



MEMORANDUM

DATE: January 17, 2023

TO: Honorable Mayor and City Councilmembers
Dave Perrault, City Administrator

FROM: Jessica Jagoe, Community Development Director

SUBJECT: **Planning Case 22-025 – Concept Plan Review**
Kerri Seemann – Home Occupation Ordinance Amendment

Budgeted Amount:	Actual Amount:	Funding Source:
N/A	N/A	N/A

Council Should Consider

The Council should consider a request for a Concept Plan Review, submitted by Kerri Seemann of 1947 County Road D West (“Applicant”). The request is for an ordinance amendment to the city code for a Class I or Class II Home Occupation, which would allow exterior evidence of a home-based business. The Applicant is seeking feedback from the City Council on proposed ordinance amendments in advance of the full submission; a Text Amendment is required for the proposed ordinance amendments and a Conditional Use Permit for a Class II Home Occupation.

The Concept Plan Review process is an opportunity for the City Council to provide comments and questions regarding proposed developments. A concept review is considered advisory and is nonbinding to the City and Applicant (Section 1320.14, Subd 4 of the Zoning Code). No formal action can be taken at a Work Session. A formal application will be subject to the full review process, including a public hearing with Planning Commission and City Council review.

Background

Last fall, the Applicant inquired with the City as to the process to apply for a home occupation at the Subject Property. The Applicant indicated that the home-based business would be a nursery that would include deliveries and/or customers visiting the premise. City staff provided the Applicant with the license application form and City Code Section 1325.06, Subd. 3 – Home Occupations and then reviewed the differences between a Class I and Class II Home Occupation. Based on the initial business description given, city staff advised the Applicant that this would likely fall under a Class II Home Occupation triggering a Conditional Use Permit (CUP).

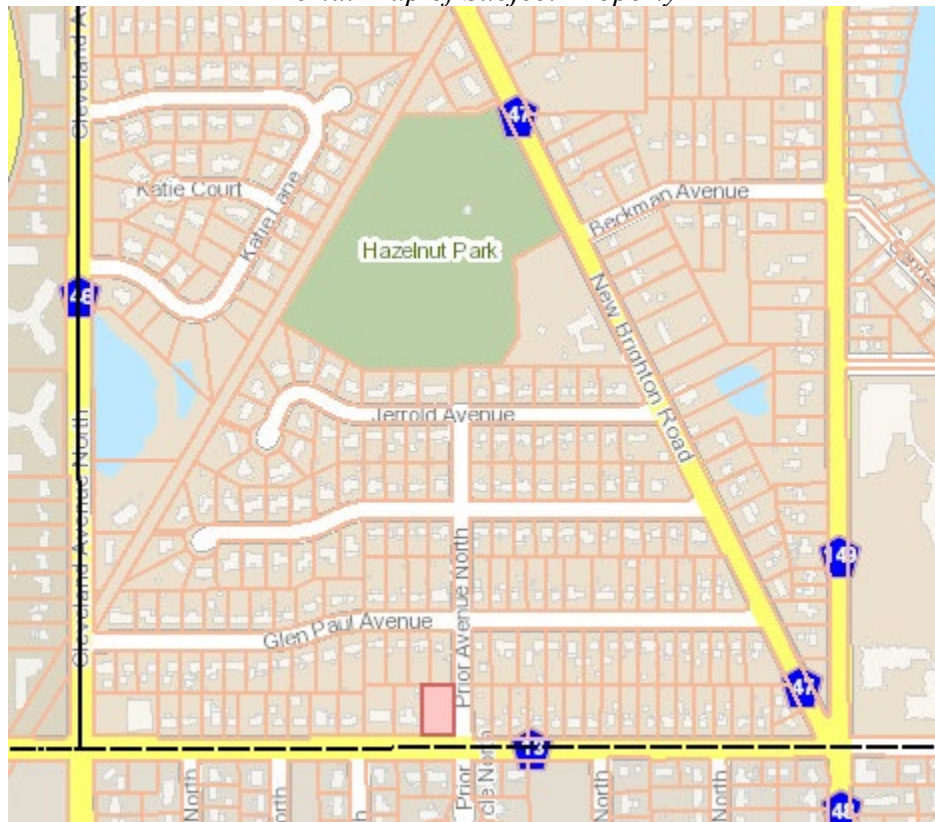
In December, the Applicant submitted a formal land use application to the City for a CUP to allow a Class II Home Occupation at the Subject Property. Upon reviewing the application, city

staff identified that the CUP submission was incomplete and sent a 15.99 letter notifying the Applicant of the missing information. One of the factors for determining that the application was incomplete was due to the following:

