

**Topic:**           **Planned Unit Development (PUD)**

**Date Introduced:**   **January 13, 2010**

**Why on the list:** This issue has been brought up by the Planning Commission during review of development proposals, as an alternative way to review projects. Most cities in the Metro area use PUD's. Attached are ordinance examples from other city's that utilize a PUD.

**History:** Over the past several years the Planning Commission has discussed alternative ways to allow flexibility in certain development standards in exchange for greater standards and control over development. The current tools or review mechanisms are variances and rezoning, and placing conditions on the rezoning or variance. A concern is that once the city has approved a rezoning, a property owner has a right to develop under the rules of that new zoning classification. Certain conditions placed on rezoning may be difficult to enforce if plans change. Under a PUD, the specific use proposed becomes the zoning of the property, and conditions are easier to enforce.

**Decision Points:**

1. Should the City of Edina adopt a PUD Ordinance?
2. If so, should additional conditions/standards be required?
3. What conditions/standards should be required?
4. Is a PUD the appropriate section of the Zoning Ordinance for requiring sustainable design principles?
5. Should there be a minimum lot area for a PUD?
6. When would a PUD be justified?
7. Would a PUD allow Edina greater development control?

**Options:**

1. Recommend proceeding with the preparation of a PUD Ordinance; ask staff to begin drafting appropriate language.
2. Do not adopt a PUD Ordinance, and continue to regulate development proposals with conventional zoning.

- Look at what other cities are doing with sustainable design.
- Does the City want to create ordinances ahead of changes to the building code?
- The City Council needs to take a policy stand on sustainable design.

Chair Fischer noted as was previously mentioned that there are a number of issues to consider with sustainable design, adding the public works site may be a good place to start. Continuing, Chair Fischer said what he believes the Committee needs to do at this time is to continue the discussion and have staff "find out" what other cities are doing with regard to sustainable design, what terms to mandate and how it's measured. Concluding, Chair Fischer said he knows someone (Rick Carter) who has worked with Minneapolis, St. Paul, St. Louis Park, and many other communities on this issue. Rick would be willing to meet with the Committee and answer any questions the Committee may have.

### Action

**Chair Fischer will invite a colleague to speak to the Committee on sustainable design. We will invite the EEC to participate in that discussion. Staff would solicit other cities to find out how they address sustainable design.**

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### **C. Planned Unit Development (PUD)** **Date Introduced: January 13, 2010**

Planner Teague addressed the Committee and informed them Edina is one of the few communities without a PUD. Continuing, Planner Teague reminded the Committee this topic has been brought up a number of times by the Planning Commission during review of development proposals.

Planner Teague said the following needs to be considered in the decision making process:

1. Should the City adopt a PUD Ordinance?
2. If so, should additional conditions/standards be required?
3. What conditions/standards should be required?
4. Is a PUD the appropriate section of the Zoning Ordinance to require sustainable design principles?
5. Should there be a minimum lot area for a PUD?
6. When would a PUD be justified?
7. Would a PUD allow Edina greater development control?

Concluding Planner Teague stated he sees the following options:

1. Recommend proceeding with the preparation of a PUD Ordinance; and
2. Do not adopt a PUD Ordinance and continue to regulate development proposals with conventional zoning.

### **Committee Discussion**

Member Grabiell raised the question - if there is value in the City's Zoning Ordinance why or how can the City justify saying that none of that applies. He pointed out the Zoning Ordinance has guided the development of the City; it's never had a PUD. Member Grabiell added that in his opinion there may be areas where a PUD may have or may be a good thing; reiterating the City developed without it.

Member Staunton said the focus of writing a PUD should be on what is eligible for a PUD, adding the Committee needs to establish criteria or a threshold whereby a PUD would be considered as a viable development option.

Member Schroeder said in his opinion developers would also review the zoning ordinance to establish what would be the "best route" for them to take.

Chair Fischer acknowledged if the City decides to implement a PUD process; the process is not necessarily "easy" for the developer. Member Schroeder agreed, adding there are areas where a PUD is the best response; however, even if the ordinance is clearly written there may be ways to "get around it".

Member Carpenter said he sees general value in a PUD, but also sees simplicity in zoning.

A discussion ensued with Committee Members raising the following:

- Would properties zoned R-1 be prohibited from a PUD, or would a PUD be appropriate for all zoning districts?
- Where is public input determining if a PUD is the right way to go?
- What is the benefit for the developer?
- What is the benefit to the community?

### **Community Comment**

John Bohan said in his opinion a PUD is spot zoning. Mr. Bohan stated he believed the Gateway project wasn't a bad exercise, adding he didn't see anything wrong with that process. Continuing, Mr. Bohan pointed out at this time because of the downward turn in the economy (with regard to the Gateway development) it would be very difficult to determine if the PUD process would

have been the better way to go. Mr. Bohan said if the Committee decides on a PUD process writing the parameters would be very important. Concluding, Mr. Bohan asked when the Committee was going to "tackle" building height. Planner Teague indicated that the Planning Commission would consider the issue at a regular Planning Commission meeting, likely to be held in February.

### Further discussion

Chair Fischer commented with regard to the Gateway proposal (and other large projects in the City) that in a sense the City has had a PUD process; it just wasn't called that. At this time what is important is for the City to achieve the best development available; and that could be with a PUD designation.

Member Schroeder stated he views the following four elements as key:

1. Intent or goals. Purpose of the PUD designations, and in particular what the City aims to achieve by granting a PUD;
2. Applicability/criteria. Limitations based on parcel size, land use designation, or other vactors defined by the ordinance;
3. Process/procedures. Methods of review that vary from the development review process for development under other zoning classifications; and
4. Rules/standards. Description of flexibility provided for projects under a PUD.

Member Forrest commented that it appears to her that residents take comfort in the Zoning Ordinance.

Member Grabiell pointed out that sometime in the future it is very possible that Southdale will be redeveloped; questioning what would be the best way to proceed. Continuing, Member Grabiell said the Committee needs to remember in all things (Sustainable Design, PUD) if there are performance standards there is enforcement.

Chair Fischer said he views a "thorough" process in creating a PUD classification and developing sustainable design guidelines requiring multiple discussions. Chair Fischer said an important focus would be for the Committee to define intent. Continuing, Chair Fischer stated what needs to be addressed immediately (in the updating process) is building height. Planner Teague agreed, reiterating at the February meeting of the Planning Commission he plans to bring before them language relating to building height.

### Action

**Continue discussion on PUD.**

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**Topic:                   Planned Unit Development (PUD) – Intent, Goals or Purpose**

**Date Introduced:   January 13, 2010**

**Date of Discussion: February 10, 2010**

As discussed at our last meeting, the PUD topic will be separated into four separate elements: 1) Purpose and Intent (goals) 2) Applicability/Criteria; 3) Process/Procedures; and 4) Rules/Standards.

The first element for discussion is the Purpose and Intent. For discussion purposes, below is an example of potential language that could be used as the purpose and intent of a PUD Ordinance. This language is a compilation of language from other cities PUD ordinances that were handed out at last month's meeting. The language has been altered to fit to Edina.

1.    Purpose and Intent. The purpose of the PUD District is to provide comprehensive procedures and standards intended to allow more creativity and flexibility in site plan design than would be possible under a conventional zoning district. The decision to zone property to PUD is a public policy decision for the city council to make in its legislative capacity. The City Council must find that a PUD will benefit the city and its residents. The intent of a PUD is to:
  - a.    Provide for the establishment of PUD (planned unit development) zoning districts in appropriate settings and situations to create or maintain a development pattern that complies with the city's comprehensive plan.
  - b.    Promote a more creative and efficient approach to land use within the city, while at the same time protecting and promoting the health, safety, comfort, aesthetics, economic viability, and general welfare of the city.
  - c.    Provide for variations to the strict application of the land use regulations in order to improve site design and operation, while at the same time incorporate design elements that exceed the city's standards to offset the effect of any variations. Desired design elements include: sustainable design, greater utilization of new technologies in building design, special construction materials, landscaping, lighting, etc.
  - d.    Ensure high quality of design and design compatible with surrounding land uses, including both existing and planned.

- e. Maintain or improve the efficiency of public streets and utilities.
- f. Preserve and enhance site characteristics including natural features, trees, open space, scenic views, and screening.
- g. Allow for mixing on land uses within a development.
- h. Provide affordable housing.

**Topic:                   Planned Unit Development (PUD) – Intent, Goals or Purpose**

**Date Introduced:   January 13, 2010**

**Date of Discussion: February 24, 2010**

The PUD topic has been separated into four separate elements: 1) Purpose and Intent (goals) 2) Applicability/Criteria; 3) Process/Procedures; and 4) Rules/Standards.

The next element for discussion is the Applicability/Criteria. For discussion purposes, below is a revised Purpose and Intent section as discussed at the last meeting, and potential language that could be used as Applicability/Criteria. Please note the inclusion of a minimum lot area for a PUD, with certain exceptions. This provision is intended for discussion purposes. The Planning Commission may not wish to have any minimum lot size.

