I) CALL TO ORDER

II) ROLL CALL

III) INVOCATION AND PLEDGE OF ALLEGIANCE

IV) APPROVAL OF THE AGENDA

V) SPECIAL ORDERS OF THE DAY

VI) REPORTS

1) Mayors Report
2) Clerks Report
3) Chairs Report
4) Public Works Report
5) Parks & Recreation Advisory Commission

VII) MINUTES OF THE PREVIOUS MEETING

1) June 27, 2019 Regular Planning Commission Meeting Minutes

VIII) PERSONS TO BE HEARD

1) Susitna Rotary – Jack Timm

IX) PUBLIC HEARING (A member of the public may address the Commission for a maximum of five minutes.)

1) RESOLUTION NO 19-PC-08 — a Resolution of the Houston Planning & Zoning Commission forwarding findings of facts and recommendations to the Houston City Council sitting as the City Zoning Board on a land use map amending request for 471 S Kenlar Rd, Capitol Corridors Block 3 Lot 8, from Residential Single Family (R1) to Multi-Family Residential (MFR).

(Clerk’s Note: Initiated by the Planning & Zoning Commission on May 30, 2019. This Resolution was introduced on June 27, 2019.)

Exhibit A: Findings of Fact (Pending)

(Clerk’s Note: Initiated by the Planning & Zoning Commission on May 30, 2019. This Resolution was introduced on June 27, 2019.)

X) COMMITTEE OF THE WHOLE

XI) UNFINISHED BUSINESS

1) RESOLUTION NO 19-PC-06 — a Resolution of the Houston Planning & Zoning Commission forwarding findings of facts and recommendations to the Houston City Council sitting as the City Zoning Board on a variance request for 471 S Kenlar Rd, Capitol Corridors Block 3 Lot 8, to allow for the construction and occupancy of a 4-Plex building.
   • May 23, 2019 R&M Memorandum regarding application for Zoning Variance

(Clerk’s Note: This Resolution was introduced on April 25, 2019; Public Hearing was on May 30, 2019, the motion to approve is on the table.)

2) RESOLUTION NO 19-PC-08 — a Resolution of the Houston Planning & Zoning Commission forwarding findings of facts and recommendations to the Houston City Council sitting as the City Zoning Board on a land use map amending request for 471 S Kenlar Rd, Capitol Corridors Block 3 Lot 8, from Residential Single Family (R1) to Multi-Family Residential (MFR).

Exhibit A: Findings of Fact (Pending)

(Clerk’s Note: Initiated by the Planning & Zoning Commission on May 30, 2019. This Resolution was introduced on June 27, 2019.)

XIII) NEW BUSINESS
April 18, 2019

Commission for your review,

**City licenses and administration permits issued:**

Please call the Clerk’s office if you have any questions on any licenses in the City.

**City Council Legislation:**

**Public Hearings:** The City Council has one public hearing scheduled for their August 8th meeting as of July 18th.

Ordinance 19-12: An ordinance of the Houston City Council amending the fiscal year 2020 budget by accepting and appropriating payment of lease of emergency equipment to the Alaska Division of Forestry for the Montana Creek fire in the amount of $16,555.00

**MSB PC Agenda**
Provided on your agenda.

**Other Office Administration:**

**Elections:** Candidate packets are available until July 26th.

**PARC:** Mayor Thompson has appointed two Commissioners to the Park Commission, which have been confirmed by the Council. The Park Commission is scheduled to elect the Chair and Vice Chair at their August Meeting.

Sincerely,

Sonya Dukes, City Clerk
July 2019

Public Works Report:
- Operations are continuing without major problems.
- Crack sealing for all paved roads is in progress.
- Beetle killed trees continue to leave City Properties for firewood.

Parks Report:
- Parks are open
- Campfire ban lifted 7-18-19

Permits Issued in May 2019

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Respectfully

[Signature]

Raymond Russell,
Public Works Director

Approved,

[Signature]

Virgie Thompson,
Mayor
I. CALL TO ORDER

The Regular Meeting of the Houston Planning Commission was held on Thursday, June 27, 2019 at Houston City Hall, 13878 W. Armstrong Road, Houston, Alaska. Chair Rebecca Rein called the meeting to order at 7:00 pm.

II. ROLL CALL

Commission Members Present and establishing a quorum were:
Commissioner Ron Jones
Commissioner Deb Meister
Commissioner Jon Siivola
Vice-Chair Leonard Anderson
Chair Rebecca Rein

City of Houston Staff and Officials in Attendance:
Sonya Dukes - City Clerk
Raymond Russell – Director of Public Works
Amy Hansen – Deputy City Clerk

III. INVOCATION AND PLEDGE OF ALLEGIANCE

Commissioner Jones offered the invocation. Deputy City Clerk Amy Hansen led the Pledge of Allegiance.

IV. PUBLIC COMMENTS:

There were no public comments.

V. APPROVAL OF THE AGENDA

MOTION: Commissioner Jones moved to approve the Regular Meeting Agenda of June 27, 2019.

DISCUSSION: There was no discussion.

VOTE: There were none opposed and the agenda was approved.

VI. SPECIAL ORDERS OF THE DAY

There were no special orders of the day.

VII. REPORTS

1. Mayor’s Report – No report provided.

2. Clerk’s Report – No report provided.

3. Chair’s Report – No report provided.
4. **Public Works Report** – No report was given.

5. **Parks & Recreation Advisory Commission Report** – There were no members present to give a report.

**VIII. MINUTES OF THE PREVIOUS MEETING**

1) **May 30, 2019 Regular Planning Commission Meeting Minutes**

MOTION: Vice-Chair Anderson moved to approve minutes of the May 30, 2019 meeting.

