identification Number (PIN) _____

Present Use of Property (check one):

- Single Family Dwelling
- Duplex/Two Family Dwelling
- Multi Family Complex
- Business/Commercial
- Government/Institutional
- Vacant Land

Action Requested (NON-REFUNDABLE):

- Variance (\$100.00)
- Conditional Use Permit (\$165.00)
- Rezoning (\$500.00)
- Lot Split (\$250.00)
- Site Plan Review (\$100.00)
- Other (Please Specify) _____

Brief Summary of Request (applicant may submit letter to Planning Commission with details of request):

SEE ATTACHED LETTER

I certify that all statements on this application are true and correct:

Signature of Property Owner (required)

Signature of Applicant (if applicable)

June 29, 2006

JUN 30 2006

This letter pertains to the property located 1564 Burton Street, Falcon Heights, MN. The necessity for a variance is created by the property being situated on a corner lot as well as the structure not being perpendicular to the lot lines. A hardship occurs because my property technically has two front yards which results in two separate setback requirements. The proposed 3-season porch would not project further than the existing footprint of a cinder block retaining wall that forms the front entry. Ironically, in the initial drawings for this property by the architect Ralph Rapson, it included a porch on top of the cinder block wall. I believe had this home not had budget constraints at the time it was built, this porch would exist today.

The creation of the porch will offer protection from the elements for my family which includes two small children. The safety issue of the existing sliding door, which this porch will replace, has always been a concern because a child could fall through the screen onto the pavement below. As a result, we don't feel comfortable leaving the patio door open. The new porch, however, will be constructed with inoperable glass panels at the floor level, eliminating the concern of a fall.

It is very important to me that any structural and aesthetic change to my home will look like it has always been there. Transform Tree has had extensive experience in the remodel and renovation of numerous residences in the neighborhood. Having seen their work throughout my neighborhood, one of the most important reasons I selected this company was their ability to retain the design aesthetic inherent in the architect's original vision.

The primary purpose of the proposed addition would be to make my home more useable as well as increase its value and enhance the neighborhood aesthetically. This addition would not have a detrimental affect with regard to the balance of space between houses and I firmly believe it will retain the spirit and intent of the existing ordinances.

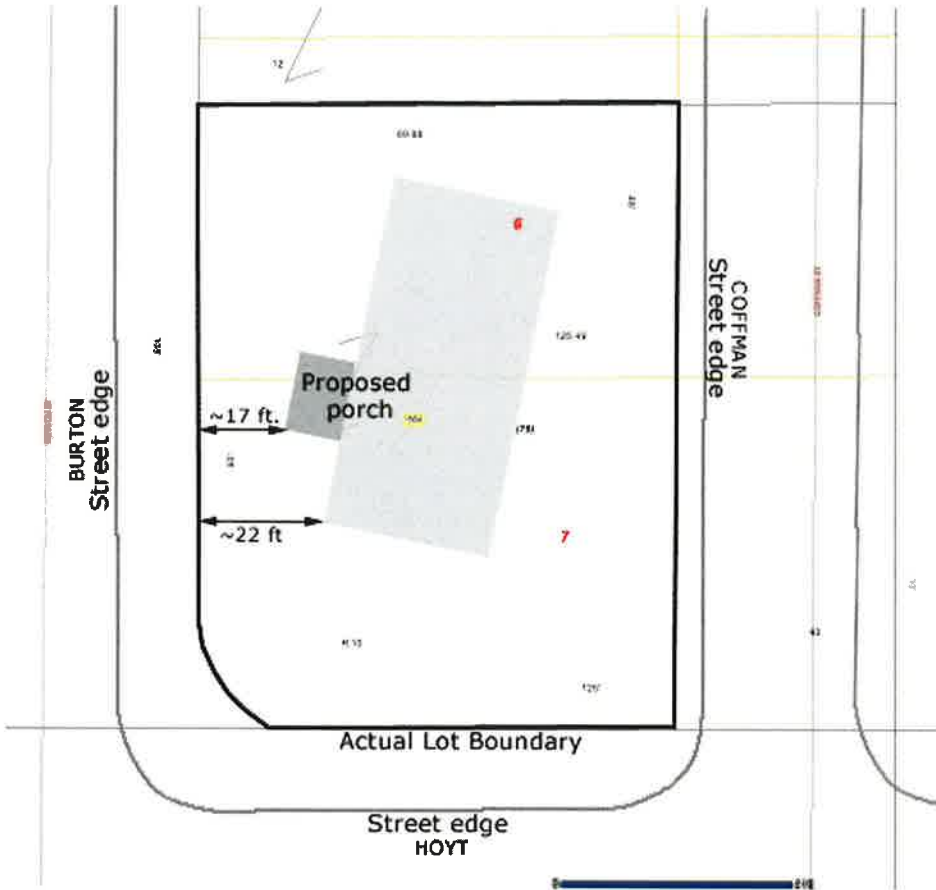
Sincerely,

A handwritten signature in black ink, appearing to be 'M. J. [unclear]', written over a horizontal line.