***Purpose and Intent (goals)***

1.     Purpose and Intent. The purpose of the PUD District is to provide comprehensive procedures and standards intended to allow more creativity and flexibility in site plan design than would be possible under a conventional zoning district. The decision to zone property to PUD is a public policy decision for the city council to make in its legislative capacity. The purpose and intent of a PUD is to include most or all of the following:
  - a.     Provide for the establishment of PUD (planned unit development) zoning districts in appropriate settings and situations to create or maintain a development pattern that is consistent with the city's comprehensive plan.
  - b.     Promote a more creative and efficient approach to land use within the city, while at the same time protecting and promoting the health, safety, comfort, aesthetics, economic viability, and general welfare of the city.
  - c.     Provide for variations to the strict application of the land use regulations in order to improve site design and operation, while at the same time incorporate design elements that exceed the city's standards to offset the effect of any variations. Desired design elements may include: sustainable design, greater utilization of new technologies in building design, special construction materials, landscaping, lighting, stormwater management, and pedestrian design

- d. Ensure high quality of design and design compatible with surrounding land uses, including both existing and planned.
- e. Maintain or improve the efficiency of public streets and utilities.
- f. Preserve and enhance site characteristics including natural features, wetland protection, trees, open space, scenic views, and screening.
- g. Allow for mixing of land uses within a development.
- h. Encourage a variety of housing types including affordable housing.

### ***Applicability/Criteria***

- 2. Uses. All permitted uses, permitted accessory uses, conditional uses, and uses allowed by administrative permit contained in the various zoning districts defined in Section 850 of this title shall be treated as potentially allowable uses within a PUD district, provided they would be allowable on the site under the comprehensive plan.
- 3. Development Standards. Within the PUD district all development shall be in compliance with the following:
  - a. Each PUD must have a minimum area of two? acres, unless the applicant can demonstrate the existence of one of the following:
    - i. unusual physical features of the property itself or of the surrounding neighborhood such that development as a PUD will conserve a physical or topographic feature of importance to the neighborhood or community;
    - ii. the property is directly adjacent to or across a right-of-way from property which has been developed previously as a PUD or planned unit residential development and will be perceived as and will function as an extension of that previously approved development;
    - iii. the property is located in a transitional area between different land use categories or on an intermediate or principal arterial as defined in the comprehensive plan; or
    - iv. the property contains steep slopes, wetlands, public waters or a substantial number of trees that could be preserved

through the clustering of buildings or other design techniques not generally allowed by the existing zoning district.

- b. Where the site of a proposed PUD is designated for more than one land use in the comprehensive plan, city may require that the PUD include all the land uses so designated or such combination of the designated uses as the city council shall deem appropriate to achieve the purposes of this ordinance and the comprehensive plan.
- c. The city may utilize incentives to encourage the construction of projects which are consistent with the city's housing goals. Incentives may include modification of density and floor area ratio requirements for developments providing affordable housing. Incentives may be approved by the city only after the developer and city have entered into an agreement to ensure that the low or moderate cost units remain available to persons of low or moderate income for a specific period of time.
- d. Any PUD which involves a single land use type or housing type shall be permitted provided that it is otherwise consistent with the objectives of this ordinance and the comprehensive plan.
- e. Permitted densities shall be specifically stated in the appropriate planned development designation and shall be in general conformance with the comprehensive plan.
- f. The setback regulation, building coverage and floor area ratio of the most closely related conventional zoning district shall be considered presumptively appropriate, but may be departed from to accomplish the purpose and intent described in #1 above.
- g. A PUD shall consist of a harmonious arrangement and selection land uses in groupings of buildings that are planned and designed as an integrated unit. The integrated design shall include elements such as building orientation and materials, utilities, parking areas, traffic and pedestrian circulation and open spaces.

**Topic:                   Planned Unit Development (PUD) – Intent, Goals or Purpose**

**Date Introduced:   January 13, 2010**

**Date of Discussion:   March 10, 2010**

The PUD topic has been separated into four separate elements: 1) Purpose and Intent (goals) 2) Applicability/Criteria; 3) Process/Procedures; and 4) Rules/Standards.

The next element for discussion is the Process/Procedures. Below is a revised version of what has been discussed up to this point and potential language that could be used as Process/Procedures. Included in the provisions is a draft of what the Sketch Plan and Site Plan process might look like, as the PUD process would follow portions of that process.

Also, as a follow up to last month's meeting, attached are maps showing the city's existing arterial roadways. As shown, most of the cities commercial, industrial and high density residential areas are located on these roadways. Therefore, would be eligible for a PUD if the property were less than two acres. However, areas that would not be included would be the Cahill Industrial area, and Valley View and Wooddale area. Within the industrial area, properties along Cahill Road could be considered a transition area between land uses, and therefore would qualify. The two acre minimum in other areas would encourage the consolidation of lots in order to qualify for a PUD.

***Purpose and Intent (goals)***

1.    Purpose and Intent. The purpose of the PUD District is to provide comprehensive procedures and standards intended to allow more creativity and flexibility in site plan design than would be possible under a conventional zoning district. The decision to zone property to PUD is a public policy decision for the city council to make in its legislative capacity. The purpose and intent of a PUD is to include most or all of the following:
  - a.    Provide for the establishment of PUD (planned unit development) zoning districts in appropriate settings and situations to create or maintain a development pattern that is consistent with the city's comprehensive plan.
  - b.    Promote a more creative and efficient approach to land use within the city, while at the same time protecting and promoting the health,

safety, comfort, aesthetics, economic viability, and general welfare of the city.

- c. Provide for variations to the strict application of the land use regulations in order to improve site design and operation, while at the same time incorporate design elements that exceed the city's standards to offset the effect of any variations. Desired design elements may include: sustainable design, greater utilization of new technologies in building design, special construction materials, landscaping, lighting, stormwater management, and pedestrian oriented design.
- d. Ensure high quality of design and design compatible with surrounding land uses, including both existing and planned.
- e. Maintain or improve the efficiency of public streets and utilities.
- f. Preserve and enhance site characteristics including natural features, wetland protection, trees, open space, scenic views, and screening.
- g. Allow for mixing of land uses within a development.
- h. Encourage a variety of housing types including affordable housing.
- i. Ensure the establishment of appropriate transitions between differing land uses.

### ***Applicability/Criteria***

- 1. Uses. All permitted uses, permitted accessory uses, conditional uses, and uses allowed by administrative permit contained in the various zoning districts defined in Section 850 of this title shall be treated as potentially allowable uses within a PUD district, provided they would be allowable on the site under the comprehensive plan. Property currently zoned R-1, Single-Dwelling Unit District shall not be eligible for a PUD
- 2. Eligibility Standards. To be eligible for a PUD district, all development should be in compliance with the following:
  - a. Each PUD must have a minimum area of two? acres, unless the applicant can demonstrate the existence of one of the following:
    - i. unusual physical features of the property itself or of the surrounding neighborhood such that development as a PUD

will conserve a physical or topographic feature of importance to the neighborhood or community;

- ii. the property is directly adjacent to or across a right-of-way from property which has been developed previously as a PUD or planned unit residential development and will be perceived as and will function as an extension of that previously approved development;
  - iii. the property is located in a transitional area between different land use categories or on an arterial roadway as defined in the comprehensive plan (See attached areas.); or
  - iv. the property contains steep slopes, wetlands, public waters or a substantial number of trees that could be preserved through the clustering of buildings or other design techniques not generally allowed by the existing zoning district.
- b. Where the site of a proposed PUD is designated for more than one land use in the comprehensive plan, city may require that the PUD include all the land uses so designated or such combination of the designated uses as the city council shall deem appropriate to achieve the purposes of this ordinance and the comprehensive plan.
- c. The city may utilize incentives to encourage the construction of projects which are consistent with the city's housing goals. Incentives may include modification of density and floor area ratio requirements for developments providing affordable housing. Incentives may be approved by the city only after the developer and city have entered into an agreement to ensure that the low or moderate cost units remain available to persons of low or moderate income for a specific period of time.
- d. Any PUD which involves a single land use type or housing type may be permitted provided that it is otherwise consistent with the objectives of this ordinance and the comprehensive plan.
- e. Permitted densities may be specifically stated in the appropriate planned development designation and shall be in general conformance with the comprehensive plan.
- f. The setback regulation, building coverage and floor area ratio of the most closely related conventional zoning district shall be

considered presumptively appropriate, but may be departed from to accomplish the purpose and intent described in #1 above.

## **Procedures**

1. Pre-Application Conference: Prior to filing of an application for PUD, the applicant is encouraged to 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 his proposal for the area for which it is proposed and its conformity to the provisions of this title before incurring substantial expense in the preparation of plans, surveys and other data.
2. Pre-Application Sketch Review: Prior to filing of a PUD, the applicant may submit a sketch of the project to the City Planner. The plan shall be conceptual but shall be processed according to the information requirements, standards and procedures for sketch plans established by Section 850.04 of this Chapter. (See below.) The submittal shall include a statement providing justification for the PUD, including but not limited to the intended utilization of the items listed in the Purpose and Intent, and Criteria above.
3. Preliminary Development Plan. 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 Section 850.04. Subd. 2. (Site Plan Review.)
4. Final Development Plan. After approval of the Preliminary Development Plan, the applicant may apply for a Final Development Plan approval for all or a portion of the PUD.
5. Plan Modification/Amendment of a PUD.
  - a. Minor Plan Modification.
  - b. Major Plan Modification.

