Legislation Details (With Text)

File #:	RES 17-1406 **Version:** 2		
Type:	Resolution	**Status:**	Passed
		In control:	City Council
		Final action:	9/13/2017
Title:	Modifying a special use permit granted June 26, 1971 in C.F. 254526 regarding the maintenance of a fence between real property at the southwest corner of Lower Afton and McKnight Roads and 2217 Londin Lane East.		
Sponsors:	Jane L. Prince		
Indexes:			
Code sections:			
Attachments:			

Date	Ver.	Action By	Action	Result
9/15/2017	2	Mayor's Office	Signed	
9/13/2017	1	City Council	Adopted As Amended	Pass
9/6/2017	1	City Council	Laid Over	Pass

Modifying a special use permit granted June 26, 1971 in C.F. 254526 regarding the maintenance of a fence between real property at the southwest corner of Lower Afton and McKnight Roads and 2217 Londin Lane East.

WHEREAS, on June 26, 1971, in Council File No. 254526, the City granted a special use permit ("SUP") to construct a 225-space surface parking facility to serve a 147-unit apartment complex on property located at the southwest corner of Lower Afton and McKnight Roads in the City of St. Paul and legally described as follows:

Parcel 1. The North 65 feet of the West 80 feet and the South 90 feet of the North 155 feet of the West 70 feet of that part of the East quarter of the Northeast quarter of the Northeast quarter of Section 11, Township 28, Range 22 described as follows: Beginning at the Southeasterly corner of the East quarter of the Northeast quarter of the Northeast quarter of said Section 11, said corner being at the center of Lower Afton Road (now known as Londin Lane) and on the East line of Section 11,Township 28, Range 22, thence Northerly along said East line of Section 11, Township 28, Range 22, a distance of 330 feet, thence West a distance of 328.08 feet more or less, to the Westerly boundary of said quarter, quarter, quarter section, thence South a distance of 330 feet and thence East a distance of 328.08 feet, more or less, to the place of beginning.

Parcel 2. That part of the North 8 acres of the North half of the West half of the East half of the East half of the Northeast quarter of Section 11, Township 28, Range 22, lying South of a line described as commencing at the Southeast corner of the Northeast quarter of the Northeast quarter of said Section 11; thence North, along the East line of said Northeast quarter of the Northeast quarter, a distance of 667.72 feet to the point of beginning of the line to be described; thence West at right angles a distance of 308.02 feet; thence South at right angles a distance of 30.49 feet; thence West at right angles a distance of 199 feet; thence North at right angles a distance of 30.49 feet; thence West at right angles a distance of 147.83 feet, more or less, to the West line of the West half of the East half of the East half of the Northeast quarter of said Section 11, and said line hereinafter described as Line "A", there terminating.

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Parcel 3. That part of the East quarter of the Northeast quarter of the Northeast quarter of Section 11, Township 28, Range 22, lying South of a line described as commencing at the Southeast corner of the Northeast quarter of the Northeast quarter of said Section 11; thence North, along the East line of said Northeast quarter of the Northeast quarter, a distance of 667.72 feet to the point of beginning of the line to be described; thence West at right angles a distance of 308.02 feet; thence South at right angles a distance of 30.49 feet; thence West at right angles a distance of 199 feet; thence North at right angles a distance of 30.49 feet; thence West at right angles a distance of 147.83 feet, more or less, to the West line of the West half of the East half of the East half of the Northeast quarter of said Section 11, and said line hereinbefore described as Line"A"; there terminating; except a parcel of land described as follows: Beginning at the Southeasterly comer of said property hereinbefore described, said corner being at the center of Lower Afton Road (now known as Londin Lane) and on the East line of Section 11, Township 28, Range 22, thence Northerly along said East line of Section 11, Township 28, Range22, a distance of 330.00feet, thence West a distance of 328.08 feet, more or less, to the Westerly boundary of said quarter, quarter, quarter section, thence South a distance of 330 feet and thence East a distance of 328.08 feet, more or less, to the place of beginning.

