CITY OF EDINA

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# MEMO

**Date:** April 22, 2015

**To:** Planning Commission

**From:** Cary Teague, Community Development Director

**Re:** City Code Amendment Consideration – Lot Division, Rezoning Procedure, Side Yard Setback & R-2 District regulations.

Based on the feedback from the Planning Commission at our last meeting, staff has revised the attached Ordinance to include a definition of window well; eliminated the egress window reference; and added language regarding site plan modifications. The new text is highlighted in grey.

The City Council is scheduled to hold a public hearing on the Ordinance at their April 21, 2015 meeting.

The following is a summary of each of the **"Sections"** in the Ordinance:

**Section 1. Lot Division/Party Wall Division.** This would allow a lot division (an adjustment to an existing lot line), and a party wall division of an existing duplex to be done administratively. The lot line adjustment cannot create a new lot, cannot make one lot large enough to be eligible for further subdivision and cannot create an unbuildable lot. The resulting parcels must meet applicable ordinances. If one lot is nonconforming, it must become more conforming. Currently, lot line adjustments (lot divisions) require review and recommendation of the Planning Commission and final action by the City Council. This can be time consuming for applicants wishing only adjust a lot line. Edina is unique in requiring this type of process. Most cities have their staff review and approve these requests.

**Section 2. Window Well.** A definition has been added for a window well. This definition would include egress window wells. The setback regulation is now for all types of window wells.

**Section 3. Plan Modifications.** Additional detail, including impervious surface, on-site circulation and access, and landscaping has been added in regard to plan modifications following city council approval.

**Sections 4 & 5. Procedure for Rezoning.** As discussed at the City Council work session, these two Sections amend the Zoning Ordinance to create a 1-step process for standard rezoning requests; and a 2-step process for PUD, Planned Unit Development rezoning requests. The second step of the PUD process would be a review by the City Council. This final review is to ensure that the final plans are consistent with the plans approved in the first step, and also that the plans include the conditions that were required in the first step. If changes are made to the plan following the 1st step, beyond what is allowed in Section 36-30 of the Zoning Ordinance, the applicant would be required to go back again to the Planning Commission for recommendation, the same as the 1st step. (See Section 3 for the detail of plan modifications.)

**Sections 6 & 7. Building Coverage, Side Yard Setback requirements.** Adds clarity to building coverage exemptions, and the side yard setback requirements. This section proposes an elimination of the side yard setback requirement to increase the side yard setback 6 inches for every 1-foot that a single family home exceeds 15 feet in height.

The side yard setbacks were recently increased by generally 2 feet total on lots 50-74 feet in width. (One foot on each side.) However, builders and homeowners could choose the option to maintain the previous setback requirements, as long as the second story setback was increased. However, since this ordinance went into effect, the vast majority of new homes are being built with the new increased setback rather than the old method.

Homes that are less than 50 feet in width and over 75 feet in width are still required to meet the standard of having to increase the setback on the second story. Lots that exceed 75 feet in width are required a 10-foot side yard setback. Spacing between these homes has not been an issue in the past. Lots less than 40 feet in width struggle to build 2-story homes giving the added second story setback requirement.

Staff experiences a lot of confusion by residents and builders when they try to interpret this section of the ordinance. By eliminating the second story increased setback rule, it also eliminates the confusion on measuring building height on the side yard from proposed grade. This is confusing to many, because the overall height of a home is measured from previously existing grade along the front building line. It also eliminates the confusion over where the height of the structure is measured to. (See 1.c on page 10 of the proposed ordinance.)

**Section 8. R-2 District Regulations.** This Section suggests allowing single family homes in the R-2 Zoning District. Current code prohibits single family homes in the R-2 District. The City receives very few requests for this use in R-2 District. However, historically these requests have been granted. The last one was in 2011, at 5213 Malibu Drive, and it was approved.

As requested by the Planning Commission at our last meeting, staff has included a Zoning Map highlighting the R-2 areas in the City. Additionally, staff took pictures of some of these existing duplexes. (provided in last month's planning packet.) There are a wide variety of duplexes ranging in size and value. These duplexes are typically located on very busy roadways, such as Vernon Avenue, France Avenue or the Crosstown Highway, or they are located adjacent from high density residential or commercial areas such as 50th and France or west of France in the greater Southdale Area.

The numbers on the Zoning Map correspond to the areas where the pictures were taken. Many of these duplexes could be considered possible for redevelopment such as the areas highlighted in 1, 4, 5, 8 and 9.

This Section also corrects a typo that restricts the maximum height of a duplex to be 35 feet.

**Section 9. Building Height.** Corrects an error on the table to refer to the height overlay map.

**Section 10. Nonconforming R-2 Lots.** This Section allows duplexes on existing nonconforming R-2 lots to be torn down and rebuilt without the need for a variance. This would be consistent with existing R-1 lots that are nonconforming. Currently, substandard R-2 lots are required lot area and width variances when structures are torn down and replaced.

The text of the entire Nonconforming Lot Section has been added for context.
Please note that the language suggested is the same as is used for nonconforming lots in the R-1 District.