JUN 30 2008

That part of Lots 6 and 7, Block 6, Auditor's Subdivision No. 71, Ramsey County, Minnesota, which lies Westerly of the Easterly 40.00 feet of said Lots 6 and 7 (being the right of way of Coffman Street) and Southerly of the South line of the North 12.00 feet of said Lot 6, except that part of the above-described property lying Southeasterly of the arc of a circle concave to the Northwest having a radius of 10.00 feet, the West line of said Coffman Street and the North line of Hoyt Avenue are the tangents to the arc of said circle.

Setback Variance Application: 1564 Burton
July, 2006
Site Plan Sketch



City of Falcon Heights
7/14/06

1564 Burton



DISCLAIMER: This map is neither a legally recorded map nor a survey and is not intended to be used as one. This map is a compilation of records, information and data located in various city, county, state and federal offices and other sources regarding the area shown, and is to be used for reference purposes only.
SOURCES: Ramsey County (May 4, 2006), The Lawrence Group; May 4, 2006 for County parcel and property records data; May 2006 for commercial and residential

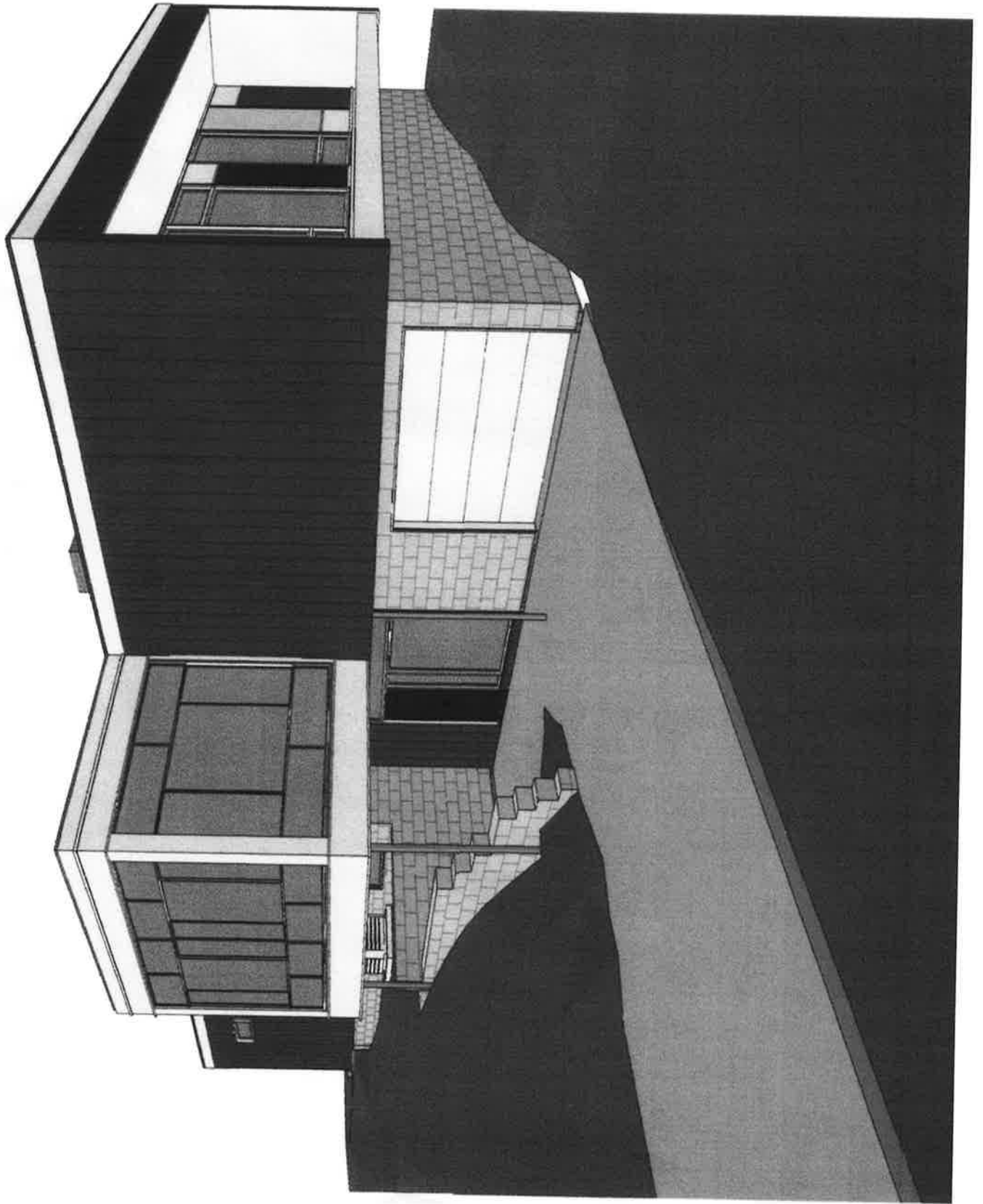
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CITY OF
FALCON HEIGHTS