The following is a working draft of potential language to be used for the site plan review process:

### **850.04 Subd. 2 Site Plan Review.**

- A. Purpose. The purpose of this Section is to establish a formal site plan review procedure and provide regulations pertaining to the enforcement of site design standards consistent with the requirements of the zoning ordinance.
- B. Approval Required. Without first obtaining site plan approval it shall be unlawful to do any of the following:
  - 1. Construct a building.
  - 2. Move a building to any lot within the city.
  - 3. Expand or change the use of a building or parcel of land or modify a building, accessory structure or site or land feature in any manner which results in a different intensity of use, including the requirement for additional parking.
  - 4. Grade or take other actions to prepare a site for development, except in conformance with a permit or an approved plan.
  - 5. Remove earth, soils, gravel or other natural material from or place the same on a site, except in conformance with a permit or an approved plan.
- C. Exceptions. Except in those cases specifically cited within this Title, the following shall be excepted from the foregoing requirements of this Chapter:
  - 1. Construction or alteration of a single family or two-family residential building or accessory building.
  - 2. Enlargement of a building by less than 10 percent of its gross floor area, provided that there is no variance involved and also provided that the Planner has conducted an administrative review pursuant to section 850 of this ordinance.
  - 3. Changes in the leasable space of a multi-tenant building where the change does not intensify the use, require additional parking, or result in an inability to maintain required performance standards as specified in section 850 of this ordinance.
- D. Sketch Plan:
  - 1. Prior to the formulation of a site plan, applicants may present a sketch plan to the Planner prior to filing of a formal application. The plan shall be conceptual but shall be drawn to scale with topography of a contour interval not greater than two feet (2') and may include the following:

- a. The proposed site with reference to existing development, topography, and drainage conditions on adjacent properties, at least to within two hundred feet (200').
  - b. Natural features.
  - c. General location of existing and proposed structures including signs.
  - d. Tentative access, circulation and street arrangements, both public and private.
  - e. Amenities to be provided such as recreational areas, open space, walkways, landscaping, etc.
  - f. General location of parking areas.
  - g. Proposed public sanitary sewer, water and storm drainage.
  - h. A statement showing the proposed density of the project with the method of calculating said density also shown.
  - j. Other items as may be deemed necessary by City staff.
2. The City 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/or City Council shall be considered advisory only and shall not constitute a binding decision on the request.
- E. Procedure. Pursuant to Minnesota Statutes 15.99, an application for site plan approval shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended by the City pursuant to statute or a time waiver is granted by the applicant. Additional City requirements are as follows:
1. Filing Of Request: Request for site plan approval, as provided within this Title, shall be filed with the Planner on an official application form. Such application shall be accompanied by a fee as established by City Council resolution. Such application shall also be accompanied by detailed written and graphic materials, the number and size as prescribed by the Planner, fully explaining the proposed change, development, or use. The request shall be considered as being officially submitted and complete when the applicant has complied with all specified information requirements. In cases where an application is judged to be incomplete, the Planner shall

notify the applicant, in writing, within ten (10) days of the date of submission.

2. **Proof Of Ownership Or Authorization:** The applicant shall supply proof of title and the legal description of the property for which the site plan approval is requested, consisting of an abstract of title and as applicable supply documented authorization from the owner(s) of the property in question to proceed with the requested site plan application.
  3. **Technical Reports:** The Planner shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in conducting an evaluation of the request.
  4. **Additional Information:** City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert assistance with the consent and at the expense of the applicant concerning operational factors. Said information is to be declared necessary to evaluate the request and/or to establish performance conditions in relation to all pertinent sections of this Title. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.
  5. **Meeting with the Planner And/Or Staff:** The applicant or a representative thereof shall meet with the Planner and/or City staff in order to present information and answer questions concerning the proposed requests.
- F. **Standards.** In evaluating a site plan, the planning commission and city council shall consider its compliance with the following:
1. consistency with the elements and objectives of the city's development guides, including the comprehensive plan and water resources management plan;
  2. consistency with this ordinance;
  3. creation of a harmonious relationship of buildings and open spaces with natural site features and with existing and future buildings having a visual relationship to the development;
  4. promotion of energy conservation through design, location, orientation and elevation of structures, the use and location of glass in structures and the use of landscape materials and site grading; and
  5. protection of adjacent and neighboring properties through reasonable provision for surface water drainage, sound and sight buffers, preservation of views, light and air and those aspects of design not adequately covered

by other regulations which may have substantial effects on neighboring land uses.

G. Information Required. The information required for all site plan applications generally consists of the following items, and shall be submitted unless waived by the Planner.

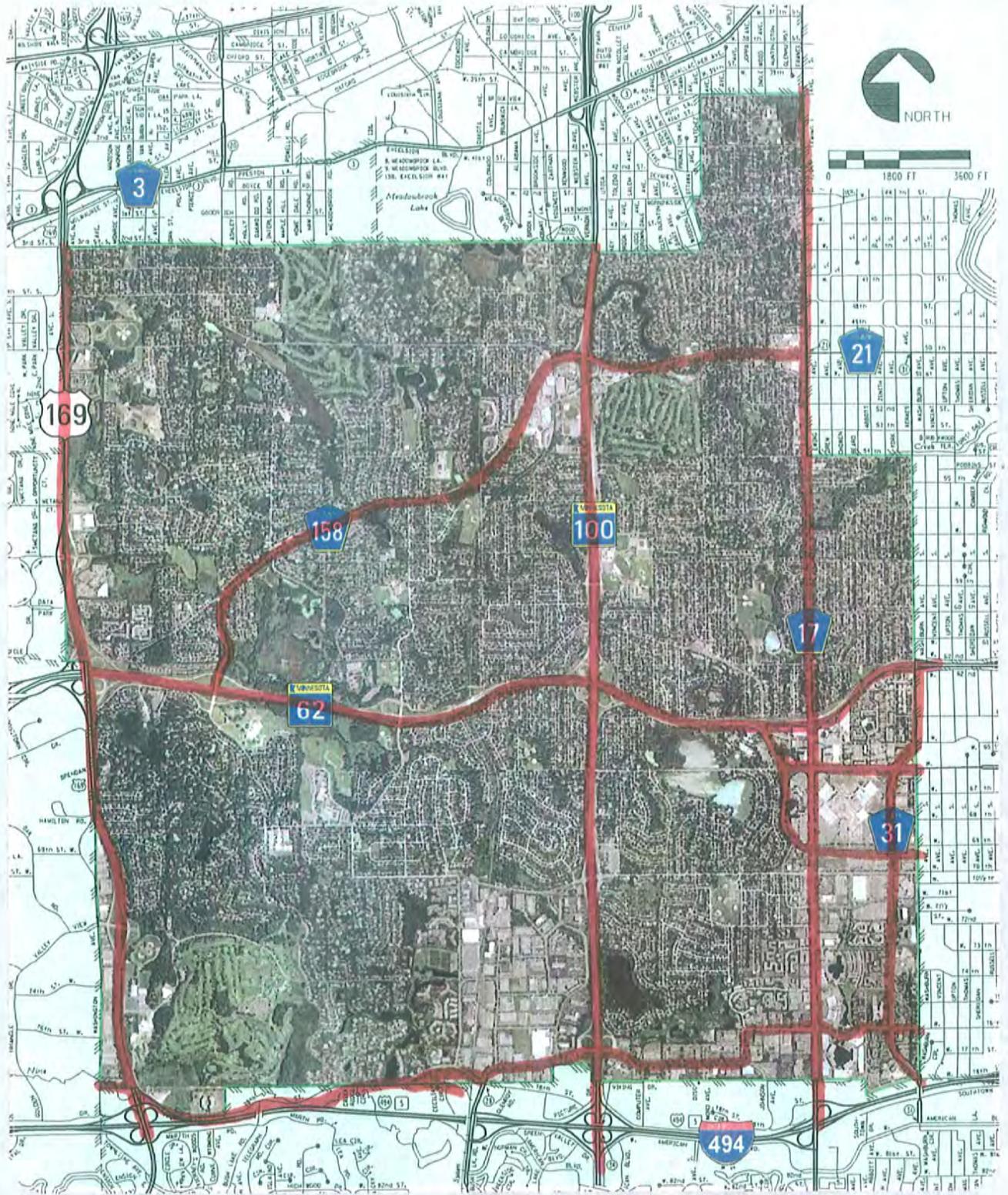
1. Site boundaries, buildings, structures and other improvements shall be identified on-site with a current certificate of survey, prepared and signed by a Minnesota licensed land surveyor, depicting the following:
  - a. Scale of plan (engineering scale only, at one inch equals fifty feet (1" = 50') or less.
  - b. North point indication.
  - c. Existing boundaries with lot dimension and area.
  - d. Existing site improvements.
  - e. All encroachments.
  - f. Easements of record.
  - g. Legal description of the property.
  - h. Ponds, lakes, springs, rivers or other waterways bordering on or running through the subject property.
2. A site plan utilizing a copy of the current certificate of survey as a base for the site in question, depicting the following:
  - a. Name and address of developer/owner.
  - b. Name and address of architect/designer.
  - c. Date of plan preparation.
  - d. Dates and description of all revisions.
  - e. Name of project or development.
  - f. All proposed improvements, including:
    - i. Required and proposed setbacks.