# ORDINANCE NO. 2015-__ (Draft – April 8, 2015 – Draft)
# AN ORDINANCE AMENDING CHAPTERS 32 AND 36 OF THE EDINA CITY CODE

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The City Council Of Edina Ordains:

**Section 1.** Section 32 of the Edina City Code is amended to read as follows:

Sec. 32-6. Plat not required.

(a) *Double dwelling units.* ~~As provided in section 32-10(a),~~ No plat shall be required for subdivisions of lots in Double Dwelling Unit Districts but only a ~~lot division~~ Party wall division pursuant to subsection (c) of this section shall be required.

(b) ~~*Lot division*~~ *Lot line adjustment*. No plat shall be required for any ~~lot division~~ lot line adjustment which adjusts or relocates a common lot line separating two lots and which does not create a new undeveloped parcel, tract or lot that complies, alone or in combination with one or more other parcels, tracts or lots, with the applicable minimum lot area and other requirements of this chapter and section. ~~However, before any lot division shall be made or any conveyance resulting from the lot division is placed of record, the council shall adopt a resolution approving the same, and the procedure shall be the same as for preliminary plat approval as set out in article II, division 3 of this chapter, except that:~~

~~(1) A notice of the hearing before the council need not be published;~~

~~(2) No sign need be erected; and~~

~~(3) Only a survey prepared and signed by a state-registered land surveyor showing the proposed lot division that needs to be filed with the planner, together with the required fee and such additional information that, in the opinion of the planner, is necessary for evaluation of the lot division and determination that it is consistent with the requirements of this chapter.~~

(c) *Procedure. Lot line adjustments may be approved by the city planner if the following conditions are met:*

(1) Lot Line Adjustment Conditions.

a. The new legal descriptions for the properties are metes and bounds;

b. The adjustment does not result in the creation of a new lot , does not make one of the lots large enough to be eligible for further subdivision, and does not make an unbuildable lot buildable; and

c. The resulting parcels meet all applicable ordinance requirements, except that if one of the parcels was previously non-conforming, it must become more conforming as a result of the subdivision.

Existing text – XXXX
Stricken text – ~~XXXX~~
Added text – XXXX

(2) Party Wall Division Conditions.

a. The new legal descriptions for the properties are metes and bounds;

b. The multi-family building is already built;

c. The lot line(s) is along an existing, common wall;

d. The division does not make one of the lots large enough to be eligible for further subdivision;

e. Verification has been provided that the building would meet building code requirements with the new lot line;

g. The following items are submitted for review by the city attorney, who will designate which items must be recorded:

1. Documents establishing how the building, common sewer and water lines and any common drives will be maintained and who will be responsible; and

2. Common access easements for each lot.

(3) Application Process.

a. An application to adjust a lot line between two existing lots or divide a lot along an existing party wall(s) of a multi-family building must submitted to the planning division. The application must be accompanied by all of the following:

1. An application fee.

2. A full legal description of the existing properties, as documented by current land title records.

3. An existing conditions survey. The survey must include: lot dimensions, all platted and recorded easements, all existing structures with dimensions to show size and location, structure setbacks from all property lines, and the location of existing driveways and utility lines.

4. A proposed conditions survey. The survey must include: the proposed lot lines, all platted, recorded, and proposed easements, all existing structures with dimensions to show size and location, structure setbacks from all property lines, and the location of existing driveways and utility lines.

5. Evidence of the current condition of title to the land affected by the lot line adjustment, which may include an abstract of title or registered property abstract or a commitment for an owner's policy of

title insurance. The city attorney may require the applicant to also provide copies of recorded instruments that are referenced in the submitted title evidence.

b. After receipt of the application, the city planner will consider the subdivision's consistency with this ordinance.

**Section 2. Sec. 36-10, Definitions is amended to add the following definition:**

*Window well* means the clear space created by a soil-retaining structure located immediately below a window whose sill height is lower than the adjacent ground level.

**Section 3. Sec. 36-130, Plan Modifications is amended to read as follows:**

**Sec. 36-130. - Plan modifications.**

(a) Minor changes may be authorized by the planner only one time. Changes are considered minor if:

(1) There is no increase to the proposed number of dwelling units;
(2) Any proposed increase in the floor area of structures on site does not exceed five percent of the gross floor area;
(3) All proposed revisions comply with Code requirements;
(4) There is no change to any condition required in a site plan approval, including building materials and color; ~~and~~
(5) The property is not located in an Edina Heritage Landmark District;
(6) Impervious surface shall not increase by more than five percent, unless to add required parking stalls per a proof of parking plan;
(7) There is no change to on-site circulation patterns or access to the site; and
(8) Trees to be planted may be relocated but not decreased in number.

(b) All other plan modifications shall be acted on, reviewed and processed by the commission and council in the same manner as they reviewed and processed the site plan.

**Section 4. Chapter 36. Article IV. Subdivision II, procedure for rezoning in the Edina City Code is amended to read as follows:**

**Subdivision II. - Procedure for Rezoning**

**Sec. 36-212. ~~Preliminary~~ Rezoning and site plan.**

The petition for rezoning shall include a ~~preliminary~~ site plan with the required data and information in article III of this chapter.