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July 10, 2006

Dear Property Owner:

The owner of 1564 Burton St., Falcon Heights, has requested a variance from city code in order to erect a porch addition to the front of the home, cantilevered over an existing patio. The city zoning code requires a thirty-foot front yard setback from the property line. The existing house encroaches into this required setback by approximately 8 feet at the closest corner. The proposed porch would extend approximately 5 additional feet into the required front setback. A copy of the site plan is enclosed.

A public hearing on the variance will be held before the Falcon Heights Planning Commission at the following place and time:

Tuesday, July 25, 2006
7:00 p.m.
City Hall Council Chambers

The legal notice of the hearing is enclosed.

Please call 651/792-7613 if you require further information. If you are unable to attend the hearing, you may also send written comments to me by mail at City Hall or electronically to djones@ci.falcon-heights.mn.us.

Sincerely,

Deborah Jones
Zoning and Planning Director



CITY OF FALCON HEIGHTS, MINNESOTA

PUBLIC HEARING NOTICE

NOTICE IS HEREBY GIVEN, that the Falcon Heights Planning Commission will meet on July 25, 2006, at approximately 7:00 p.m. at Falcon Heights City Hall, 2077 Larpenteur Avenue West, Falcon Heights, Minnesota 55113, to consider a setback variance to construct an attached three season porch for property located at 1564 Burton Street, Falcon Heights, Minnesota, legally described as:

Auditor's Subdivision No. 71, Subj To St The Fol Ex N 12 Ft Lot And All of Lot 7, Blk 6, Ramsey County, Minnesota. (PIN No. 20.29.23.12.0079)

All persons who desire to speak on this issue are encouraged to attend and will be given an opportunity to be heard at this meeting. Additional information can be obtained by contacting the City of Falcon Heights at (651) 792-7600.

Dated: July 6, 2006.

Justin Miller, City Administrator/Clerk
City of Falcon Heights, Minnesota

From: Helen B. Foster [helen.foster@comcast.net]
Sent: Friday, July 14, 2006 3:31 PM
To: Deb Jones
Subject: addition to 1564 Burton Str.

Dear Deb,

When my husband, Fred Cooper, and I wanted to add onto our home just down the street from 1564 Burton, you were a great help in getting us through all the legal hurdles. Our home is 2190 Folwell Ave., also in University Grove, and at the opposite end of the four-house block with 1564 Burton at the other end. As you know, our particular block does not conform to property patterns in the rest of the Grove. The addition of a proposed, cantilevered porch at 1564 Burton in no way would interfere with anyone else's property as it faces right onto the street and does not protrude onto the sidewalk. As a matter of fact, the plan to have it overhang the existing patio seems a creative addition quite in line with the modern architectural wonders in that area. My husband and I strongly support that a variance be given to the owners for this addition.

Sincerely,
Helen B. Foster
2190 Folwell Ave
Falcon Heights, MN 55108

Planning Commission
7/25/06
Item 2

ITEM: **Public Hearing on Chapter 113 (Zoning) of draft Falcon Heights City Code**

SUBMITTED BY: **Deborah Jones, Planning and Zoning Coordinator**

REVIEWED BY: **Justin Miller, City Administrator**
 Roger Knutson, City Attorney

Summary:

Municipal Code Corporation has submitted for the City's review the draft of the updated Falcon Heights City Code. The City Council is in the process of reviewing all sections of the draft. They will consider the zoning chapter after the Planning Commission has made its recommendation, following the hearing required by state law. The hearing is scheduled for the upcoming regular meeting of the Planning Commission on July 25, 2006.

Process:

Last month you were given the draft of Chapter 113, the new zoning chapter. In workshop, the commissioners who were present began discussion of the draft. You may continue your discussion of the chapter after the public hearing is closed. Andrea Poehler from the City Attorney's office will again be present if you have questions or requests for additional information before voting on a recommendation to the Council. Your recommendation may include changes to the draft.

