



## MEMORANDUM

To: Mayor Stille and St. Anthony Village City Council

From: Stephen Grittman, City Planner

Date: City Council Meeting – April 12, 2022

NAC Project No. 323.01 – 22.03

Request: Request for Conditional Use Permit - Front Yard Fence Height Requirement for a Commercial Use

Property Address: 2812 27<sup>th</sup> Avenue NE

Property PID: 07-029-23-24-0031

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### PLANNING COMMISSION/STAFF RECOMMENDATION

Staff and Planning Commission recommend the following motion:

Motion to adopt Resolution 22-036, approving a Conditional Use Permit to construct an 8-foot tall fence in the required front yard at 2812 27<sup>th</sup> Ave. NE, replacing an existing fence, for the purposes of screening the adjoining commercial and residential properties.

### BACKGROUND AND PLANNING COMMISSION ACTION

Tom Archambault, on behalf of BLVD Autoworks, is proposing to replace an existing six-foot-high fence located along a portion of the west property line of his business (located at 2812 27<sup>th</sup> Avenue NE) that screens his business property from the adjoining single family residential parcel. The proposed fence would measure 8 feet in height which requires the processing of a conditional use permit.

The proposed 8-foot-high fence would be erected in the same location upon the subject property and is intended improve screening between the automotive use and the abutting single family residential property to the west.

According to the applicant, the owner of the abutting home to the west is supportive the proposed fence height change.

Based on the information as submitted, and a review of the applicable ordinance, staff recommends approval of the Conditional Use Permit, with conditions as follows:

1. The new fence shall satisfy all applicable fence construction requirements as outlined in Section 150.073 of the Code.
2. Comments of other City Staff.

The Planning Commission conducted a public hearing on the proposed fence at its regular meeting of March 15, 2022. No members of the public spoke at the hearing. Two members of the public provided written comments, both of which encouraged approval of the fence proposal based on the need to replace the aging existing fence and the better ability of the newer fence to screen the adjoining residential properties from the commercial use.

Following the public hearing, the Planning Commission voted unanimously to recommend approval of the CUP.

\*The original application was for a variance to the normal 6-foot high fence. Following the application, staff found that the ordinance accommodates this application by CUP. The public hearing notice was adjusted accordingly, and the Commission held a hearing on that amended notice.

## GENERAL INFORMATION

Applicant:	Tom Archambault (on behalf of BLVD Autoworks)
Owner:	Teak Properties, LLC.
Location:	2812 27 <sup>th</sup> Avenue NE
Existing Land Use	Commercial (BLVD Autoworks)
Zoning:	C - Commercial District
Surrounding Land Use / Zoning:	North: Low-Density Residential / Zoned: R-1 - Single Family District East: Commercial / Zoned: C - General Commercial District South: Commercial / Zoned: C - General Commercial District West: Low-Density Residential / Zoned: R-1 Single Family District
Deadline for Agency Action:	Application Complete Date: 2/07/2022 60 Days: 4/08/2022 Letter Sent: 3/09/2022 120 Days: 6/07/2022