**Sec. 36-213. Planning commission review and hearing.**

Upon receipt of the petition, fee and all other required information, in form and substance acceptable to the planner, the planner will review the petition, ~~preliminary~~ site plan and the other information provided by the petitioner, and forward a report to the planning commission. The commission shall conduct a public hearing regarding the petition and ~~preliminary~~ site plan. A notice of the date, time, place and purpose of the hearing shall be published in the official newspaper of the city at least ten days prior to the date of the hearing. A similar notice of hearing shall be mailed at least ten days before the date of the hearing to each owner of property situated, wholly or partly, within 1,000 feet of the tract to which the petition relates, insofar as the names and addresses of such owners can reasonably be determined by the clerk from records maintained by the assessor or from other appropriate records. After reviewing the report of the planner and hearing the oral or written views of all interested persons, the commission shall make its decision at the same meeting or at a specified future date and send its recommendation to the council. No new notice need be given for hearings that are continued by the commission to a specified future date.

The commission may recommend approval by the council based upon, but not limited to, the following factors:

(1) Is consistent with the comprehensive plan;

(2) Will not be detrimental to properties surrounding the tract;

(3) Will not result in an overly intensive land use;

(4) Will not result in undue traffic congestion or traffic hazards;

(5) Conforms to the provisions of this section and other applicable provisions of this Code; and

(6) Provides a proper relationship between the proposed improvements, existing structures, open space and natural features.

**Sec. 36-214. Council hearings and decision; ~~preliminary~~ zoning approval.**

~~Upon request of the planner, city manager or petitioner, and~~ After review and recommendation by the planning commission, the city council shall conduct a public hearing regarding the rezoning petition and ~~preliminary~~ site plan. A notice of the date, time, place and purpose of the hearing shall be published in the official newspaper of the city at least ten days prior to the date of the hearing. A similar notice of hearing shall be mailed at least ten days before the date of the hearing to each owner of property situated, wholly or partly, within 1,000 feet of the tract to which the petition relates, insofar as the names and addresses of such owners can reasonably be determined by the clerk from records maintained by the assessor or from other appropriate records. After hearing the oral or written views of all interested persons, the council shall make its decision at the same meeting or at a specified future date. No new notice need be given for hearings that are continued by the council to a specified future date. An affirmative vote of three-fifths of all members of the council shall be required to grant ~~preliminary~~ rezoning approval. Provided, however, a rezoning from any residential zoning district to any nonresidential zoning district shall require an affirmative vote of four-fifths of all members of the council. ~~If preliminary rezoning approval is granted, the petitioner may prepare a final site plan.~~ In granting ~~preliminary~~ rezoning approval, the council may

make modifications to the ~~preliminary~~ site plan and may impose conditions on its approval of the site plan. The petitioner shall include the modifications, and comply with the conditions, ~~in the final site plan, or~~ at another time and by other documents, as the council may require or as shall be appropriate.

~~**Sec. 36-215. - Final site plan.**~~

~~The final site plan shall include all required information and data delineated on the preliminary site plan and, in addition, the required data and information in article III of this chapter.~~

~~**Sec. 36-216. - Final rezoning and site plan; planning commission review and hearing.**~~

~~(a) The planner shall forward a report to the planning commission. The commission shall conduct a public hearing regarding the final rezoning and site plan. A notice of the date, time, place and purpose of the hearing shall be published in the official newspaper of the city at least ten days prior to the date of the hearing. A similar notice of hearing shall be mailed at least ten days before the date of the hearing to each owner of property situated wholly or partly within 1,000 feet of the tract to which the petition relates, insofar as the names and addresses of such owners can reasonably be determined by the clerk from records maintained by the assessor or from other appropriate records. After reviewing the report of the planner and hearing the oral or written views of all interested persons, the commission shall make its decision at the same meeting or at a specified future date and send its recommendation to the council. No new notice need be given for hearings that are continued by the commission to a specified future date. The commission may recommend approval by the council based upon, but not limited to, the following factors:~~

~~(1) Is consistent with the comprehensive plan;~~
~~(2) Is consistent with the preliminary site plan as approved and modified by the council and contains the council imposed conditions to the extent the conditions can be complied with by the final site plan;~~
~~(3) Will not be detrimental to properties surrounding the tract;~~
~~(4) Will not result in an overly intensive land use;~~
~~(5) Will not result in undue traffic congestion or traffic hazards;~~
~~(6) Conforms to the provisions of this section and other applicable provisions of this Code; and~~
~~(7) Provides a proper relationship between the proposed improvements, existing structures, open space and natural features.~~

~~(b)A recommendation of approval by the commission shall be deemed to include a favorable finding on each of the matters set forth in subsection (a) of this section, even if not specifically set out in the approval resolution or the minutes of the commission meeting.~~

~~**Sec. 36-217. - Council hearing and decision; final rezoning.**~~

~~The council shall conduct a public hearing on the final rezoning and site plan in the same manner and with the same notices as required for preliminary rezoning approval. After hearing the oral and written views of all interested persons, the council may accept or reject the findings of the commission and thereby approve or disapprove the final rezoning and site plan. An affirmative vote of three-fifths of all members of the council shall be required to grant final rezoning approval. Provided, however, a rezoning from any residential zoning district to any nonresidential zoning district shall require an affirmative vote of four-fifths of all members of the council.~~

**Sec. 36-218. Filing.**

The approved ~~final~~ site plan shall be filed in the planning department.