DISCUSSION: There was no discussion.

VOTE: None opposed and the motion to approve the minutes was approved.

**IX. PERSONS TO BE HEARD:** There were no persons to be heard.

**X. PUBLIC HEARING:**

There were no public hearings.

**XI. Unfinished Business**

There was no unfinished business.

**XII. COMMITTEE OF THE WHOLE:**

There was no committee of the whole.

**XIII. New Business**

1) **RESOLUTION NO 19-PC-08** – a Resolution of the Houston Planning and Zoning Commission forwarding findings of facts and recommendations to the Houston City Council sitting as the City Zoning Board on a land use map amending request for 471 S Kenlar Rd, Capitol Corridors Block 3 Lot 8, from Residential Single Family (R1) to Multi-Family Residential (MFR).

(Clerks Note: Initiated by the Planning & Zoning Commission on May 30, 2019.)

MOTION: Vice Chair Anderson moved to introduce Resolution No 19-PC-08 and set to a public hearing on July 25, 2019.
DISCUSSION: Discussion ensued.

VOTE: The motion to introduce and set to public hearing Resolution No 19-PC-08 was approved.

XIV. PUBLIC COMMENTS:

- Deputy Mayor Wilson posed questions about Resolution No 19-PC-08.

XV. COMMISSION AND COMMISSION STAFF COMMENTS

- Commissioner Jones – Will be gone for the July meeting. Be careful with fire danger.
- Commissioner Siivola – No comment.
- Commissioner Meister – No comment.
- Vice-Chair Anderson – No comment.
- Chair Rein – Thank you for being here and presenting a full quorum.

XVI. Adjournment

MOTION: Chair Rein moved to adjourn the meeting.

VOTE: The motion passed unanimously and the meeting was adjourned at 7:11 p.m.

___________________________
Rebecca Rein, Chair

ATTEST:

Amy Hansen, Deputy City Clerk
Appearance Request Form

Brief Description of Topic:
Saugatna Rotary Club would like a letter of support from the City for a park and non-motorized boat landing at the parking lot downstream from the bridge. We have Rotary funds, volunteer labor, and plans for at least two additional development phases. We would like public input on access and design ideas, along with Fish & Game, DNR, and Salmon habitat support.

Applicant: Jack Timm
Phone: 907 715-7671
Mailing Address: 9081 Sylvia-Denise Wasilla
E-mail Address: jacktimm@yahoo.com
Preferred Meeting Date (s): Jul 25, 2023 / PARC, Aug 1
(Please refer to schedule of Council or Planning Commission Meetings)
Signature of Applicant: 
Date: 7/11/19

Rev 6/1/15 Clerk's Office
**CITY OF HOUSTON**  
**PLANNING & ZONING COMMISSION**  

**RESOLUTION NO. 19-PC-08**

A RESOLUTION OF THE HOUSTON PLANNING & ZONING COMMISSION FORWARDING FINDINGS OF FACTS AND RECOMMENDATIONS TO THE HOUSTON CITY COUNCIL SITTING AS THE CITY ZONING BOARD ON A LAND USE MAP AMENDMENT REQUEST FOR 471 S KENLAR RD, CAPITOL CORRIDORS BLOCK 3 LOT 8, FROM RESIDENTIAL SINGLE FAMILY (R1) TO MULTI-FAMILY RESIDENTIAL (MFR)

WHEREAS, on May 30, 2019 the Houston Planning and Zoning Commission initiated a land use amendment for 471 S Kenlar Road from Residential Single Family (R1) to Multi-Family Residential (MFR); and

WHEREAS, HMC 7.06.030(B)(1)(a) states that among the duties and responsibilities of the Planning & Zoning Commission “Commission” is: “Zoning regulations restricting the use of land and improvements by geographic districts;” and

WHEREAS, HMC 10.08.040(A) states that: “After reviewing a written recommendation from the Public Works Director, the Commission shall report in writing to the City Council on any proposed boundary change or amendment, regardless of the manner in which such change is initiated;” and

WHEREAS, The Public Works Director has made recommendations and forwarded the request to the Houston Planning & Zoning Commission where it was reviewed; and

WHEREAS, the Commission has conducted a public hearing regarding the matter, and considered evidence and testimony presented to it with respect to the application; and

WHEREAS, the Commission consequently adopted findings of fact, attached as Exhibit A, which summarizes the Commission’s reasoning in reaching its decision; and

NOW, THEREFORE, BE IT RESOLVED by the Planning & Zoning Commission of the City of Houston, pursuant to the Findings of Fact attached as Exhibit A and incorporated herein, recommends that the City Council sitting as the Zoning Board approve the Land Use Map amendment as presented.

PASSED, APPROVED, AND ADOPTED By a duly constituted quorum of the Planning & Zoning Commission for the City of Houston on ____________.

Rebecca Rein, Planning Chair

ATTEST:
1
2  Amy Hansen
3  Houston Public Works Clerk &
4  Aide to the City Clerk
City of Houston, Alaska
Public Work’s Department

CITY PLANNING & ZONING COMMISSION “EXIBIT A” for RESOLUTION 19-PC-08

Prepared By: Houston Planning & Zoning Commission
Meeting Date:

I. INTRODUCTORY SUMMARY

Applicant: Houston Planning & Zoning Commission
Land Owner(s): Lynda Plettner
Request: Land Use Amendment Single-family and two-family residential district (R-1) to Multi-Family Residential (MFR).
Location: 471 S Kenlar Road
Parcel Size: 3.01 acres
Zoning District: R-1 – Single-family and two-family residential district.

II. RECOMMENDED ACTION

III. SUMMARY OF REQUEST

The applicant has applied for a Rezone / Land Use Amendment to rezone from Single-family and two-family residential district (R-1) to Multi-Family Residential (MFR).