- ii. Location, setback and dimensions of all proposed buildings and structures.
  - iii. Location of all adjacent buildings located within one hundred feet (100') of the exterior boundaries of the property in question.
  - iv. Location, number, dimensions, and setbacks of proposed parking spaces and drive aisles.
  - v. Location, number, and dimensions of proposed loading spaces.
  - vi. Location, width, and setbacks of all curb cuts and driveways.
  - vii. Vehicular circulation.
  - viii. Sidewalks, walkways, trails.
  - ix. Location and type of all proposed lighting, including details of all proposed fixtures.
  - x. Location of recreation and service areas.
  - xi. Location of rooftop equipment and proposed screening.
  - xii. Provisions for storage and disposal of waste, garbage, and recyclables, including details for screening exterior trash/recycling enclosures.
  - xiii. Location, sizing, and type of water and sewer system mains and proposed service connections.
3. Grading/stormwater drainage plan, utilizing a copy of the current certificate of survey as a base for the site in question, prepared and signed by a Minnesota licensed engineer, depicting the following:
- a. Existing contours at two foot (2') intervals (may be prepared by a Minnesota licensed surveyor).
  - b. Proposed grade elevations at two foot (2') maximum intervals.
  - c. Drainage plan, including the configuration of drainage areas and calculations.
  - d. Storm sewer, catch basins, invert elevations, type of castings, and type of materials.

- e. Spot elevations (may be prepared by a Minnesota licensed surveyor).
  - f. Proposed driveway grades.
  - g. Surface water ponding and treatment areas.
  - h. Erosion control measures.
4. Landscaping plan, utilizing a copy of the current certificate of survey as a base for the site in question, depicting the following:
- a. Planting schedule (table) containing:
    - i. Symbols.
    - ii. Quantities.
    - iii. Common names.
    - iv. Botanical names.
    - v. Sizes of plant material.
    - vi. Root specification (bare root, balled and burlapped, potted, etc.).
    - vii. Special planting instructions.
  - b. Location, type and size of all existing significant trees to be removed or preserved.
  - c. Planting detail (show all species to scale at normal mature crown diameter or spread for local hardiness zone).
  - d. Typical sections with details of fences, tie walls, planter boxes, tot lots, picnic areas, berms and the like.
  - e. Typical sections with details of landscape islands, planter beds, and foundation plantings with identification of materials used.
  - f. Note indicating how disturbed soil areas will be restored through the use of sodding, seeding, or other techniques.
  - g. Delineation of both sodded and seeded areas with respective areas in square feet.
  - h. Coverage plan for underground irrigation system, if any.

- i. Where landscape or manmade materials are used to provide screening from adjacent and neighboring properties, a cross-through section shall be provided showing the perspective of the site from the neighboring property at the property line elevation.
    - j. Other existing or proposed conditions which could be expected to affect landscaping.
- 5. Other plans and information as required by the Planner including, but not limited to:
  - a. Architectural elevations of all principal and accessory buildings (type, color, and materials used in all external surfaces).
  - b. "Typical" floor plan and "typical" room plan drawn to scale with a summary of square footage for each use or activity.
  - c. Fire protection plan.
  - d. Extent of and any proposed modifications to land within the Environmental Protection Districts, as established by Chapter 45 of this Title.
  - e. Type, location and size (area and height) of all signs to be erected upon the property in question.
  - f. Vicinity map showing the subject property in reference to nearby highways or major street intersections.
  - g. Sound source control plan.
  - h. Lighting plan.
- H. Changes to Approved Site Plan. Minor changes in the location and placement of buildings or other improvements due to unforeseen circumstances may be authorized by the Planner. Proposed changes to the approved 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 Site Plan, except that a three-fifths favorable vote of the Council shall be required to authorize the proposed change.
- I. Lapse of Approved Site Plan by Non-User; Extension of Time.

1. If a building permit has not been obtained, and if erection or alteration of a building, as described in the application for Site Plan, has not begun within two years after 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.
2. 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:
  - a. there is a reasonable expectation that the proposed work or improvement will commence during the extension, and
  - b. the facts which were the basis for approving the Site Plan have not materially changed. No more than one extension shall be granted.



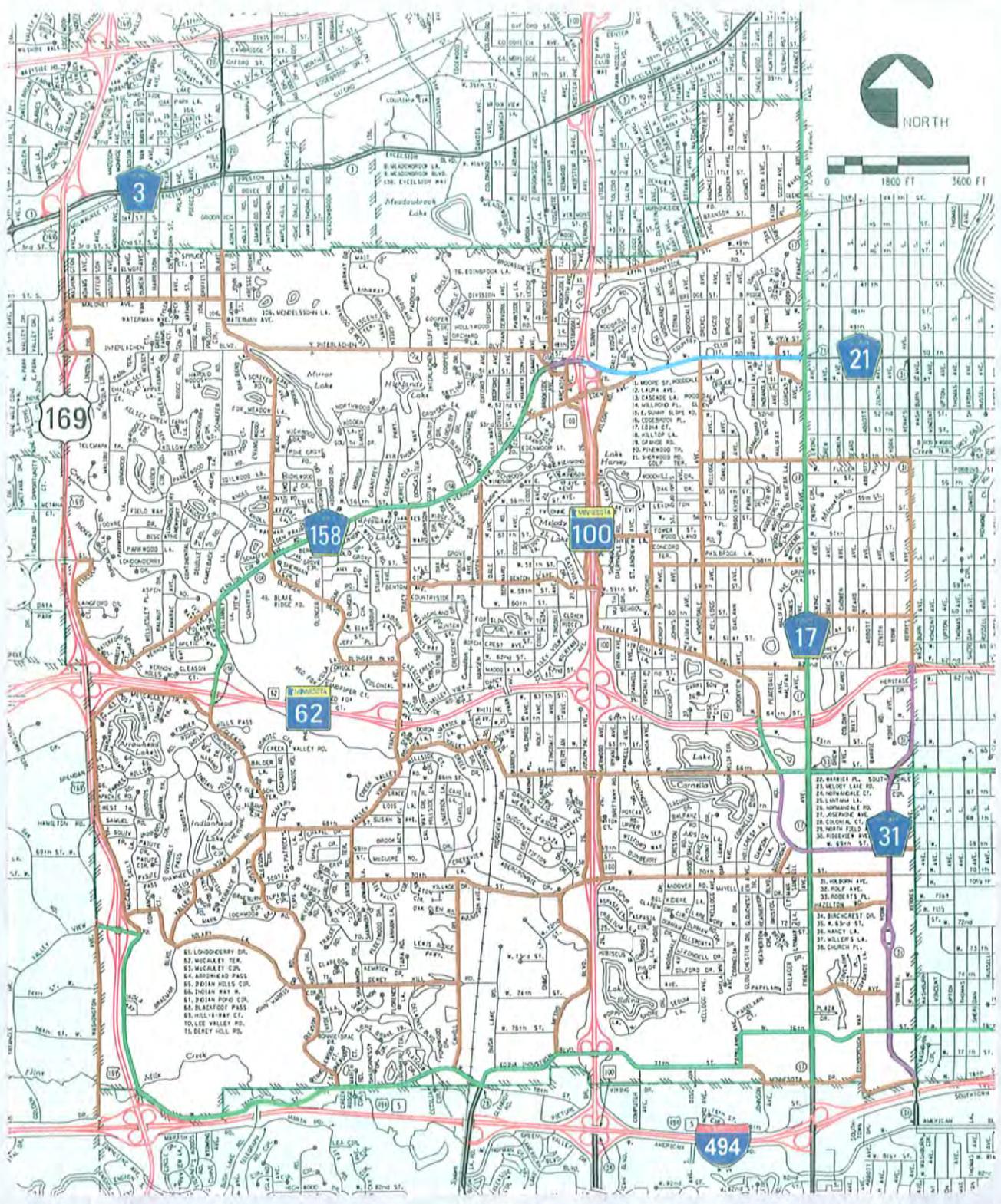
— Arterial Roadway



City of Edina  
2008 Comprehensive Plan Update

Aerial Photograph

Figure 7.2



**LEGEND:**

	Principal Arterial		"A" Minor Arterial (Reliever)		"A" Minor Arterial (Augmenter)		"B" Minor Arterial		Collector
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**City of Edina  
2008 Comprehensive Plan Update**