The draft chapters, though substantially reorganized, contain no substantive or policy changes from our current code except those necessary to bring our code into line with State Law. Recent ordinances have been incorporated into the text.

If you have not already done so, staff recommends that you read through the draft with your copy of the existing City Code at hand for comparison. Please note any areas that you would like to bring up for question or discussion, and feel free to write directly on your copy of the draft. We encourage you to email questions directly to Ms Poehler, so she can prepare responses before the meeting. Please copy the message to Justin Miller, City Administrator, and to me (email addresses below).

The draft looks very different from the text we are all used to, so you may find the following points helpful:

- Each section is annotated with a reference to the existing code or ordinance – very helpful for comparing old and new. Look for this in parentheses at the end of each section.
- Each change is explained in the footnotes.

At the request of commissioners present last month Ms Poehler has provided sample text of variance ordinance in other cities for your consideration (attached).

Because paper copies of the chapter were distributed in June, the chapter is not attached to this report. If you need to print additional copies, Chapter 113 is also available on the City website in PDF form. Please do not hesitate to contact Staff if you have any questions.

Next steps:

A public hearing before the Council on the whole new code will be required before the new code can be adopted. That hearing is not yet scheduled; it would take place in August or September. According to this timetable, the vote for approval would take place in September.

ATTACHMENTS:

- Sample variance wording

ACTION REQUESTED:

1. Hold hearing to receive comment from the public on the proposed zoning chapter
2. Continue review and discussion of the draft zoning chapter
3. Make a formal recommendation to the City Council.

Contact Information:

Andrea McDowell Poehler at Campbell Knutson	apoehler@ck-law.com
Justin Miller, City Administrator	justin.miller@ci.falcon-heights.mn.us
Deb Jones, Commission Staff Liaison	djones@ci.falcon-heights.mn.us

DEFINITIONS

UNDUE HARDSHIP: The same as that term is defined in Minnesota statutes chapter 462.357, as may be amended, meaning that the property in question cannot be put to a reasonable use if used under the conditions allowed by this title, the plight of the landowner is due to circumstances unique to the property not caused by the landowner and a variance, if granted, shall not alter the character of the locality. Economic considerations alone shall not constitute an undue hardship if a reasonable use of the property exists under the terms of this title. Undue hardship may also include inadequate access to direct sunlight for solar energy systems.

VARIANCE: A modification of or variation from the provisions of this Title consistent with the State enabling statute for municipalities, as applied to a specific property and granted pursuant to the standards and procedures of this Title, except that a variance shall not be used for modification of the allowable uses within a district and shall not allow uses that are prohibited.

PURPOSE:

The purpose of this Chapter is to provide for deviations from the literal provisions of this Title in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of this Title.

REVIEW CRITERIA:

The Board of Appeals shall not approve any variance request unless they find failure to grant the variance will result in undue hardship on the applicant, and, as may be applicable, all of the following criteria have been met:

- A. That because of the particular physical surroundings, shape, or topographical conditions of the specific parcel of land involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
- B. That the conditions upon which an application for a variance is based are unique to the parcel of land for which the variance is sought and are not applicable, generally, to other property within the same zoning classification.

- C. That the purpose of the variance is not based exclusively upon a financial hardship, or a desire to increase the value or income potential of the parcel of land.
- D. That the alleged difficulty or hardship is caused by this Title and has not been created by any persons having an interest in the parcel of land and is not a self-created hardship.
- E. That the granting of the variance will not be detrimental to the public welfare or injurious to other land or improvements in the neighborhood in which the parcel of land is located.
- F. That the proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety.
- G. That the requested variance is the minimum action required to eliminate the hardship.
- H. Does not involve a use which is not allowed within the respective zoning district.

EXPIRATION:

Unless the Board specifically approves a different time when action is officially taken on the request, approvals which have been issued under the provisions of this Chapter shall expire without further action by the Planning Commission or the Board, unless the applicant commences the authorized use or improvement within one year of the date the variance is issued; or, unless before the expiration of the one year period; the applicant shall apply for an extension thereof by completing and submitting a request for extension, including the renewal fee as established by City Council resolution. The request for extension shall state facts showing a good faith attempt to complete or utilize the approval permitted in the variance. A request for an extension not exceeding one year shall be subject to the review and approval of the Zoning Administrator. Should a second extension of time or any extension of time longer than one year be requested by the applicant, it shall be presented to the Planning Commission for a recommendation and to the Board for a decision.