IV. FINDINGS OF FACT

HMC 10.08.040 Report from the Planning Commission; Governs the procedures and general standards for Rezone/Land Use Amendments City land use requirements. These requirements, and staff findings regarding each of them, are as follows:

HMC 10.08.040(B)(1) B. Such report shall give consideration as to what effect the proposed change would have on the public health, safety, welfare and convenience, and show whether or not:
1. The proposed change would be contrary to the goals, objectives and criteria established in the City of Houston Comprehensive Plan;

Commission Finding:

2. The proposed change is contrary to the established land use pattern;

Commission Finding:

3. The proposed change would create an isolated district unrelated to adjacent and nearby districts;

Commission Finding:

4. The proposed change would materially alter the population pattern and thereby increase or overtax the load on public facilities such as schools, utilities, streets, watershed capabilities, and the like;

Commission Finding:

5. The proposed change will adversely influence living conditions in the neighborhood;

Commission Finding:

6. The proposed change will create or excessively increase traffic congestion or otherwise affect public safety;

Commission Finding:
7. The proposed change could create a drainage or surface water problem;

Commission Finding:

8. The proposed change will seriously reduce access to light and air by adjacent property owners;

Commission Finding:

9. The proposed change will adversely affect property values in the adjacent area;

Commission Finding:

10. The proposed change will be a deterrent to the improvement or development of adjacent property;

Commission Finding:

11. The proposed change will constitute a grant of special privilege to an individual owner as contrasted with serving the public welfare;

Commission Finding:
12. There are substantial reasons why the property cannot be used in accord with existing zoning;

Commission Finding:

13. It is impossible to find other adequate sites in the City for proposed use in districts already permitting such use;

Commission Finding:

14. The petitioner for amendment is the owner of the property in question.

Commission Finding:

V. SUMMARY AND RECOMMENDATIONS:

Commission Finding:

_________________________
Rebecca Rein, Planning Chair

ATTEST:

_____________________________
Amy Hansen
Houston Public Works Clerk &
Aide to the City Clerk
STAFF REPORT TO THE CITY PLANNING & ZONING COMMISSION

Prepared By: Raymond Russell, Public Works Director
Meeting Date: June 20, 2019

I. INTRODUCTORY SUMMARY

Applicant: Houston Planning & Zoning Commission
Land Owner(s): Lynda Plettner
Request: Land Use Amendment Single-family and two-family residential district (R-1) to Multi-Family Residential (MFR).
Location: 471 S Kenlar Road
Parcel Size: 3.01 acres
Zoning District: R-1 – Single-family and two-family residential district.

II. RECOMMENDED ACTION

Staff recommends that the Commission finds that the property is approved for a rezone to MFR.

III. SUMMARY OF REQUEST

The applicant has applied for a Rezone / Land Use Amendment to rezone from Single-family and two-family residential district (R-1) to Multi-Family Residential (MFR).

IV. STAFF INVESTIGATION

HMC 10.08.040 governs the procedures and general standards for Rezone/Land Use Amendments City land use requirements. These requirements, and staff findings regarding each of them, are as follows:

HMC 10.08.040(B)(1) B. Such report shall give consideration as to what effect the proposed change would have on the public health, safety, welfare and convenience, and show whether or not:

1. The proposed change would be contrary to the goals, objectives and criteria established in the City of Houston Comprehensive Plan;
Staff Finding: Staff finds that granting the Rezone is in alignment with the Comprehensive Plan.

The City of Houston Comprehensive Plan Updated, 2016 identifies a growth and economic development goal for the city and approval of this variance would be in compliance with this goal and its supporting objectives. Allowing this Rezone directly supports the following Growth and Economic Development Objectives:

- Encourage moderate economic growth which will provide a base in Houston adequate to foster employment opportunities with the City
- Provide 10% increased local employment opportunities for residents by encouraging a balanced economic base
- Encourage continued growth of employment in the commercial core of Houston.

2. The proposed change is contrary to the established land use pattern;

Staff Finding: Staff finds that this area is moderately developed With only six out of the eighteen lots on W. Larae Road being developed with homes. 471 S Kenlar Road is surrounded by R-1 and RA-5 with MFR zoning in near proximity.

Rezoning this property from R-1 to MFR is in harmony with development trends in the area considering the proximity to the Schools, Senior living, and the Fire Station 9-2.

3. The proposed change would create an isolated district unrelated to adjacent and nearby districts;

Staff Finding: The Property 471 S Kenlar Road is surrounded by R-1 (north, east and south) and RA-5 to the west. MFR zoning in near proximity, about 835 feet north.

4. The proposed change would materially alter the population pattern and thereby increase or overtax the load on public facilities such as schools, utilities, streets, watershed capabilities, and the like;

Staff Finding: The rezone is not likely to alter the population pattern in the area. The only public facilities that will be impacted will be roads and that will be minimal.

5. The proposed change will adversely influence living conditions in the neighborhood;

Staff Finding: The change will have minimal effect on the surrounding properties.
6. The proposed change will create or excessively increase traffic congestion or otherwise affect public safety;

Staff Finding: The rezone and use of the property will have minimal effect on traffic or public safety.

7. The proposed change could create a drainage or surface water problem;

Staff Finding: The property rezone to MFR is unlikely to affect drainage.

8. The proposed change will seriously reduce access to light and air by adjacent property owners;

Staff Finding: The change will have minimal effect on the surrounding properties.

9. The proposed change will adversely affect property values in the adjacent area;

Staff Finding: The effect if any to surrounding property values is undetermined.

10. The proposed change will be a deterrent to the improvement or development of adjacent property;

Staff Finding: There is no indication that the rezone to MFR will impact the development of surrounding properties.