**Sec. 36-219. Development.**

The development of the tract shall be done and accomplished in full compliance with the approved ~~final~~ site plan, as modified by, and with the conditions made by, the council, and in full compliance with this chapter and other applicable provisions of this Code. Applications for building permits shall be reviewed by the planning department prior to issuance of such permits to determine if they conform to the provisions of this chapter, the approved ~~final~~ site plan, as modified by, and with the conditions made by, the council, and other applicable provisions of this Code.

**Sec. 36-220. - Changes to approved ~~final~~ site plan.**

Minor changes in the location and placement of buildings or other improvements may be authorized by the planner. Proposed changes to the approved ~~final~~ site plan affecting structural types, building coverage, mass, intensity or height, allocation of open space and all other changes which affect the overall design of the property shall be acted on, reviewed and processed by the commission and council in the same manner as they reviewed and processed the ~~final~~ site plan, except that a three-fifths favorable vote of the council shall be required to authorize the proposed change.

**Sec. 36-221. Lapse of approved ~~final~~ site plan by nonuser; extension of time.**

(a) If a building permit has not been obtained, and if erection or alteration of a building, as described in the application for ~~final~~ site plan, has not begun within two years after ~~final development~~ site plan approval, the approval shall be null and void unless a petition for extension of time in which to commence the proposed work or improvements has been granted.

(b) A petition for extension shall be made in writing and filed with the city clerk within such two-year period. The petition shall state reasons showing why a building permit has not been obtained, or why erection or alterations have not commenced, and shall state the additional time requested to begin the proposed work or improvement. The petition shall be presented to the council for hearing and decision in the same manner as then required for an original application. The council may grant an extension of up to one year upon finding that:

(1) There is a reasonable expectation that the proposed work or improvement will commence during the extension; and

(2) The facts which were the basis for approving the final development plan have not materially changed.

No more than one extension shall be granted.

**Sec. 36-222. - Restriction on rezoning after denial of petition.**

After the council has denied a petition for rezoning, the owner of the tract to which the petition related may not file a new petition for a period of one year following the date of such denial for transferring the same tract, or any part, to the same district or subdistrict (if the district has been

divided into subdistricts) to which such transfer was previously denied. Provided, however, that such petition may be filed if so directed by the council on a three-fifths favorable vote of all members of the council after presentation to the council of evidence of a change of facts or circumstances affecting the tract.

**Section 5. Section 36-255 of the Edina City Code is amended to read as follows:**

**Sec. 36-255. - Procedures.**

(a) *Preapplication conference.* Prior to filing of an application for a PUD, the applicant must arrange for and attend a conference with city staff. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of the proposal for the area for which it is proposed and its conformity to the provisions of this chapter before incurring substantial expense in the preparation of plans, surveys and other data.

(b) *Preapplication sketch plan review.* Prior to filing of a PUD, the applicant is encouraged to submit a sketch plan of the project to the city planner pursuant to section 36-126. The submittal should include a statement providing justification for the PUD, including, but not limited to, the intended utilization of the items listed in the purpose, intent and criteria in this subdivision.

(c) *Planning commission and city council review.* The planner shall refer the sketch plan to the planning commission and city council for discussion, review and informal comment. Any opinions or comments provided to the applicant by the planner, planning commission and city council shall be considered advisory only and shall not constitute a binding decision on the request. There shall be no official application made for a sketch plan. It is an informal review and comment by planning commission and city council.

(d) *Preliminary development plan and preliminary rezoning.* Preliminary development plan submissions may depict and outline the proposed implementation of the sketch plan for the PUD. The preliminary development plan submissions shall include, but not be limited to, the submission requirements stipulated in article III of this chapter. Preliminary rezoning process is stipulated in section 36-~~95~~ 212-214. Preliminary rezoning shall include first reading of an Ordinance Amendment creating a PUD zoning district.

(e) *Final development plan and final rezoning.* After approval of the preliminary development plan, the applicant may apply for a final development plan and final rezoning approval for all or a portion of the PUD. The final development plan submissions shall include, but not be limited to, the submission requirements stipulated in article III of this chapter. ~~Final rezoning process is stipulated in section 36-95.~~ Final development plan and final rezoning shall be heard before the city council. The final development plan and final PUD is reviewed to ensure that the proposed final development plan is consistent with the preliminary development plan and to address any new or outstanding concerns from preliminary approval. Should the plans be revised by the applicant beyond the allowed plan modifications outlined in section 36-130, the final development plan and final rezoning shall therefore follow the process outlined in section 36-212-214, which requires review by both planning commission and city council.

(f) *Final rezoning to PUD.* Final rezoning to PUD becomes official upon adoption of an ordinance rezoning the property.

**Section 6. Section 36-438 of the Edina City Code is amended to read as follows:**

**Sec. 36-438. Requirements for building coverage, setbacks and height.**

(1) Building coverage.

e. The following improvements shall be excluded when computing building coverage:

1. Driveways and sidewalks, but not patios, subject to subsection (1)d.1 of this section.

2. Parking lots and parking ramps.

3. Accessory recreational facilities not enclosed by solid walls and not covered by a roof, including outdoor swimming pools, tennis courts and shuffleboard courts.