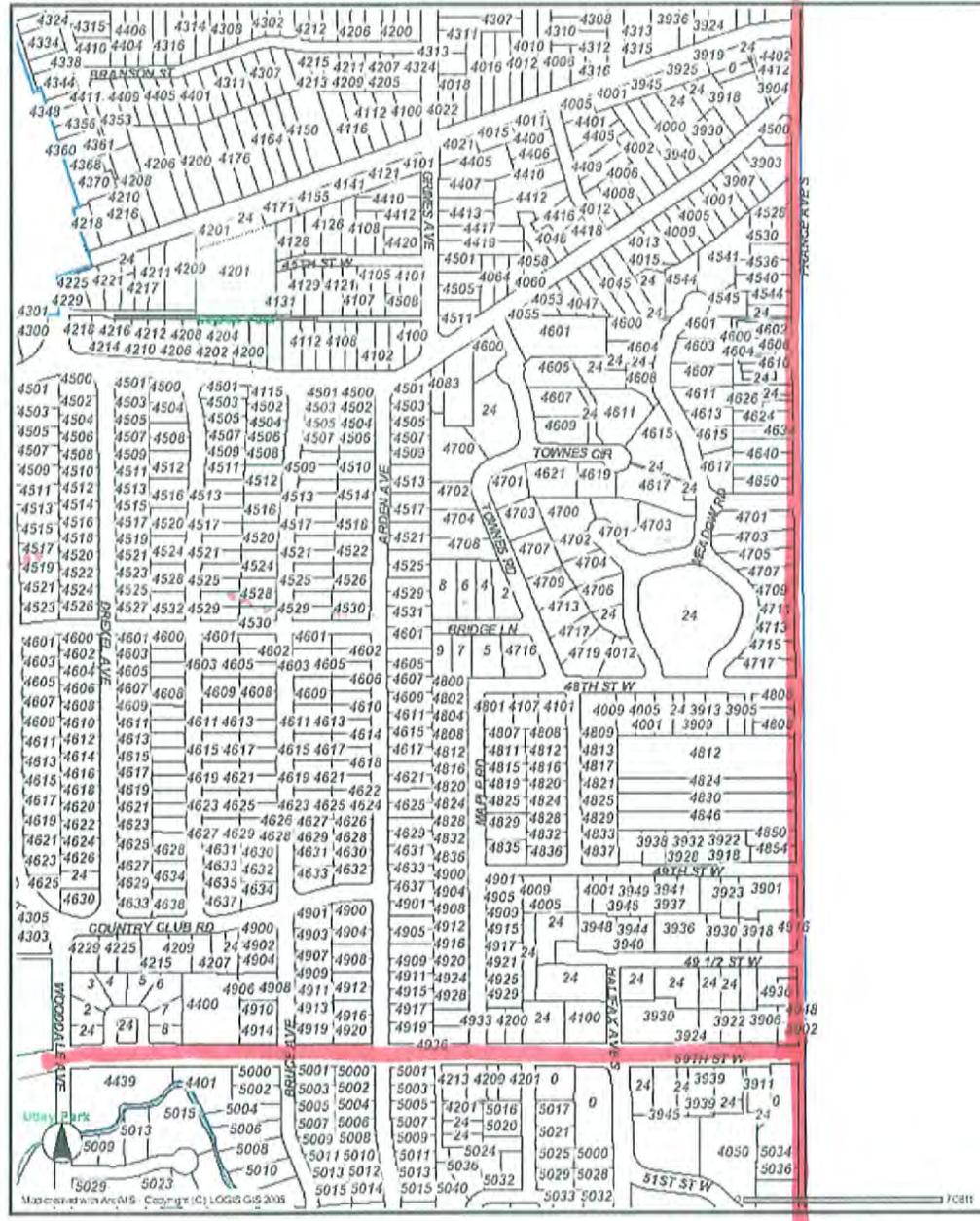
**Roadway Functional Classification**

Figure 7.5

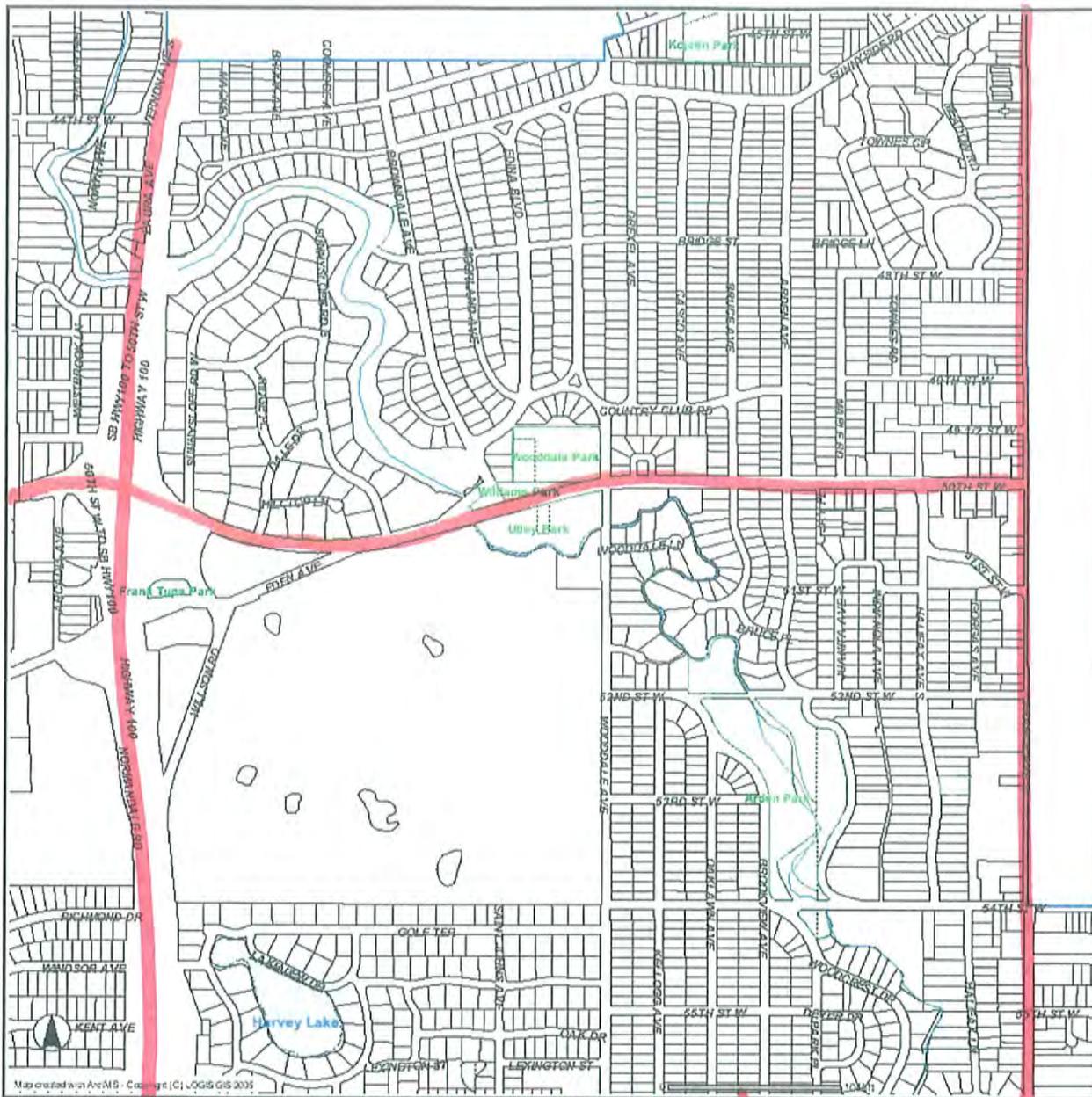
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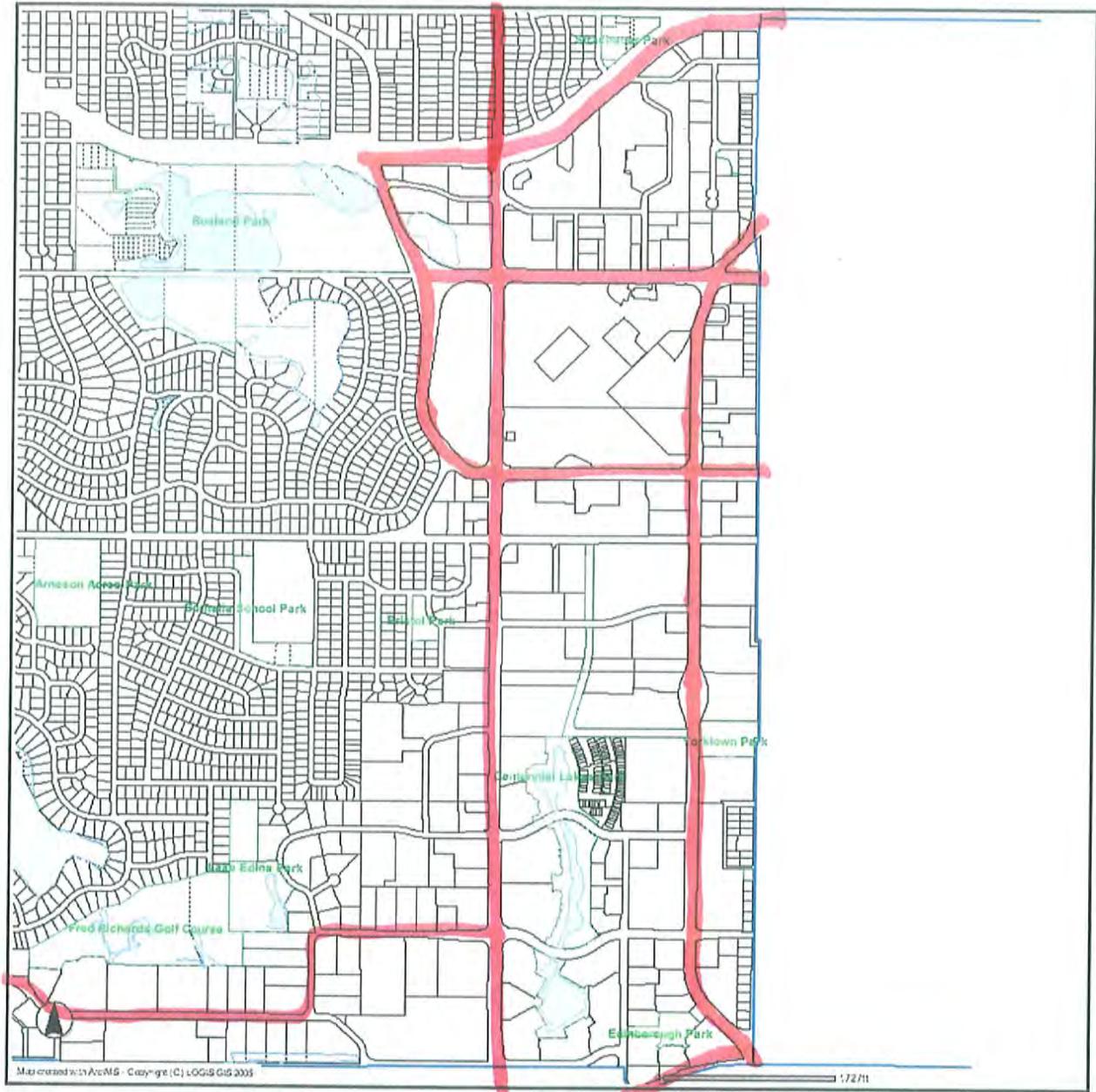
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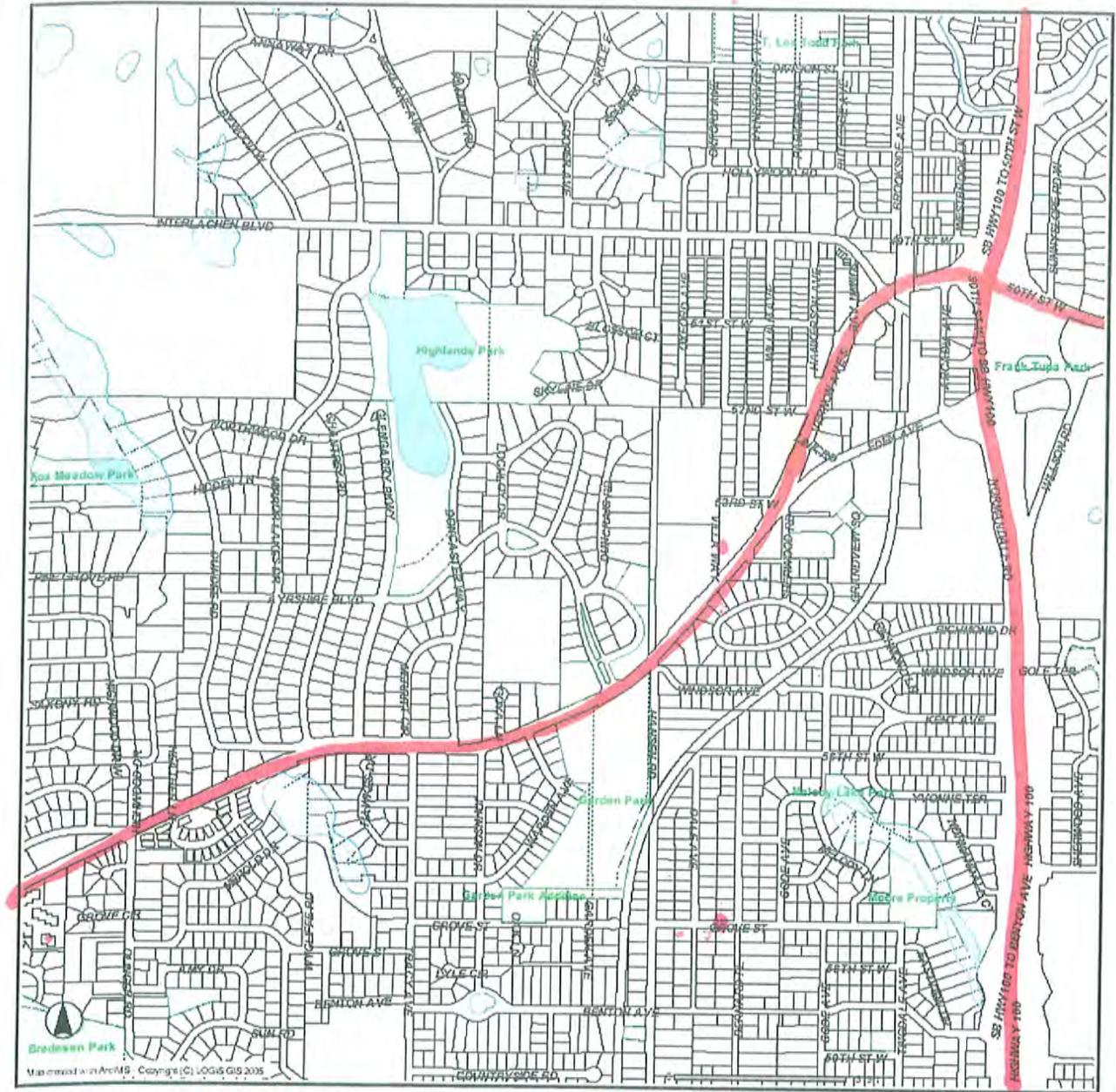
— Arterial Roadway