11. The proposed change will constitute a grant of special privilege to an individual owner as contrasted with serving the public welfare;

Staff Finding: The owner previously applied for a variance to put in a single four-plex on the Planning & Zoning commission has determined that the intent of the code and comprehensive plan are better served by rezoning the property to MFR.

12. There are substantial reasons why the property cannot be used in accord with existing zoning;

Staff Finding: The R-1 zoning limits the number of dwellings without a variance. A variance for this case does not adequately serve the intent of HMC Title 10.

13. It is impossible to find other adequate sites in the City for proposed use in districts already permitting such use;
Staff Finding: The owner wants to utilize property based on its close proximity to the property the owner lives at on Hawk Lane.

14. The petitioner for amendment is the owner of the property in question.

Staff Finding: The Planning & Zoning Commission has initiated the land use amendment to properly discharge the intent of Houston Municipal Code. The owner was informed on 5/31/2019 via email and phone call of the intent of P&Z Commission to rezone the property. The owner is in agreement with this course of action.

V. SUMMARY AND RECOMMENDATIONS:

Based upon the elements above, Public Works Staff recommends that the rezone from Single-family and two-family residential district (R-1) to Multi-Family Residential (MFR) is approved.

CITY OF HOUSTON

Raymond Russell
Public Work Director

Cc: Houston Planning Commission
Memorandum

To: Raymond Russell, Public Works Director, City of Houston, Alaska

From: Taryn Oleson, AICP, Planner

Thru: Van Le, AICP, Planning Department Manager

Subject: Application for Zoning Variance Review

Date: May 23, 2019

Case Review:

The applicant is proposing to construct and operate commercial multifamily assisted living homes in an R-1 zoning district, in addition to the existing primary residential structure, and has applied for a zoning variance.

The application submitted states that the petitioner intends to construct a new two-story frame 4-unit assisted living homes with a garage on the parcel. To support the multifamily development, a new driveway access from W La Rae Road is proposed as well as an additional well and septic system (see site plan). Current driveway access for the existing single-family home is from Kenlar Road and will remain unchanged. The total number our housing units proposed is five, one existing single family home and one 4-plex multifamily building.

Current Use: Lot 8 Block 3 of Capitol Corridors Subdivision, located at 471 S Kenlar Road, is currently used for single-family residential. The primary structure on the property is a mobile home with a garage and basement addition.

Lot Size: 3.01 acres (131,115 sf)

Adjacent Land Use and Zoning: Properties adjacent to the petitioning property to the east and south are currently zoned R-1 and are used as single family homes or are currently vacant. Properties to the west are zoned RA-5 Low Density Residential Agricultural District, used as single family residents.

Properties to the north are zoned PLI - Public Lands and Institutions and north of W Mid Valley Way are zoned Multi-Family Residential District (Medium Density) and PLI. Parcels to the north are owned and used by the Homesteaders Community Center and the Mid-
Valley Seniors Inc., and the MFR parcels are the Mid Valley Senior Housing. Mid Valley Senior Housing has a total of 18 residential units across three parcels zoned MFR. It should be noted that the Houston Middle and High School are within one mile of the property in questions to the north, and the commercial center of Big Lake is approximately one and a half miles to the south, which includes the City of Houston recommendation for MFR land use.

While a rezoning of the property from R-1 to MFR, the more appropriate zoning designation for the proposed use, was considered, HMC 10.03.030.B1 states “Multifamily dwellings that exceed four units require a variance has been obtained from the City of Houston.” Since the applicant would have five living units on the property, four new units in addition to the existing primary single-family residence, a variance would be required per HMC even with a rezone of the property to MFR. To forego additional approval processes, and to prevent the possible creation of spot zoning, it was the recommendation of the Public Works Director to apply for the variance first.

**Applicable Zoning Regulations:**

**R-1 District**, Single-family and two-family residential district:
The intent of this district is to provide for low density, rural residential develop with single-family and two-family dwellings and to provide for such community services and facilities that would serve the area populations while preserving the character of the existing residential areas within the City of Houston (10.03.020.A).

**Permitted Uses of Structures:** The R-1 district allows for one single-family, modular, or two-family dwelling on an individual lot. More than one primary dwelling residence requires a variance from the City of Houston. (10.03.020.B.1)

**Minimum lot area** requirement is 40,000 square feet for R-1 district (10.03.020.E)

**Conditional uses:** natural resource extraction, telecommunication towers, and mobile home parks may be conditionally permitted pursuant to the requirements of Chapter 10.07 HMC.

**Permitted Accessory Uses and Structures:** The R-1 district allows uses and/or structures which are necessary and desirable adjuncts to the permitted uses, where such accessory uses and structures are clearly secondary and incidental to the primary use of the property as a residence, and are under the management and control of the owner or resident of the dwellings on the lot. This includes private garages, up to five dogs allowed, private storage in yards of noncommercial equipment, including noncommercial trucks, boats, aircraft, campers and travel trailers, in a safe and orderly manner; storage buildings; and other incidental structures and uses. Home occupation, including limited marijuana cultivation facilities, are permitted accessory uses defined in HMC10.01.040 and regulated in HMC 10.04.020.

**MFR District**, Multifamily residential district (medium density):
The intent of this district is to allow for a slightly greater density of residential land use than is permitted in an R-1 district. The intent of the zone is to allow these increased densities only where it is feasible to provide an increased level of community services, such as community sewage disposal system or a community water system. This district is intended to act as a buffer area between the existing low density, rural residential areas of the community and the proposed higher intensity uses along the highways and near major intersections.