4. Unenclosed ~~and uncovered~~ steps and stoops less than 50 square feet.

5. Overhanging eaves and roof projections not supported by posts or pillars.

(2) Setbacks. Table is revised as follows:

| *Minimum setbacks*, (subject to the requirements of subsection 36-439(1). | **Front Street** | **Side Street** | **Interior Side Street** | **Rear Yard** |
|---|---|---|---|---|
| 1. Single dwelling unit buildings on lots 75 feet or more in width. | 30'** | 15' | 10' | 25' |
| 2. Single dwelling unit buildings on lots more than 60 feet in width, but less than 75 feet in width. | 30'** | 15' | The required interior yard setback ~~of 5 feet shall increase by one-third foot (4 inches) for each foot that the lot width exceeds 60 feet and subsection 36-439(1)c. shall apply; or~~ shall meet the table below: | 25' |

| **Lot Width** | **Total Side Yard Setbacks from both Interior Side Lot Lines** |
|---|---|
| 74 | 20' with no less than 10 feet on one side |
| 73 | 20' with no less than 10 feet on one side |
| 72 | 20' with no less than 10 feet on one side |
| 71 | 19' 4" with no less than 9 feet on one side |
| 70 | 18' 8" with no less than 9 feet on one side |
| 69 | 18' with no less than 9 feet on one side |
| 68 | 17' 4" with no less than 8 feet on one side |
| 67 | 16' 8" with no less than 8 feet on one side |
| 66 | 16' with no less than 8 feet on one side |
| 65 | 15' 4" with no less than 7 feet on one side |

| *Minimum setbacks*, (subject to the requirements of subsection 36-439(1). | **Front Street** | **Side Street** | **Interior Side Street** | **Rear Yard** |
|---|---|---|---|---|
| 64 | 14′ 8″ with no less than 7 feet on one side | | | |
| 63 | 14′ with no less than 7 feet on one side | | | |
| 62 | 13′ 4″ with no less than 6 feet on one side | | | |
| 61 | 12′ 8″ total with no less than 6 feet on one side | | | |
| ~~If this option is utilized for the required interior side yard setback, subsection 36-439(1)c. shall not apply.~~ | | | | |
| | **Front Street** | **Side Street** | **Interior Side Yard** | **Rear Yard** |
| 3. Single dwelling unit buildings on lots between 50 and 60 feet in width. | 30′** | 15′ | ~~5′ and subsection 36-439(1)c. shall apply; or~~ 12′ total, with no less than 5′ on one side ~~and subsection 36-439(1)c. shall not apply.~~ | 25′ |
| 4. Single dwelling unit buildings on lots less than 50 feet in width. | 30′** | 15′ | 5′ | 25′ |
| 5. Buildings and structures accessory to single dwelling unit buildings: | | | | |
| a. Detached garages, tool sheds, greenhouses and garden houses entirely within the rear yard, including the eaves. | 30′** | ~~>~~15′ | 3′ | 3′ |
| b. Detached garages, tool sheds, greenhouses and garden houses not entirely within the rear yard. | 30′** | 15′ | 5′ | 5′ |
| c. Unenclosed decks and patios. | 30′** | 15′ | 5′ | 5′ |
| d. Swimming pools, including appurtenant equipment and required decking. | 30′** | 15′ | 10′ | 10′ |
| e. Tennis courts, basketball courts, sports courts, hockey and skating rinks, and other similar recreational accessory uses including appurtenant fencing and lighting. | 30′** | 15′ | 5′ | 5′ |
| f. All other accessory buildings and structures. | 30′** | 15′ | 5′ | 5′ |
| g. ~~Egress~~ window wells. | NA | NA | 3′ ~~Egress~~ (window wells ~~may encroach in the~~ are exempt from the side yard setback requirement on one side.) | NA |
| | | | | |

Existing text – XXXX
Stricken text – ~~XXXX~~
Added text – XXXX

| *Minimum setbacks*, (subject to the requirements of subsection 36-439(1). | Front Street | Side Street | Interior Side Street | Rear Yard |
|---|---|---|---|---|
| 6. Other Uses: | | | | |
| a. All conditional use buildings or structures including accessory buildings less than 1,000 square feet; except parking lots, day care facilities, pre-schools and nursery schools | 50′ | 50′ | 50′ | 50′ |
| b. All conditional use accessory buildings 1,000 square feet or larger. | 95′ | 95′ | 95′ | 95′ |
| c. Driving ranges, tennis courts, maintenance buildings and swimming pools accessory to a golf course. | 50′ | 50′ | 50′ | 50′ |
| d. Daycare facilities, pre-schools and nursery schools. | 30′ | 35′ | 35′ | 35′ |

** See subsection 36-439(1) below for required setback when more than 25 percent of the lots on one side of a street between street intersections, on one [side] of a street that ends in a cul-de-sac, or on one side of a dead end street are occupied by dwelling units.