Parcel 4. The North 65 feet of the East 80 feet of the West 160 of that part of the East quarter of the Northeast quarter of the Northeast quarter of Section 11, Township 28, Range 22 described as follows: Beginning at the Southeasterly corner of the East quarter of the Northeast quarter of the Northeast quarter of Section 11, said corner being at the center of Lower Afton Road (now known as Londin Lane) and on the East line of Section 11, Township 28, Range 22, thence Northerly along said East line of Section 11, Township 28, Range 22, a distance of 330 feet, thence West a distance of 328.08 feet more or less, to the Westerly boundary of said quarter, quarter, quarter section, thence South a distance of 330 feet and thence East a distance of 328.08 feet, more or less, to the place of beginning.

Parcel 5. That part of the North 8 acres of the North half of the West half of the East half of the East half of the Northeast quarter of Section 11, Township 28, Range 22, and that part of the East quarter of the Northeast quarter of the Northeast quarter of Section 11, Township 28, Range 22, described as commencing at the Southeast corner of the Northeast quarter of the Northeast quarter of said Section 11, thence North, along the East line of said Northeast quarter of the Northeast quarter, a distance of 667.72 feet; thence West at right angles a distance of 308.02 feet; thence South at right angles a distance of 25.49 feet to the point of beginning; thence continuing South on the last described line a distance of 5 feet; thence West at right angles a distance of 199 feet; thence North at right angles a distance of 5 feet; thence East to the point of beginning.

situated in the County of Ramsey and State of Minnesota (the “Property”); and

WHEREAS, as a condition of approving the said parking facility, the City imposed on the SUP the following condition: “subject to a stockade type fence between the subject property and the residential property who desire the fence to be constructed by the owner of the apartment project, to be 8 feet in height, maintained and stained every other year by the owner;” and

WHEREAS, the Property in question is registered as Torrens property; and

WHEREAS, the City of St. Paul never recorded either the resolution or the SUP on the certificate of title for Property because there was no legal requirement to record either the resolution or the SUP against the real property in 1971; and

WHEREAS, Shamrock Court Investors, LP (“Owner”) subsequently purchased the said apartment complex located on the Property without actual or constructive knowledge of the SUP contained in Council File No. 254526; and

WHEREAS, City and Owner subsequently engaged in discussions to resolve the issue of fence maintenance required under the terms and conditions of the SUP; and

WHEREAS, the City and the Owner now desire to modify the SUP’s condition regarding the said fence with

respect to its construction and maintenance; NOW, THEREFORE,

BE IT RESOLVED: That the SUP granted by the Saint Paul City Council pursuant to Council File No. 254526 on June 17, 1971 and approved on June 21, 1971 is hereby modified to provide as follows:

1. Any condition that required the construction and/or maintenance of any fence is repealed, and specifically repealed are the requirements in the SUP that the Owner of the apartment project: (1) construct a stockade type fence 8 feet in height between the subject property and the residential property who desire the fence; and (2) maintain and stain said fence every other year.

2. In exchange for the repeal of the SUP conditions noted in the preceding paragraph Owner agrees and therefore shall construct at Owner's sole cost, a new maintenance-free fence ("Fence") along the south (134 feet of fence) and east (66 feet of fence) property line separating Owner's land from that of 2217 Londin Lane East Saint Paul, MN 55119 ("2217 Londin Lane").

3. The owner of 2217 Londin Lane agrees and understands that that upon completion of the Fence, Owner shall be released from any further obligation to maintain, repair, or replace the Fence and that all future responsibility to maintain, repair, or replace the Fence will be assumed by the owner of 2217 Londin Lane.

4. Owner agrees to build and complete the new Fence not later than 60-days of this Resolution. Owner shall apply to and obtain from DSI a plan review and a permit to install the new Fence, the approvals of which shall not unreasonably be denied. Upon completion of the new Fence and an inspection for compliance with the terms of this Resolution by DSI, Owner shall have no further responsibility to maintain, repair, or replace the Fence for 2217 Londin Lane.

AND, BE IT FURTHER RESOLVED, that this Resolution is intended for the benefit of the Owner, Shamrock Court Investors, LP, a Minnesota limited partnership (and its successors in interest) as the Owner of an estate in fee simple of that property commonly known as 2236 Lower Afton Road, Saint Paul, MN 55119; and

BE IT, FINALLY RESOLVED, that the City Clerk is hereby authorized and directed to transmit a copy of this Resolution to the Ramsey County Recorder and Registrar of Titles and that it shall be recorded and memorialized on Certificate of Title Number: 320951.

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