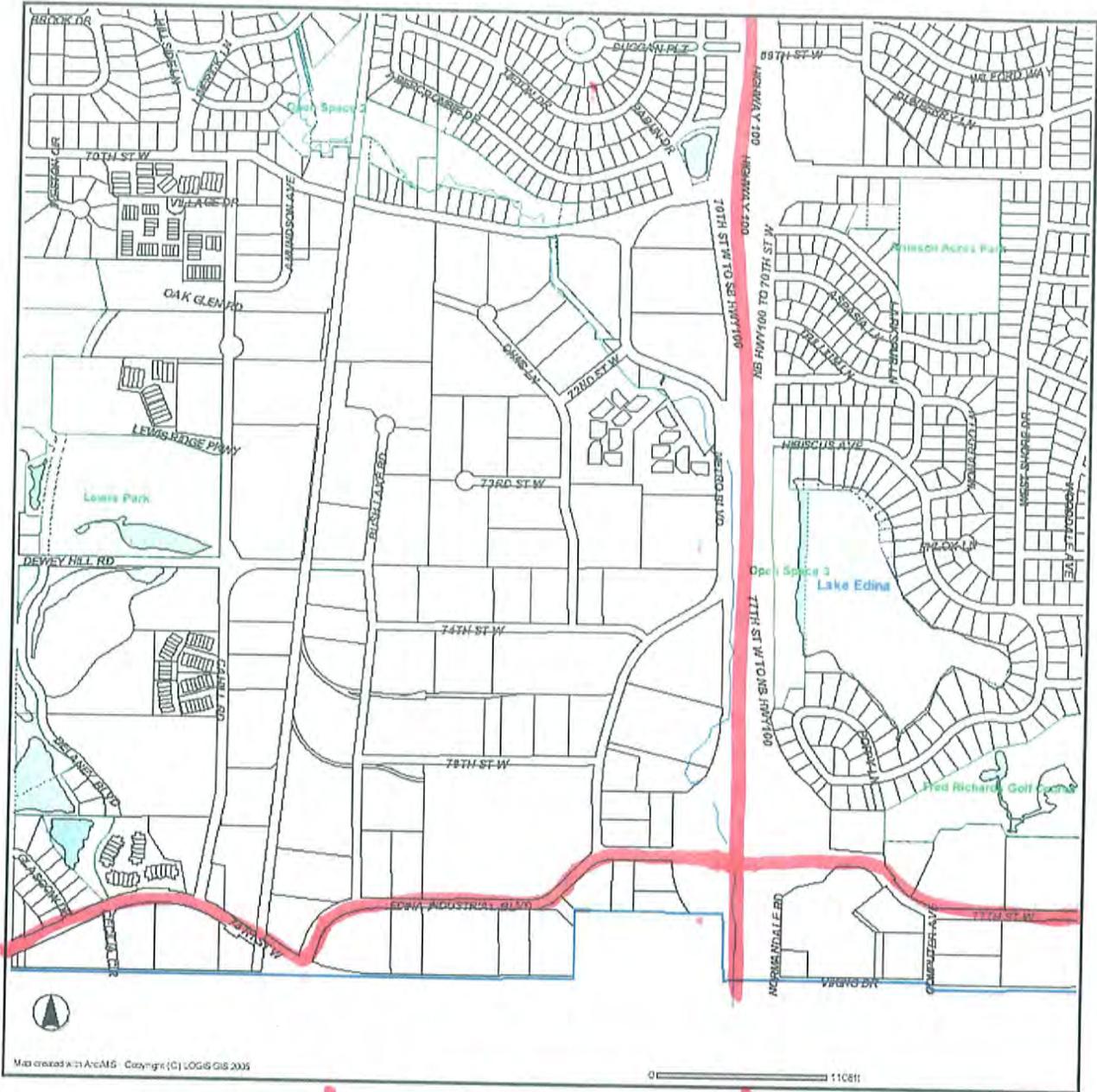
— Arterial Roadway



— Arterial Roadway



— Arterial Roadway



— Arterial Roadway

**MINUTES OF THE EDINA  
ZONING ORDINANCE UPDATE COMMITTEE  
MARCH 10, 2010, 7:30 PM  
EDINA CITY HALL COUNCIL CHAMBERS**

**Planning Commissioners in Attendance:**

**Mike Fischer, Michael Schroeder, Kevin Staunton, Arlene Forrest, Jeff Carpenter, Floyd Grabiell and Steve Brown**

**Staff in Attendance:**

**Cary Teague, Kris Aaker and Jackie Hoogenakker**

**Residents in Attendance:**

**Josh Sprague**

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**I. APPROVAL OF WORK SESSION MINUTES:**

The minutes of the February 10, Zoning Ordinance Update Committee was approved with changes from Chair Fischer.

**II. OLD TOPICS – CONTINUING DISCUSSION:**

**Topic: Planned Unit Development (PUD) – Intent, Goals or Purpose**

**Date Introduced: January 13, 2010**

**Date of Discussion: March 10, 2010**

**Introduction:**

Planner Teague told the Committee what will be discussed this evening is the third element of the Planned Unit Development (PUD) which is Process/Procedures.