**Permitted Uses and Structures:** the MFR district allows the development of single-family homes, modular homes, two-family dwellings and multifamily dwellings on individual lots. **Multifamily dwellings that exceed four units require a variance has been obtained from the City of Houston.** (HMC 10.03.030.B.1)

Minimum lot area requirement shall be 20,000 square feet

**Comprehensive Plan Recommendations:**

The 2016 City of Houston Comprehensive Plan Land Use Plan Map shows the property in question as single-family and two-family residential, consistent with the parcel’s existing R-1 zoning. Adjacent properties are recommended to be single-family and two-family residential to the south and east of the applicant property, low density residential/agricultural to the west, and public lands and institutions to the north. The Mid Valley Senior Center and Homesteaders Community Center properties are anticipated to retain their current use, which includes MFR.

The ranges of residential land use classifications identified in the Comprehensive Plan and Land Use Plan Map are generalized descriptions of the type of development appropriate for a broadly defined area. They are based on area-wide densities rather than specific densities for specific parcels. The land use plan map depicts an intended overall distribution of population and housing units for contiguous areas of Houston and is not intended to be applied directly to determine the number of housing units permitted per lot or development site. Title 10 Land Use Regulations and Official Zoning Map will determine the allowed number of housing units on each lot or development area (City of Houston Comprehensive Plan, 2016, page 57).

The following values, goals and objectives are applicable to this case:

- **Community Value on Housing:** The available of housing in Houston should be appealing for a wide range of incomes, while providing all residents with opportunities for satisfactory, safe living.
- **Land Use Goal:** To develop and maintain a responsive land use plan that supports the goals and objectives of the community including economic, environmental, and social community character.
- **Land Use Objectives:**
  - Preserve and enhance the identity of established community areas.
  - Promote growth and land uses that are compatible with the rural residential character of Houston.
  - Ensure an efficient pattern of development that reflects the needs of the community and is consistent with community character.
Encourage construction of safe, sound housing.

- Land Use Policy: provide a balanced distribution of land uses to meet Houston’s current and future needs.

**Definitions:**

“Variance” means specific permission from the City Zoning Board to relax the minimal dimensional requirements of this title. Such relaxation shall not apply to use of land, use of structure, or minimum lot size that is prohibited by the district in this title. (HMC 10.01.040)

Conditions to be met for granting a variance:

1. There are special circumstances that apply to the particular property or the intended use, such as shape or parcel, topography or location characteristics, that do not apply to the other property or class of use in the same district;
2. The strict application of the provisions of this title would deprive the application of rights commonly enjoyed by other properties in the same district under the terms of this title;
3. The special conditions and circumstances do not result from the applicant and do not merely constitute pecuniary hardship or inconvenience;
4. The granting of the variance will be in harmony with the objectives of the Comprehensive Plan and Title 10 and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

While the HMC definition of variance identifies use of land as an exclusion from variance applicability, HMC 10.03.020 and HMC 10.03.030 specifically identify the variance process be used for dwelling units that exceed the standards identified in the appropriate zoning district.

It can be concluded the intended interpretation and use of a variance for the applicable HMC R-1 and MFR regulations is that the land use classification is remaining the same (residential). MFR zoned parcels proposing more than 4 dwelling units is still proposed to be multifamily residential use, but the number of units is proposing a change. Therefore, a zoning variance may remain the appropriate process.

It may be taken into consideration at a later date by the Planning Commission and City Council to amend HMC Title 10 to use a conditional use permitting process as the more appropriate tool versus a zoning variance process. The conditional use still requires a public hearing by the City Council, but uses different application review and qualification standards for decision making which may be determined more appropriate for this situation (see Conditional Use below).

If the existing variance process is preferred by the City, an amendment clarifying the inclusion and applicability to number of residential units within a residential zoning district in the definition of ‘variance’.
Spot Zoning:
Zoning is related to the compatibility of surrounding areas and may include characteristics of the land, size of the parcel, the degree of public benefit, and consistency with the comprehensive plan of the city. According to Anderson’s American Law of Zoning, 4th Edition, 1995, (quoting Jones v Zoning Board of Adjustments of Long Beach, 32 N.J Superior, 397, 108 A.2d 498 (1954), the typical definition of spot zoning is “the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area for the benefit of the owner of such property and to the detriment of other owners.” Courts have developed numerous variations of this definition. These variations have but minor differences and describe any zoning amendment which “reclassifies a small parcel in a manner inconsistent with existing zoning patterns, for the benefit of the owner and to the detriment of the community, or without any substantial public purpose,” (Anderson, supra, §5.12, at 362).

The Supreme Court of Alaska court’s decision of the Griswold v. City of Homer includes the following discussion:

“Faced with an allegation of spot zoning, courts determine first whether the rezoning is compatible with the comprehensive plan or, where no plan exists, with surrounding uses. Courts then examine the degree of public benefit gained and the characteristics of land, including parcel size and other factors indicating that any reclassification should have embraced a larger area containing the subject parcel rather than that parcel alone. No one particular characteristic associated with spot zoning, except a failure to comply with at least the spirit of a comprehensive plan, is necessarily fatal to the amendment. Spot zoning analysis depends primarily on the facts and circumstances of the particular case. Therefore the criteria are flexible and provide guidelines for judicial balancing of interests.”

Source quick reference:
  - This case include references to other cases considering challenges of spot zoning which may include helpful information.

“Alteration” means any change, addition, or modification in the construction, location, occupancy or use classification of any building or land use. (HMC 10.01.040)

“Conditional Use” means a use of a structure or land which may be allowed by the City Council after a public hearing and review, and subject to certain prescribed or imposed conditions. (HMC 10.01.040)

HMC 10.07.010 Conditional Use Permits:
A. Purpose: those uses listed in this title as conditional uses are declared to be potentially damaging to the property values and usefulness of adjacent properties, and/or potentially harmful to the public health, safety and welfare, and unless maintained under and in
accordance with a lawfully issued permit, such uses are declared to be public nuisances and are prohibited.

