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TO: City Council

FROM: Department of Planning and Housing

DATE: January 4, 2019

SUBJECT: 4415 Lincoln Way – Request to allow for 6-foot fence in front yard

BACKGROUND:

Ben Jensen, on behalf of the property owner of 4415 Lincoln Way, is requesting a text amendment to allow six-foot fences in front yard setbacks. The request is within an email sent to City Council dated November 28, 2018 concerning the fencing enclosing an amenity space in front of the building along Lincoln Way. The request would allow fences over four feet in height to be located in front yards, the area between the building and the public right of way. The intent of the request is to find a way for a fence to be installed in the front yard of 4415 Lincoln Way to provide enhanced security for an existing hot tub. The four-foot fence is approximately 11 feet from the sidewalk currently.

Fence standards for the front yard addresses both aesthetics and safety. The intent is for clear visibility along streets, sidewalks, driveways, and intersections and to not wall off property from adjacent properties. The Zoning Ordinance includes fence height standards for all zoning districts, except industrial. Section 29.408(2) prohibits fences over four feet in height in front setbacks and yards. A front yard is any area between a building and the street, while a setback is defined minimum distance, typically 25 feet. Fences are allowed to be six feet high within side and rear setbacks and up to eight feet high when located outside of side and rear setbacks.

The development of 4415 North Dakota Avenue was revised multiple times during construction. The initial plan approved on September 27, 2017 did not include a hot tube amenity area that is currently in question. The second site plan was approved on October 13, 2017 showing an amenity area including a hot tub in the northeast corner of the parking lot, away from the building and front yards. The third and final site plan was approved on March 6, 2018. This March 2018 site plan showed the hot tub and patio at its current location, the southeast corner of the building outside of the front yard setback as required by code. Prior to the March approval, staff corresponded with the applicant multiple times to explain the allowances for amenities and fencing within front yards compared to areas not located in a front yard. In November 2017 and June 2018 it was explained in emails from staff that fencing would have to comply with the height requirements of the Zoning Ordinance and that a six-foot-tall fence is not permitted in the front yard setback. Additionally, a six-foot fence is not a required safety element of the Building Code for a hot tub area.

STAFF COMMENT:

The request to consider a fence height change is potentially a significant change in how the City permits fences and allows for improvements within front yards. Staff does not believe a fence exception related to enclosures or amenity space is likely justifiable from general front yard standards.

Should the City Council determine it is appropriate to proceed with a text amendment, staff would evaluate the appropriateness of fence heights in the front yards of all zoning districts unless specified by City Council to only evaluate it in specific zoning districts. Although there are no specific front fence design standards or fence permits currently, a proposed change may have to address these issues along with changes to height and location standards. A text amendment would need to take in to account unintended consequences of potentially fencing in front yards, obscuring site vision triangles, and potential visual impacts citywide.