Planner Teague asked Committee Members to note the maps provided indicating the City's existing arterial roadways. Planner Teague pointed out most of the City's commercial, industrial and high density residential areas are located on these roadways and would be eligible for a PUD if the property were less than two acres, according to the current draft language. Planner Teague noted that areas that are not included would be the Cahill industrial area, and the Valley View Road and Wooddale area. Planner Teague said the Industrial properties along Cahill road could be considered a transition area between land uses and would also qualify. The two acre minimum in other areas would encourage the consolidation of lots in order to qualify for a PUD.

Continuing, Planner Teague discussed the role of sketch plan review in the PUD process what role would sketch plan review play. Would the Committee want to require a sketch plan review for only properties that would require a PUD/rezoning? How would the Committee like to see the sketch plan review evolve?

**Discussion:**

Committee Members raised the following with regard to sketch plan review:

- Should a sketch plan review meeting be an option for properties that are not “slated” for a PUD or rezoning?
- Should a sketch plan review be required for PUD’s and rezoning only? And if so, what would the process be? Time-line is the clock ticking....etc.
- Site Plan Review – This would replace Ordinance language that is currently present in the Rezoning section of the Ordinance. Would sketch plan review be folded into the site plan review language for rezoning and PUD and/or in a separate area?
- Have legal staff review all “additions/changes” made to the Ordinance to ensure that any and all changes make sense to staff, developers, advisory boards and commissions and the public.
- The Committee agreed that all applicants should be required to meet with City staff before submitting a sketch plan review and prior to formal application. The Committee did acknowledge that staff has indicated that applicants do meet formally with staff before submitting an application; however, a formal meeting with staff should be required as part of the sketch plan review process.
- Should the City require neighborhood notification for sketch plan review, and if so, how is that handled? What’s the distance (1000 feet) or by neighborhood? It was acknowledged that it is very difficult to define neighborhood.
- Ensure that the “clock” isn’t ticking at the sketch plan review stage. Sixty days would almost be an impossible timeline to achieve. Committee Members reiterated the City Attorney would need to weigh in on this.

A discussion ensued with Committee Members questioning the “sketch plan review” requirement and/or option pointing out it could just become another step in the process; especially if formal notification is required. It was observed that a goal was to clarify the development review process. Committee Members noted that much would depend on what the Committee deems was the purpose of the sketch plan review. Member Carpenter asked if staff assessed how much this additional step would cost if the Committee decided upon mailed notice, etc. Planner Teague responded that hasn’t been specifically assessed, but there would be an added expense.

Planner Teague wondered if a sketch plan review meeting is required; would it take the place of the neighborhood meeting? Members acknowledged that was a fair question and a possibility. Chair Fischer said as he understands a "sketch plan review meeting" that only non-binding "comments" from staff, commission and residents would be taken - there would be no vote. Member Forrest noted the sketch plan review meeting would be just that, a meeting; not a public hearing.

The discussion continued with Committee Members going back and forth on if a sketch plan review meeting should be mandatory or elective. Members felt that if a sketch plan review meeting is mandatory it should be mandatory for only a PUD/Rezoning with notification required. Members said the goal of the Sketch Plan Review is to achieve a better product and not add confusion to the process. It was acknowledged a time line of the notice or of the sketch plan review would need to be established and adhered to.

### Action

**Committee Members recommended that a Sketch Plan Review meeting be a requirement of a PUD and/or Rezoning and formal notification should be given. A Sketch Plan Review meeting would be a voluntary option for all other applications.**

Chair Fischer said he would like to focus on the question raised by Planner Teague if there should be a minimum lot/parcel size stipulated for a PUD. After discussion, Committee Members suggested that staff strike the minimum size requirement.

It was also stressed that the R-1 Single Dwelling Unit District, R-2, and PRD 1 Residential Zoning Districts would not be considered at this time for PUD designation.

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<b>Topic:</b>	<b>Building Height</b>
<b>Date Introduced:</b>	<b>February 24, 2010</b>
<b>Date of Discussion:</b>	<b>March 10, 2010</b>

### Introduction

Planner Teague briefed the Commission reminding them that building height must be brought into compliance with the Comprehensive Plan. Continuing Planner Teague said there are options to achieve compliance. 1. Establish an overlay district and 2. Write regulations for each area described in the Comprehensive Plan.

**Topic:                   Planned Unit Development (PUD)**

**Date Introduced:   January 13, 2010**

**Date of Discussion:   March 24, 2010**

The PUD topic has been separated into four separate elements: 1) Purpose and Intent (goals) 2) Applicability/Criteria; 3) Process/Procedures; and 4) Rules/Standards.

The next element for discussion is the Rules/Standards. Below is a revised version of what has been discussed up to this point and potential language that could be used as the Rules/Standards section. Per last meetings discussion: the two acre minimum requirement has been removed; a sketch plan is required for a PUD or rezoning; a public meeting is required and residents within 1,000 feet would be notified; and the 60/120 day rule language has been added. The City Attorney has advised that the 60/120 rule does apply to a sketch plan.

***Purpose and Intent (goals)***

1.     Purpose and Intent. The purpose of the PUD District is to provide comprehensive procedures and standards intended to allow more creativity and flexibility in site plan design than would be possible under a conventional zoning district. The decision to zone property to PUD is a public policy decision for the city council to make in its legislative capacity. The purpose and intent of a PUD is to include most or all of the following:
  - a.     Provide for the establishment of PUD (planned unit development) zoning districts in appropriate settings and situations to create or maintain a development pattern that is consistent with the city's comprehensive plan.
  - b.     Promote a more creative and efficient approach to land use within the city, while at the same time protecting and promoting the health, safety, comfort, aesthetics, economic viability, and general welfare of the city.
  - c.     Provide for variations to the strict application of the land use regulations in order to improve site design and operation, while at the same time incorporate design elements that exceed the city's standards to offset the effect of any variations. Desired design elements may include: sustainable design, greater utilization of new technologies in building design, special construction materials, landscaping, lighting, stormwater management, and pedestrian oriented design.

- c. Any PUD which involves a single land use type or housing type may be permitted provided that it is otherwise consistent with the objectives of this ordinance and the comprehensive plan.
- d. Permitted densities may be specifically stated in the appropriate planned development designation and shall be in general conformance with the comprehensive plan.
- e. The setback regulation, building coverage and floor area ratio of the most closely related conventional zoning district shall be considered presumptively appropriate, but may be departed from to accomplish the purpose and intent described in #1 above.

### **Procedures**

1. **Pre-Application Conference:** Prior to filing of an application for 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 his proposal for the area for which it is proposed and its conformity to the provisions of this title before incurring substantial expense in the preparation of plans, surveys and other data.
2. **Pre-Application Sketch Review:** Prior to filing of a PUD, the applicant must submit a sketch of the project to the City Planner. The plan shall be conceptual but shall be processed according to the information requirements, standards and procedures for sketch plans established by Section 850.04 of this Chapter. (See below.) The submittal shall include a statement providing justification for the PUD, including but not limited to the intended utilization of the items listed in the Purpose and Intent, and Criteria above.
3. Pursuant to Minnesota Statutes 15.99, an application for sketch plan approval shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended by the City pursuant to statute or a time waiver is granted by the applicant.
4. **Commission Sketch Plan Review and Meeting.** The Planner will review the Sketch Plan and the other information provided by the petitioner, and forward a report /and or background information to the Commission. The Commission shall conduct a public meeting regarding the Sketch Plan. A notice of the date, time, place and purpose of the meeting shall be published in the official newspaper of the City at least ten days prior to the date of the meeting. A similar notice of meeting 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

provide such financial guarantees as the City requires or deems necessary. Such agreement may take the form of a development contract and/or another form of legally binding instrument as may be required by the City.

4. Expiration. If a building permit has not been obtained, and if erection or alteration of a building, as described in the application for final development plan, has not begun within two (2) years after final development 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. 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:
  - a. there is a reasonable expectation that the proposed work or improvement will commence during the extension, and
  - b. the facts which were the basis for approving the final development plan have not materially changed. No more than one extension shall be granted.

5. Planned Unit Development Districts:

The following properties are zoned planned unit development, in accordance with the identified ordinance or as provided herein:

- A. reserved. (Future PUD districts and regulations would be listed here.)

The following is a working draft of potential language to be used for the site plan review process:

**850.04 Subd. 2 Site Plan Review.**

- A. Purpose. The purpose of this Section is to establish a formal site plan review procedure and provide regulations pertaining to the enforcement of site design standards consistent with the requirements of the zoning ordinance.

- b. Natural features.
  - c. A site plan showing general location of existing and proposed structures.
  - d. Amenities to be provided such as recreational areas, open space, walkways, landscaping, etc.
  - e. Tentative access, circulation and street arrangements, both public and private.
  - f. General location of parking areas.
  - g. Building elevations or sketches of what buildings may look like, including general building heights.
  - h. General estimate of building square footage.
  - i. A statement showing the proposed density of the project with the method of calculating said density also shown.
  - j. Other items as may be deemed necessary by City staff.
2. The City 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/or City Council shall be considered advisory only and shall not constitute a binding decision on the request.
3. Commission Sketch Plan Review and Meeting. Within 45 days after receipt by the Planner of the petition, fee and all other required information, in form and substance acceptable to the Planner, the Planner will review the Sketch Plan and the other information provided by the petitioner, and forward a report /and or background information to the Commission. The Commission shall conduct a public meeting regarding the Sketch Plan. A notice of the date, time, place and purpose of the meeting shall be published in the official newspaper of the City at least ten days prior to the date of the meeting. A similar notice of meeting 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. No new notice need be given for hearings, which are continued by the Commission to a specified future date.