**Section 7. Section 36-439(1) of the Edina City Code is amended to read as follows:**

(1) *Special setback requirements for single dwelling unit lots.*

a. *Established front street setback.* When more than 25 percent of the lots on one side of a street between street intersections, on one side of a street that ends in a cul-de-sac, or on one side of a dead-end street, are occupied by dwelling units, the front street setback for any lot shall be determined as follows:

1. If there is an existing dwelling unit on an abutting lot on only one side of the lot, the front street setback requirement shall be the same as the front street setback of the dwelling unit on the abutting lot.
2. If there are existing dwelling units on abutting lots on both sides of the lot, the front street setback shall be the average of the front street setbacks of the dwelling units on the two abutting lots.
3. In all other cases, the front street setback shall be the average front street setback of all dwelling units on the same side of that street.

b. *Side street setback.* The required side street setback shall be increased to that required for a front street setback where there is an adjoining interior lot facing on the same street. The required side street setback for a garage shall be increased to 20 feet if the garage opening faces the side street.

~~c. *Interior side yard setback.* The required interior side yard setback shall be increased by six inches for each foot the building height exceeds 15 feet. For purposes of this~~

~~subsection, building height shall be the height of that side of the building adjoining the side lot line and shall be measured from the average proposed elevation of the ground along and on the side of the building adjoining the side lot line to the top of the cornice of a flat roof, to the deck line of a Mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch-type roof, to the average distance of the highest gable on a pitched roof, or to the top of a cornice of a hip roof.~~

c. ~~d.~~ *Rear yard setback, interior lots.* If the rear lot line is less than 30 feet in length, or if the lot forms a point at the rear and there is no rear lot line, then, for setback purposes, the rear lot line shall be deemed to be a straight line segment within the lot not less than 30 feet in length, perpendicular to a line drawn from the midpoint of the front lot line to the junction of the interior lot lines, and at the maximum distance from the front lot line.

d. ~~e.~~ *Rear yard setback, corner lots required to maintain two front street setbacks.* The owner of a corner lot required to maintain two front street setbacks may designate any interior lot line measuring 30 feet or more in length as the rear lot line for setback purposes. In the alternative, the owner of a corner lot required to maintain two front street setbacks may deem the rear lot line to be a straight line segment within the lot not less than 30 feet in length, perpendicular to a line drawn from the junction of the street frontages to the junction of the interior lot lines, the line segment being the maximum distance from the junction of the street frontages.

e. ~~f.~~*Through lots.* For a through lot, the required setback for all buildings and structures from the street upon which the single dwelling unit building does not front shall be not less than 25 feet.

**Section 8. Sections 36-462, 36-466, and 36-467 of the Edina City Code are amended to read as follows:**

**Sec. 36-462. Principal uses.**

The principal uses permitted in the Double Dwelling Unit District (R-2) are as follows:

(a) buildings containing two dwelling units.
(b) single dwelling unit.

**Sec. 36-466. Requirements for building coverage, setbacks and height.**

(a) The requirements for building coverage, setbacks and height in the R-2 Double Dwelling Unit District are as follows:

(1) Maximum building coverage: 25 percent.

(2) Setbacks (subject to the provisions of subsection (d) of this section).

a. Principal use buildings.

1. Front street setback: 30 feet.**
2. Side street setback: 15 feet.
3. Interior side yard setback: ten feet.
4. Rear yard setback: 35 feet.

b. Accessory buildings and structures. Setbacks for accessory buildings and structures shall be the same as those required by this chapter for building and structures accessory to single dwelling unit buildings in the R-1 district.

**See section 36-439(1) for required setback when more than 25 percent of the lots on one side of a street between street intersections, on one side of a street that ends in a cul-de-sac, or on one side of a dead-end street are occupied by dwelling units.

(3) Height: 2½ stories or ~~30~~ 35 feet, whichever is less.

(b) The maximum height to the highest point on a roof of a double dwelling unit shall be 35 feet. The maximum height may be increased by one inch for each foot that the lot exceeds 75 feet in width. In no event shall the maximum height exceed 40 feet.

**Sec. 36-467. Special requirements.**

(a) *Generally.* In addition to the general requirements described in article XII, division 2 of this chapter, the following special requirements shall apply:

(1) *Application of requirements.* Requirements for lot area and dimensions, building coverage, setbacks and height shall be applied to the entire double dwelling unit building and the entire lot, and shall ignore any subdivision of building and lot which has been, or may be, made in order to convey each dwelling unit separately.

(2) *Sewer and water connections.* Each dwelling unit must be separately and independently connected to public sanitary sewer and water mains, or shall have been granted a waiver thereof in accordance with article X of chapter 10

(3) *Subdivided R-2 lots.* A double dwelling unit building and lot may be subdivided pursuant to chapter 32 along the common party walls between the dwelling units, provided that:

a. A building permit has been issued and the building foundation is in place;

b. Each parcel resulting from the subdivision must have frontage on a public street of not less than 25 feet;

c. The parcels resulting from the subdivision shall each comprise approximately the same number of square feet, ~~and no individual parcel shall be less than 5,000 square feet~~; and

d. A rear yard not less than 25 feet in depth must be provided for each dwelling unit.

**Section 9. Section 36-525 of the Edina City Code is amended to read as follows:**

Division 6. Planned Residence District (PRD).

Sec. 36-525. Requirements for building coverage, setbacks and height.