B. The conditional use permitting procedure is intended to allow the City Council, acting as the City Zoning Board, to consider the consistency of a proposed use with the City of Houston Comprehensive Plan and its potential impacts on surrounding uses and the natural environment; and to attach such conditions to a permit that will ensure that the conditional use will be compatible with nearby uses; will be in keeping with the character and integrity of the area; and will protect the public health, safety, and welfare.

Considerations for the City Council of the conditional use permit (HMC 10.07.010):
1. The compatibility of the project and the site design with surrounding buildings, land uses, ownership, and physical characteristics;
2. The adequacy of access to and from the project and the effect on pedestrian and vehicular circulation and safety;
3. The impact that the proposed project may have on the need and availability of public services within the area;
4. The sensitivity of the project to its site conditions and environmental setting;
5. The impact of noise, fumes and dust associated with the project.

“Duplex” means a structure containing two dwelling units, each of which has direct access to the outside. (HMC 10.01.040)

“Multifamily dwelling unit” means a residential building designed for or occupied by three or more families living independent of each other with the number of families in residence not to exceed the number of dwelling units provided on each lot. (HMC 10.01.040)

A “Permitted Use” sometimes called “use-by-right” means a use of land or structure which is allowed unconditionally within a certain zoning district according to the regulations in this code. (HMC 10.01.040)

“Housing for the elderly” means multifamily housing especially designed for occupancy by persons 55 years old or older and requires 25 percent of the units within the facility to be handicapped accessible with accommodations for wheelchairs. The facility may include as accessory uses: central recreation or dining areas and/or health services. (HMC 10.01.040)
LEGEND
- Single-Family & Two Family Residential
- Low Density Residential/Agricultural
- Residential/Agricultural
- Multi-Family Residential
- Commercial/Mixed Use
- Town Center
- Light Industrial
- Heavy Industrial
- Transportation Facility
- Public Lands and Institutions
- Parks and Recreation
- Development Reserve

CITY OF HOUSTON
COMMUNITY IMPACT ASSESSMENT AND COMPREHENSIVE PLAN REVISION

LAND USE PLAN
JUNE 2016
FIGURE 1
CITY OF HOUSTON
PLANNING & ZONING COMMISSION

RESOLUTION NO. 19-PC-06

A RESOLUTION OF THE HOUSTON PLANNING & ZONING COMMISSION FORWARDING FINDINGS OF FACTS AND RECOMMENDATIONS TO THE HOUSTON CITY COUNCIL SITTING AS THE CITY ZONING BOARD ON A VARIANCE REQUEST FOR 471 S KENLAR RD, CAPITOL CORRIDORS BLOCK 3 LOT 8, TO ALLOW FOR THE CONSTRUCTION AND OCCUPANCY OF A 4-PLEX BUILDING.

WHEREAS, on April 11, 2019 Lynda Plettner submitted an application for Variance to build a 4-plex on 471 S Kenlar Road; and

WHEREAS, HMC 7.06.030(B)(1)(a) states that among the duties and responsibilities of the Planning & Zoning Commission "Commission" is: “Zoning regulations restricting the use of land and improvements by geographic districts;” and

WHEREAS, HMC 10.08.080(C),2 states that: “The Planning Commission shall make an investigation of the facts bearing on any application sufficient to assure that the action taken is consistent with the intent and purpose of this chapter and shall make a recommendation concerning the application to be forwarded to the City Council;” and

WHEREAS, The Public Works Director has made recommendations and forwarded the request to the Houston Planning & Zoning Commission where it was reviewed; and

WHEREAS, the Commission consequently adopted findings of fact, attached as Exhibit A, which summarizes the Commission’s reasoning in reaching its decision; and

NOW, THEREFORE, BE IT RESOLVED by the Planning & Zoning Commission of the City of Houston, pursuant to the Findings of Fact attached as Exhibit A and incorporated herein, recommends that the City Council sitting as the Zoning Board approve the Land Use Map amendment as presented.

PASSED, APPROVED, AND ADOPTED By a duly constituted quorum of the Planning & Zoning Commission for the City of Houston on ____________.

Rebecca Rein, Planning Chair

ATTEST:

________________________
Amy Hansen
Houston Public Works Clerk and
Aide to the City Clerk
STAFF REPORT TO THE CITY PLANNING & ZONING COMMISSION

Prepared By: Raymond Russell, Public Works Director
Meeting Date: April 25, 2019

I. INTRODUCTORY SUMMARY

Applicant: Lynda Plettner
Land Owner(s): Lynda Plettner
Request: Variance to allow a Four-plex structure to be built in R-1 (Single Family Residential).
Location: 471 S Kenlar Rd, CAPITOL CORRIDORS BLOCK 3 LOT 8
Parcel Size: 3.01 acres
Zoning District: R-1 – Single-family and two-family residential district.

II. RECOMMENDED ACTION

Staff recommends that the Commission finds that; there is sufficient justification to recommend a variance.

III. SUMMARY OF REQUEST

The applicant has applied for a variance to allow one 4-plex home to be built on an R-1 zoned parcel.

IV. STAFF INVESTIGATION

HMC 10.08.080 governs the procedures and general standards for issuing variances from City land use requirements. These requirements, and staff findings regarding each of them, are as follows:

HMC 10.08.080(B) Applications must be submitted to the Public Works Director, and must include: (1) a legal description of the property; (2) a site plan or as-built of the subject parcels, submitted under the seal of a registered professional land surveyor, which shows all existing and
proposed buildings or alterations and other information relevant to the variance request; (3) Evidence of the ability and intention of the applicant to proceed in accordance with the plans within 12 months after the effective date of the variance; and, (4) a statement and adequate evidence to show that the variance meets applicable standards.