## ANALYSIS

### 1. Background

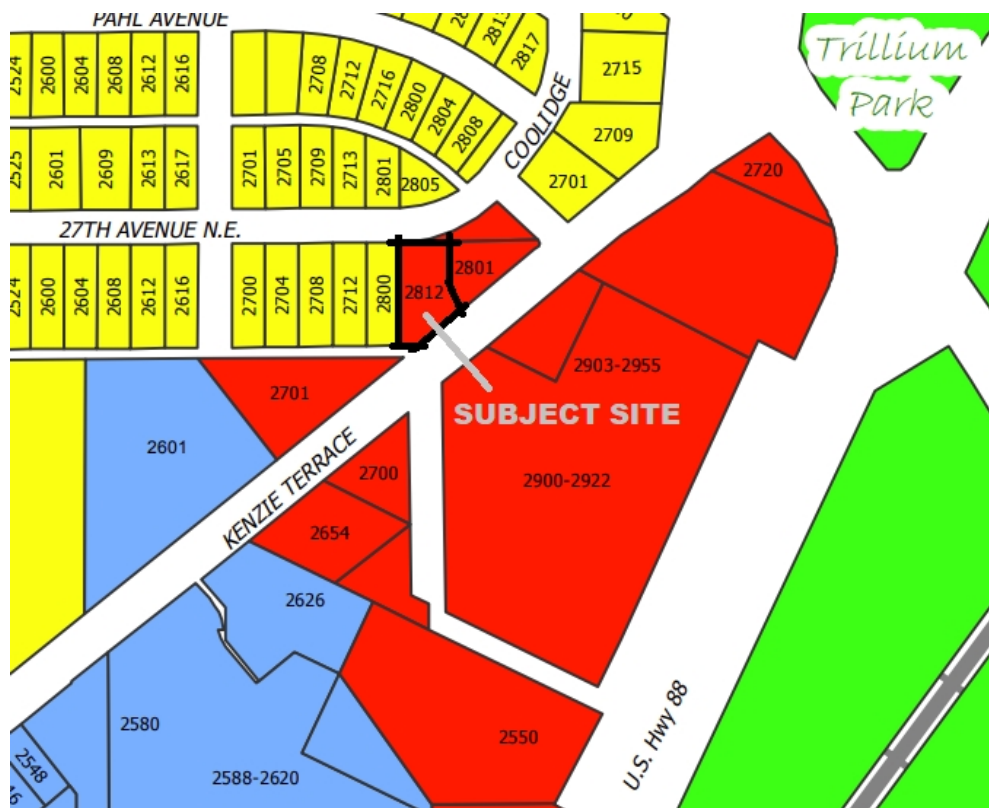
Tom Archambault, on behalf of BLVD Autoworks, is proposing to replace an existing six-foot-high fence located along a portion of the west property line of his business located at 2812 27<sup>th</sup> Avenue NE with a fence measuring 8 feet in height. To accommodate the proposed fence height, the processing of a conditional use permit is necessary.

The existing fence segment in question is located between the principal building and the south property line of the site. The existing fence has an alternating wood slat design.

According to the applicant, the existing fence can no longer be properly maintained and is in need of replacement. The replacement fence would be the same horizontal length of the existing fence but would be a solid slat design.

The subject site is zoned C - General Commercial. Within General Commercial zoning districts, “auto repair which includes no storage of autos for parts” is listed as a conditional use.

The subject site’s location, and its context, are illustrated on the zoning map below.



The site is considered a “double frontage lot,” having street frontage along both 27<sup>th</sup> Avenue NE to the north and Kenzie Terrace to the south. Recognizing that direct lot access is not available from the north, the area south of the building is considered the “front yard.”

According to Section 150.07(C)(2) of the City Code, no fence serving a commercial use may be over 6 feet in height within a required front yard setback. The Code further states that fences may extend to a total height of 8 with a security arm for barbed wire if a conditional use permit is obtained. Within General Commercial zoning districts, the required front yard setback is 35 feet or a distance equal to the average of the front yard depths on the two adjacent lots.

The City Code sets out a series of criteria necessary to qualify for conditional use permit consideration. Those criteria are found in §152.24s, (C) of the Zoning Chapter, and are included in a latter section this report. It is the opinion of Staff that the proposed increase in fence height satisfies the referenced conditional use permit evaluation criteria and will serve to improve compatibility between the automotive business and adjacent single-family home.

Some concern with both the existing and proposed fence relates to traffic visibility as the existing fence extends to abutting alley's right-of-way line. According to Section 150.072 (D) of the City Code...

*No fence shall be placed in such a manner as to materially impede vision between a height of two and one-half (2 ½ ) feet and ten (10) feet above the centerline grades of the intersection of a street and alley or driveway such that a clear line of vision is possible of the intersecting street from a distance of fifteen (15) feet along the edge of the street and along the alley or driveway, and a third line connecting the other sides, unless otherwise required or approved by the Zoning Administrator or other Authorized Agent.*

It is acknowledged, however, that the proposed increase in fence height will have no impact on existing traffic visibility conditions.