- *Based on the description of the proposed home occupation, a city code amendment would also be required due to the proposed home occupation as stated being conducted primarily exterior of the dwelling with the plantings, customer retail space, and outdoor sales area. Currently, the City Code Section 1325.02, Subd. 3 requires that all home occupations shall comply with the following:*
 - i. *It shall not result in traffic, parking, noise, light, fumes and odors to such an extent that it is noticeable that the property is being used for non-residential purposes.*
 - ii. *It shall be conducted entirely within the dwelling.*
 - iii. *There is no exterior evidence of the home occupation.*
 - iv. *It does not require any special entrances to the dwelling.*

Following receipt of the letter, city staff met with the Applicant to review possible next steps for continuing the pursuit of the home occupation as described. For the concept review, the Applicant has submitted language for two proposed ordinance amendments for City Council consideration in advance of a future land use application.

Aerial Map of Subject Property



Discussion

City Code Section 1325.02 Subd. 3, Home Occupations

The Applicant is proposing to operate a nursery on the Subject Property as an accessory home occupation. As described, the majority of the business activities would be conducted from an accessory structure (i.e. detached garage or shed) and/or outside of the residence in the rear yard

of the property. The nursery will feature plant sales of native species that are not commonly sold by local growers or garden centers. The home occupation will be an expansion of the Applicant's existing garden that is used in their own yard. The plants would be grown in plug trays stored on benches so that they are raised off the ground. A typical size of the benches are 4' x 8' or 4' x 12'. The Applicant anticipates starting with two to four benches attributed to the home occupation, but would be seeking flexibility in order to allow for business growth. Retail sales and customer orders would be conducted exclusively online. Customer order pickup would be "by appointment" only. The home occupation may require an occasional delivery of pots, packs, etc., but the Applicant anticipates this would occur only a handful of times per year.

Home Occupations are allowed as an accessory use or conditional use under City Code Section 1325.02, Subd. 3. There are thresholds listed in the ordinance for the home occupation that distinguishes the differences between a Class I or Class II Home Occupation (i.e. employees, deliveries, customers visiting the premise, and size of the home occupation within the dwelling). However, the ordinance specifies that all home occupations (i.e. Class I and Class II) are required to comply with the following four conditions:

1. *It shall not result in traffic, parking, noise, light, fumes and odors to such an extent that it is noticeable that the property is being used for non-residential purposes.*
2. *It shall be conducted entirely within the dwelling.*
3. *There is no exterior evidence of the home occupation.*
4. *It does not require any special entrances to the dwelling.*

For the concept review, the Applicant is seeking feedback from the City Council on considering a code (text) amendment to allow home occupations to be conducted outside of the dwelling (i.e. either an accessory building or not being required to be inside a building – exterior of dwelling) and to allow exterior evidence of the home occupation. The Applicant has provided language for two amendments as part of their submission. City staff would note that if changes were made to the two provisions as suggested it is likely that there will be other provisions within the home occupation section that would be impacted and need to be amended. The degree of changes would be dependent on direction of the City Council for handling of this request. See Attachment D for City Code Section 1325.02, Subd. 3 in its entirety.

Proposed Code Amendments

The Applicant has submitted the following proposed ordinance amendments:

- In section 1325.02 of the city code (Accessory Uses), under Subdivision 3 (Home Occupations), I would like the council to consider moving line A.2. ("It shall be conducted entirely within the dwelling.") to part B (Class I Accessory Home Occupations).

According to the Applicant, this would allow business activity outside the home (in an accessory structure or elsewhere on the property), but only as a Class II Conditional Accessory Home Occupation.

- Also in 1325.02, Subdivision 3, under part C (Class II Conditional Accessory Home Occupations), I would like the council to consider amending line 1.c ("It does not occupy more than thirty-three percent of the floor area of the dwelling") to say "It does not occupy more than thirty-three percent of the floor area of the dwelling or accessory building, or 500 square feet of external property if not visible from the road."

According to the Applicant, this number is somewhat arbitrary, but I thought it might be better to have a set square footage rather than a percentage of the property in case there is a significant difference in lot sizes.

Budget Impact

N/A

Attachments

- A. Location Map
- B. Land Use Application
- C. Applicant Narrative
- D. City Code Section 1325.02