Staff Finding:
The applicant submitted an Application for Variance Permit (Attachment 1) on April 11, 2019.

The property’s legal description appears at Attachment 2. The required as-built appears the Variance Application;

Staff finds that the application and supporting materials demonstrate that the applicant has the ability and the intention to proceed in accordance with plans within 12 months.

**HMC 10.08.080(B)(4) Variance Standards**

A variance may only be granted if each of the following four conditions are met:

a. There are special circumstances that apply to the particular property or to the intended use, such as shape of parcel, topography or location characteristics, that do not apply to the other property or class of use in the same district;

Staff Finding: Staff finds that the shape and size of the subject property is similar to that of adjoining properties. Included As-Built shows sufficient space on the 3.01 acre parcel including proper setbacks for the structure.

b. The strict application of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this title;

Staff Finding: The subject property falls within the City R-1 district--Single-family and two-family residential district. HMC 10.03.020 (A) provides that “The intent of this district is to provide for low density, rural residential development with single-family and two-family dwellings
and to provide for such community services and facilities that would serve the area populations while preserving the character of existing residential areas within the City of Houston.”

HMC 10.03.020 B(1) The R-1 district allows one single-family, modular, or two-family dwelling on an individual lot. More than one primary dwelling residence requires a variance from the City of Houston.

c. The special conditions and circumstances do not result from the actions of the applicant and do not merely constitute pecuniary hardship or inconvenience;

Staff Finding: The existing structure is in compliance with the development standards for a single-family residence in the R-1 District. The proposed change in use will have an additional driveway off of W. Larae Road added septic and a new well.

d. Granting of the variance will be in harmony with the objectives of the Comprehensive Plan and this title, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare;

Staff Finding: Staff finds that granting the variance is in alignment with the Comprehensive Plan.

The City of Houston Comprehensive Plan Updated, 2016 identifies a growth and economic development goal for the city and approval of this variance would be in compliance with this goal and its supporting objectives. This directly supports the following Growth and Economic Development Objectives:

- Encourage moderate economic growth which will provide a base in Houston adequate to foster employment opportunities with the City
- Provide 10% increased local employment opportunities for residents by encouraging a balanced economic base

Land use Goal objectives.
Preserve and enhance the identity of established community areas.

Promote growth and land uses that compatible with the rural residential character of Houston.

**HMC 10.08.080(B)(5)** If a property qualifies for a variance, the variance granted must meet the following conditions:

**a. The deviation from the requirement of this title that is permitted by the variance may be no more than is necessary to permit a reasonable use of the lot;**

Staff Finding: The proposed variance is for one multi-family structure on an R-1 parcel. HMC 10.03.020 B(1) allows for that with a variance.

**b. The variance will not permit a land use that is prohibited by this title;**

Staff Finding: The proposed variance is for one multi-family structure on an R-1 parcel. HMC 10.03.020 B(1) allows for that with a variance.

**c. The variance is in keeping with the spirit and intent of this chapter and the requirements from which relief is sought;**

Staff Finding: HMC title 10 is set up to preserve land uses and buffer residential neighborhoods from incompatible uses. The property is on one of Houston’s busier roads and at an intersection. In affect an area that growth and change is expected.

**d. The variance will not be detrimental to the public health, safety or welfare;**

Staff Finding: The potential for the proposed variance to impact health, safety or welfare is relatively low.

**e. The variance will not adversely affect other property;**
Staff Finding: It is unclear how adjacent and neighboring property will be affected. At this time there is low/moderate development in the surrounding area.

f. The fee established in the City’s fee schedule is included with the application.

Staff Finding: The applicant has paid all applicable fees due to the City as part of this application process. The process initiated as a rezone that was found to be problematic. The rezone fee was shifted to the Variance.

V. SUMMARY AND RECOMMENDATIONS:

Based upon the explanation appearing above, Public Works Staff recommends that the Variance Permit be approved.

Should the Planning and Zoning commission approves the Variance, Staff recommends the following stipulations.

1. Limit to One 4-unit assisted living building on the parcel.
2. Limit the variance to the current owner/applicant, Lynda Plettner. Cannot be transferred.
3. If there is concern on the neighborhood impact. A safe guard such as a review by council after one year of operation could be put in place.
Variance Permit
Houston Municipal Code 10.08.080

($800.00 Fee)
Applicant or Owner: Lynda Plettner Phone: (907) 892-6944
Mailing Address: PO Box 520069 / Big Lake, AK 99652
Physical Address: 471 S Kenlar Road
Legal Description of the Property: Lot 8 Block 3 Capitol Corridors Subdivision
Project Description: Construct a single 4-plex unit.

An application for a variance from a requirement of Title 10 shall contain:
- A legal description of the property involved; and
- A site plan as—built of the particular parcel or parcels affected, submitted under the seal of a registered professional land surveyor, which shows all the existing and proposed buildings or alterations and other information relevant to the variance request; and
- Evidence of the ability and intention of the applicant to proceed in accordance within 12 months after the effective date if the variance; and
- A Statement and adequate evidence showing the following conditions, all four of which must be met before a variance may be granted HMC 10.08.080.

1. There are special circumstances that apply to the particular property or the intended use, such as shape or parcel, topography or location characteristics, that do not apply to the other property or class of use in the same district;
The lot is currently zoned for single family residential and I intend to construct one 4-plex rental on the parcel, which would require multi-family residential zoning.

2. The strict application of the provisions of this title would deprive the application of rights commonly enjoyed by other properties in the same district under the terms of this title;
A zoning variance would be aligned with other properties zoned multi-family residential in this district.