(c) *Maximum building height.*

| | |
|---|---|
| PRD-1, 2 | ~~2½ stories or 30 feet, whichever is less~~ See article XI, division 2 of this chapter, Building Height Overlay District and appendix A of the city's official zoning map |
| PRD-3 | See article XI, division 2 of this chapter, Building Height Overlay District and appendix A of the city's official zoning map |
| PRD-4, 5 | See article XI, division 2 of this chapter, Building Height Overlay District and appendix A of the city's official zoning map |
| PSR-3 | See article XI, division 2 of this chapter, Building Height Overlay District and appendix A of the city's official zoning map |
| PSR-4 | See article XI, division 2 of this chapter, Building Height Overlay District and appendix A of the city's official zoning map |

**Section 10. Section 36-1270 of the Edina City Code is amended to add the following:**

**Sec. 36-1270. - Nonconforming uses, buildings and lots.**

(a) *Nonconforming buildings.*

(1) *Alterations, additions and enlargements.*

a. A nonconforming building, other than a single dwelling unit building, shall not be added to or enlarged, in any manner, or subjected to an alteration involving 50 percent or more of the gross floor area of the building, or 50 percent or more of the exterior wall area of the building, unless such nonconforming building, including all additions, alterations and enlargements, shall conform to all of the restrictions of the district in which it is located. The percentage of the gross floor area or exterior wall area subjected to an alteration shall be the aggregate percentage for any consecutive three-year period.

b. Alternate setbacks. An addition to a single dwelling unit building with a nonconforming setback, or an addition to a structure accessory to a single dwelling unit building with a nonconforming setback, may be constructed within the existing nonconforming setback, which is the shortest distance from the applicable lot line to the existing structure, subject to the following limitations:

1. The addition shall not exceed the existing square footage encroachment into the nonconforming setback or 200 square feet, whichever is less; and

2. The addition may only be constructed on the same floor as the existing encroachment into the nonconforming setback.

(2) *Nonconformities.* Except as provided in article X of this chapter, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under the ordinance from which this chapter is derived, may be continued, including through repair, replacement, restoration, maintenance or improvement, but not including expansion, except as specifically provided in this chapter, unless:

a. The nonconformity or occupancy is discontinued for a period of more than one year; or

b. Any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value and no building permit has been applied for within 180 days of when the property is damaged. In these cases, the city may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property. Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.

(b) *Nonconforming lots.* A nonconforming lot in the R-1 district used or intended for a single dwelling unit building shall be exempt from the width, depth, area and lot width to perimeter ratio requirements of this chapter, provided, that the lot:

(1) Is not less than 50 feet in width;

(2) Is not less than 100 feet in depth;

(3) Has at least 30 feet frontage on a street; and

(4) Has not been, at any time since October 22, 1951, held in common ownership with all or part of an adjoining or abutting lot or parcel which, together, complied with the minimum width, depth and area and lot width to perimeter ratio requirements imposed by this chapter. If such lot and adjoining or abutting lot or parcel has been held in such common ownership, then the property so held in common ownership shall be subject to the following:

a. If a nonconforming lot or parcel is, or at any time since October 22, 1951, has been, held in common ownership with all or part of an adjoining or abutting parcel or lot which together comply with, or come close to complying with, the minimum width, depth, area, and lot width to perimeter ratio, requirements of this chapter, then such nonconforming lot or parcel and such adjoining or abutting parcel or lot shall be considered as one lot and shall not be decreased in size below such minimum requirements.

b. If in a group of two or more adjoining or abutting lots or parcels owned or controlled by the same person, any single lot or parcel does not meet the full minimum depth, width, area or lot width to perimeter ratio requirements of this section, such single lot or parcel shall not be considered as a separate lot or parcel able to be conveyed and developed under this Code.

(c) *Nonconforming lots.* An existing nonconforming lot in the R-2 district used or intended for a double dwelling unit building shall be exempt from the width, depth, area and lot width to

perimeter ratio requirements of this chapter provided the lot is at least 50 feet in width and has at least 30 feet of frontage on a street.

**Section 11.** This ordinance is effective upon publication.

First Reading:
Second Reading:
Published:

ATTEST:

_____ _____

Debra A. Mangen, City Clerk James B. Hovland, Mayor

Please publish in the Edina Sun Current on:
Send two affidavits of publication.
Bill to Edina City Clerk