As a condition of conditional use permit approval, it is recommended that the new fence meet all applicable fence construction requirements as outlined in Section 150.073 of the Code and reiterated below:

- (A) *Fences and walls shall be constructed in a manner and of such materials that do not adversely affect the appearance of the neighborhood or adjacent property values. Fences shall not be constructed from poultry netting (chicken wire), welded wire, snow fence, branches, or materials originally intended for other purposes, unless upon the showing of a high degree of architectural quality achieved through the use of such materials, and prior approval is granted by the Zoning Administrator or other Authorized Agent.*
- (B) *Fences and walls hereafter erected shall be durable, weather resistant, rust proof, and easily maintained.*

- (C) Fences shall have structural supports (posts/footings) as required by the Building Official.*
- (D) Fences and walls shall be constructed of new or like new materials.*
- (E) The finished appearance of fences and walls shall be constructed with the higher quality finish directed toward the exterior of the property if the visual quality of the fence or wall is not the same on both sides.*
- (F) The framing and posts of wood, chain link, picket, stockade, and decorative metal fences shall face the inside of the parcel area fenced. The side of the fence considered to be the face (facing as applied to fence posts) shall face the abutting property.*
- (G) No more than two (2) types of related fencing materials shall be used in any fence and wall.*
- (H) Both sides of any fence or wall shall be maintained in a condition of reasonable repair and appearance by its owner and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private.*
- (I) The property owner is responsible for providing proof of property line location.*
- (J) Retaining walls shall not be placed within any drainage, utility or ponding easements unless also reviewed and approved by the City Engineer.*

## **2. Representative Codes Referenced.**

Title XV Land Usage, Chapter 150 Zoning Code, Section 150.072, Fence Regulations.

Title XV Land Usage, Chapter 152 Zoning Code, Section §152.243, Conditional Use Permits.

## **3. Criteria for and Consistency with Criteria for Conditional Use Permit Approval.**

Title XV Land Usage, Chapter 152 Zoning Code, Section §152.243, (C), lists the criteria the City Council must consider in consideration of applications for a conditional use permit.

Therefore, the request for conditional use permit to allow a fence measuring 8 feet in height in the front yard of a commercial property is subject to the following review criteria:

- (1) The use is one of the conditional uses specifically listed for the district in which the property is located.*
- (2) The City Council has specified all conditions which the City Council deems necessary to make the use compatible with other uses in the area*
- (3) The use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity or to the values of property in the vicinity.*
- (4) The use will provide a service or a facility which is in the interest of public convenience and will contribute to the general welfare.*

## **SUMMARY AND STAFF RECOMMENDATION**

Staff recommends approval of the requested conditional use permit to allow a fence measuring 8 feet in height in the front yard of a commercial property located at 2812 27<sup>th</sup> Avenue NE based on the following findings:

- A. The proposed fence height will not negatively impact properties in the vicinity of the subject site.
- B. The owner of the adjacent single-family home to the west is supportive of the proposed fence height change as it will serve to improve screening of the abutting and higher intensity automotive use.
- C. In consideration of existing maintenance issues, the new fence will visually improve the area.

## **DECISION**

### **Conditional Use Permit - Front Yard Fence Height Requirement for a Commercial Use**

#### **RECOMMENDED ACTION:**

- A. Motion to approve the request for a conditional use permit to allow the construction of a fence of up to 8 feet in height in the front yard of a commercial use, based on findings identified in the resolution.**

#### **ALTERNATIVE ACTIONS:**

- B. Motion to deny the conditional use permit as requested. In the event of a motion for denial, the City Council should adopt findings and/or identify other factors leading to the denial.
- C. Request additional information and table action, subject to the submission of additional information from staff and/or applicant.

## **ATTACHMENTS**

Exhibit A: Application and Supporting Material