3. The special conditions and circumstances do not result from the applicant and do not merely constitute pecuniary hardship or inconvenience;
The zoning variance request is not a result of financial hardship or inconvenience. The applicant previously applied for a rezoning, but was advised by city officials of the preferred variance process.

4. The granting of the variance will be in harmony with the objectives of the Comprehensive Plan and Title 10, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; The proposed use would preserve and enhance the identity of the established community area. The parcel is nearly adjacent to the now closed Mid-Valley Senior Center, which is zoned multi-family residential. The housing construction would be safe/sound and contribute to the City’s desired area mix of single family and multi-family housing.

- If a property qualifies for a variance, the variance granted **must** meet the following conditions.
  - The deviation from the requirement of Title 10 that is permitted by the variance may be no more than is necessary to permit a reasonable use of the lot.
  - The variance will not permit a land use that is prohibited by Title 10.
  - The variance will keep with the spirit and intent of Title 10 and the requirements of which relief is sought.
  - The variance will not adversely affect other property.

- A variance shall not be granted which will permit a land use in a district in which that use is not otherwise permitted, or in which that use is strictly prohibited.

Signature of Applicant or Owner: _________________________________Date: ________________________________________

* All activity regulated or permitted under this title must comply with applicable borough, state & federal laws & regulations. (HMC 10.01.015)
I. INTRODUCTORY SUMMARY

Applicant: Houston Planning & Zoning Commission

Land Owner(s): Lynda Plettner

Request: Land Use Amendment Single-family and two-family residential district (R-1) to Multi-Family Residential (MFR).

Location: 471 S Kenlar Road

Parcel Size: 3.01 acres

Zoning District: R-1 – Single-family and two-family residential district.

II. RECOMMENDED ACTION

Rezone from R1 to MFR

III. SUMMARY OF REQUEST

The applicant has applied for a Rezone / Land Use Amendment to rezone from Single-family and two-family residential district (R-1) to Multi-Family Residential (MFR).

IV. FINDINGS OF FACT

HMC 10.08.040 Report from the Planning Commission; Governs the procedures and general standards for Rezone/Land Use Amendments City land use requirements. These requirements, and staff findings regarding each of them, are as follows:

HMC 10.08.040(B)(1) B. Such report shall give consideration as to what effect the proposed change would have on the public health, safety, welfare and convenience, and show whether or not:
1. **The proposed change would be contrary to the goals, objectives and criteria established in the City of Houston Comprehensive Plan;**

   **Commission Finding:** The Commission finds that the change would not be contrary to the goals, objectives, and criteria established in the City of Houston Comprehensive Plan.

2. **The proposed change is contrary to the established land use pattern;**

   **Commission Finding:** The Commission finds that the proposed change is not contrary to the established land use pattern. The neighborhood has long contained MFR properties.

3. **The proposed change would create an isolated district unrelated to adjacent and nearby districts;**

   **Commission Finding:** The Commission finds that the proposed change would not create an isolated district unrelated to adjacent and nearby districts. The nearby properties have been used as Senior and MFR housing for decades.

4. **The proposed change would materially alter the population pattern and thereby increase or overtax the load on public facilities such as schools, utilities, streets, watershed capabilities, and the like;**

   **Commission Finding:** The Commission finds that the proposed change would not materially alter the population pattern and thereby increase or overtax the load on public facilities such as schools, utilities, streets, watershed capabilities, and the like.

5. **The proposed change will adversely influence living conditions in the neighborhood;**

   **Commission Finding:** The Commission finds that the proposed change will not adversely influence living conditions in the neighborhood.

6. **The proposed change will create or excessively increase traffic congestion or otherwise affect public safety;**
Commission Finding: The Commission finds that the proposed change will not create or excessively increase traffic congestion or otherwise affect public safety.

7. The proposed change could create a drainage or surface water problem;

Commission Finding: The Commission finds that the proposed change would not create a drainage or surface water problem. The proposed change will seriously reduce access to light and air by adjacent property owners;

Commission Finding: The Commission finds that the proposed change will not reduce access to light and air by adjacent property owners.

8. The proposed change will adversely affect property values in the adjacent area;

Commission Finding: The Commission finds that the proposed change will not adversely affect property values in the adjacent area.

9. The proposed change will be a deterrent to the improvement or development of adjacent property;

Commission Finding: The Commission finds that the proposed change will not be a deterrent to the improvement or development of adjacent property

10. The proposed change will constitute a grant of special privilege to an individual owner as contrasted with serving the public welfare;

Commission Finding: The Commission finds that the proposed change will not constitute a grant of special privilege to an individual owner as contrasted with serving the public welfare.

11. There are substantial reasons why the property cannot be used in accord with existing zoning;

Commission Finding: The Commission finds that the property owner has a legitimate right to request a change of zoning to use the property to their specifications.
12. It is impossible to find other adequate sites in the City for proposed use in districts already permitting such use;

Commission Finding: The Commission finds that the rezone of this parcel to MFR is logical given the existing uses of properties established in the neighborhood.

13. The petitioner for amendment is the owner of the property in question.

Commission Finding: The Commission finds that the petitioner for amendment is the owner of the property in question.

V. SUMMARY AND RECOMMENDATIONS:

Commission Finding: The Commission finds that the rezone of the parcel in question from R1 to MFR is in keeping with the City’s goals and plans for further development.

Recommendations: No more than one multi-family dwelling unit of up to 4 units may be placed on this parcel at any given time without written permission of the Planning and Zoning Commission and the City Council sitting as the City Zoning Board.

__________________________

Rebecca Rein, Planning Chair

ATTEST:

__________________________

Amy Hansen
Deputy City Clerk