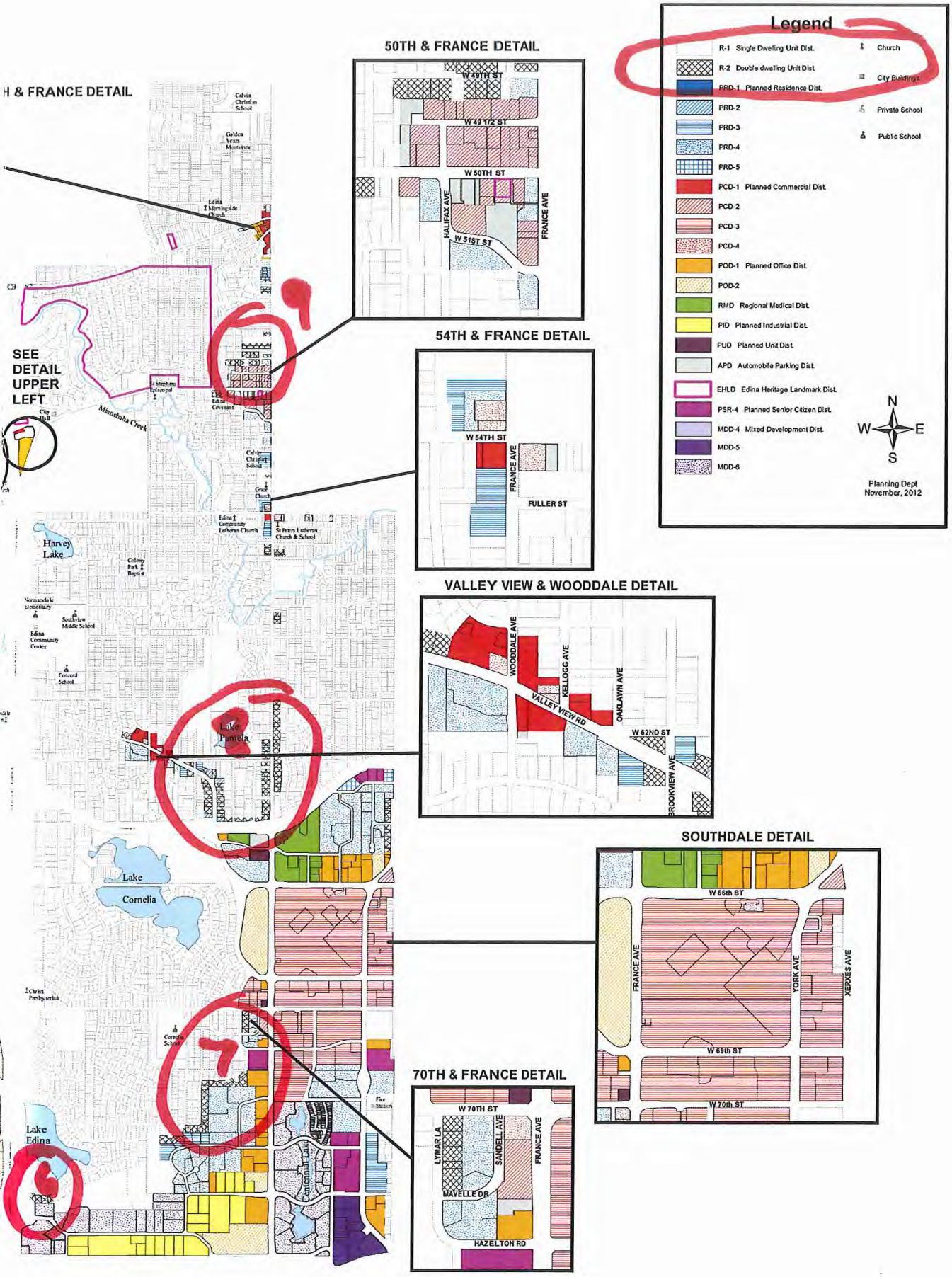
CERTIFICATE OF CITY CLERK

I, the undersigned duly appointed and acting City Clerk for the City of Edina do hereby certify that the attached and foregoing Ordinance was duly adopted by the Edina City Council at its Regular Meeting of _____, 2015, and as recorded in the Minutes of said Regular Meeting.

WITNESS my hand and seal of said City this _____ day of _____, 2015.

_____

City Clerk


H & FRANCE DETAIL
SEE DETAIL UPPER LEFT
Minnehaha Creek
Harvey Lake
Lake Pamela
Lake Cornelia
Lake Edina
50TH & FRANCE DETAIL
W 49TH ST
W 49 1/2 ST
W 50TH ST
HALIFAX AVE
W 51ST ST
FRANCE AVE
54TH & FRANCE DETAIL
W 54TH ST
FRANCE AVE
FULLER ST
VALLEY VIEW & WOODDALE DETAIL
WOODDALE AVE
KELLOGG AVE
VALLEY VIEW RD
OAKLAWN AVE
W 62ND ST
BROOKVIEW AVE
SOUTHDALE DETAIL
W 66th ST
FRANCE AVE
YORK AVE
XERXES AVE
W 69th ST
W 70th ST
70TH & FRANCE DETAIL
W 70TH ST
LYMAR LA
SANDELL AVE
FRANCE AVE
MAVELLE DR
HAZELTON RD
Legend
R-1 Single Dwelling Unit Dist.
R-2 Double dwelling Unit Dist.
PRD-1 Planned Residence Dist.
PRD-2
PRD-3
PRD-4
PRD-5
PCD-1 Planned Commercial Dist.
PCD-2
PCD-3
PCD-4
POD-1 Planned Office Dist.
POD-2
RMD Regional Medical Dist.
PID Planned Industrial Dist.
PUD Planned Unit Dist.
APD Automobile Parking Dist.
EHLD Edina Heritage Landmark Dist.
PSR-4 Planned Senior Citizen Dist.
MDD-4 Mixed Development Dist.
MDD-5
MDD-6
Church
City Buildings
Private School
Public School
N
W
E
S
Planning Dept
November, 2012