4. Additional Information: City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert assistance with the consent and at the expense of the applicant concerning operational factors. Said information is to be declared necessary to evaluate the request and/or to establish performance conditions in relation to all pertinent sections of this Title. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.
  5. Meeting with the Planner And/Or Staff: The applicant or a representative thereof shall meet with the Planner and/or City staff in order to present information and answer questions concerning the proposed requests.
- F. Standards. In evaluating a site plan, the planning commission and city council shall consider its compliance with the following:
1. consistency with the elements and objectives of the city's development guides, including the comprehensive plan and water resources management plan;
  2. consistency with this ordinance;
  3. creation of a harmonious relationship of buildings and open spaces with natural site features and with existing and future buildings having a visual relationship to the development;
  4. promotion of energy conservation through design, location, orientation and elevation of structures, the use and location of glass in structures and the use of landscape materials and site grading; and
  5. protection of adjacent and neighboring properties through reasonable provision for surface water drainage, sound and sight buffers, preservation of views, light and air and those aspects of design not adequately covered by other regulations which may have substantial effects on neighboring land uses.
- G. Information Required. The information required for all site plan applications generally consists of the following items, and shall be submitted unless waived by the Planner.
1. Site boundaries, buildings, structures and other improvements shall be identified on-site with a current certificate of survey, prepared and signed by a Minnesota licensed land surveyor, depicting the following:
    - a. Scale of plan (engineering scale only, at one inch equals fifty feet (1" = 50') or less.

- vii. Vehicular circulation.
  - viii. Sidewalks, walkways, trails.
  - ix. Location and type of all proposed lighting, including details of all proposed fixtures.
  - x. Location of recreation and service areas.
  - xi. Location of rooftop equipment and proposed screening.
  - xii. Provisions for storage and disposal of waste, garbage, and recyclables, including details for screening exterior trash/recycling enclosures.
  - xiii. Location, sizing, and type of water and sewer system mains and proposed service connections.
3. Grading/stormwater drainage plan, utilizing a copy of the current certificate of survey as a base for the site in question, prepared and signed by a Minnesota licensed engineer, depicting the following:
- a. Existing contours at two foot (2') intervals (may be prepared by a Minnesota licensed surveyor).
  - b. Proposed grade elevations at two foot (2') maximum intervals.
  - c. Drainage plan, including the configuration of drainage areas and calculations.
  - d. Storm sewer, catch basins, invert elevations, type of castings, and type of materials.
  - e. Spot elevations (may be prepared by a Minnesota licensed surveyor).
  - f. Proposed driveway grades.
  - g. Surface water ponding and treatment areas.
  - h. Erosion control measures.
4. Landscaping plan, utilizing a copy of the current certificate of survey as a base for the site in question, depicting the following:
- a. Planting schedule (table) containing:

- a. Architectural elevations of all principal and accessory buildings (type, color, and materials used in all external surfaces).
  - b. "Typical" floor plan and "typical" room plan drawn to scale with a summary of square footage for each use or activity.
  - c. Fire protection plan.
  - d. Extent of and any proposed modifications to land within the Environmental Protection Districts, as established by Chapter 45 of this Title.
  - e. Type, location and size (area and height) of all signs to be erected upon the property in question.
  - f. Vicinity map showing the subject property in reference to nearby highways or major street intersections.
  - g. Sound source control plan.
  - h. Lighting plan.
- H. Changes to Approved Site Plan. Minor changes in the location and placement of buildings or other improvements due to unforeseen circumstances may be authorized by the Planner. Proposed changes to the approved 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 Site Plan, except that a three-fifths favorable vote of the Council shall be required to authorize the proposed change.
- I. Lapse of Approved Site Plan by Non-User; Extension of Time.
- 1. If a building permit has not been obtained, and if erection or alteration of a building, as described in the application for Site Plan, has not begun within two years after 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.
  - 2. 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

### Public Comment

John Bohan, 800 Coventry, told the Commission he believes the podium height (2-story at the street level) concept resulted from conversations with merchants and residents in the Cahill and West 70<sup>th</sup> Street neighborhood. Mr. Bohan also referred to the draft building height overlay district as it relates to Centennial Lakes, HOD-4, pointing out the map indicates 4-stories; however, the Coventry at Centennial Lakes is only 2-stories. Chair Fischer said he recalled the discussion on Centennial Lakes and asked Planner Teague if the reasoning behind the 4-stories is that sites with a similar zoning designation must be treated equally. Planner Teague responded that is correct. Continuing, Planner Teague pointed out that currently there is no height limit in the Centennial Lakes area. The proposed ordinance would reduce height in this area possibly more than any other in the City.

### Action

**Commissioner Staunton moved to recommend adoption of an Ordinance amending the Zoning Ordinance to add a Building Height Overlay District, pages A1-A6, including the most recent appendix A, and the March 24, 2010 memo with the understanding that this amendment imports height wherever it was dictated in the Comprehensive Plan by importing it into the height overlay district, and where the Comprehensive Plan was silent the current zoning restrictions regarding height would be retained. Commissioner Brown seconded the motion. Ayes; Carpenter, Risser, Scherer, Staunton, Brown Grabiell, Forrest, Fischer. Nay; Schroeder. Motion carried 8-1**

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### **Discussion -Planned Unit Development**

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#### Planner Presentation

Planner Teague reminded the Commission the PUD topic has been separated into four separate elements: 1) Purpose and Intent (goals) 2) Applicability/Criteria; 3) Process/Procedures; and 4) Rules/Standards.

Planner Teague said the topic this evening is Rules/Standards. Planner Teague said what has been discussed up to this point and potential language that could be used as the Rules/Standards section. Planner Teague reminded the Commission at the past meetings discussion the two acre minimum requirement was removed, and a sketch plan is required for a PUD or rezoning. A public meeting is required and residents within 1,000 feet would be notified; and the

60/120 day rule language has been added. The City Attorney has advised that the 60/120 rule does apply to a sketch plan.

### Discussion

Chair Fischer asked Planner Teague to clarify the 60 day rule. Planner Teague explained that State Statute requires Cities to take action on an application within 60 days; however, the City can extend the time for another 60 days. Chair Fischer asked Planner Teague how the 60/120 day rule is defined. Planner Teague responded final action must occur within that time frame.

A discussion ensued on sketch plan review with Commissioner Forrest expressing the opinion that it would not make sense if the sketch plan review process was held to the same time frame as a formal application; it would defeat the purpose of the sketch plan review. Commissioner Staunton said if there are separate applications for each leg of the process maybe the rule would apply to each application. Planner Teague said his understanding from the City Attorney, Roger Knutson, was that the "clock starts ticking" at the sketch plan review. Commissioners acknowledged that in reality there is no way a development application could get through the process from sketch plan review to final approval within 120 days, adding it's hard enough to do that without the addition of sketch plan review.

Planner Teague said he would speak with the City Attorney to clarify his position, adding it may be a good idea to invite Mr. Knutson to a meeting. Commissioner Staunton agreed, adding he believes there is a way to write criteria for each application. A sketch plan review is seeking feedback, not action, which is a big difference.

Commissioner Grabiell questioned if the intent of the Commission was to have the sketch plan review such a formal process, adding his take was that the sketch plan review was informal. Continuing, Commissioner Grabiell said his take on a sketch plan review was a developer running an idea "up the flag pole" to gather feedback from the Commission, take the input from the Commission and proceed or start over. Commissioner Grabiell reiterated he didn't think the process was as formal as outlined, notices, mailing, etc.

Commissioner Carpenter suggested that staff formalize or require a pre-application meeting with developers. Commissioner Carpenter acknowledged that a meeting between staff and developers regularly occurs; however, if required and formalized the applicant would be provided with guidance on their development as it proceeds through the formal process.

Commissioner Forrester said her initial thought on sketch plan review was that it would benefit the applicant by providing feedback from the Commission on their take on the proposal. Commissioner Forrest said she also agrees with

comments from Commissioner Grabiell (depending on what Mr. Knutson says) that the formalities could be minimized. She said posting the sketch plan review meeting instead of mailings, etc. should suffice and staff/commission encouraging an applicant to meet with neighboring property owners (prior to the public hearing) so no one is blindsighted would be good advice.

Commissioner Brown said his understanding of a sketch plan review was to provide the Commission with the opportunity to offer feedback to an applicant on how nine Commissioners felt about a certain proposal. Commissioner Brown said his understanding was that this meeting would be less formal; only providing the applicant with feedback and was not part of an official public hearing process. Public meeting, not hearing.

Commissioner Schroeder asked Planner Teague if a sketch plan application is made what right(s) does the Commission grant the developer. Planner Teague responded that the sketch plan review meeting does not afford the applicant any rights. A sketch plan review meeting provides only feedback, no Aye, Nay action.

Commissioner Staunton pointed out #3 on procedures which indicates approved or denied, adding that language needs to be addressed, noting that further along in the ordinance it states any opinions or comments are advisory. Planner Teague agreed that the language needs to be re-addressed and clarified by the City Attorney.

Chair Fischer noted that at the last meeting the Commission talked to a developer about the benefit of a sketch plan review, adding in his opinion a sketch plan review benefits everyone, applicant, staff, Commission and the neighbors.

Commissioner Grabiell questioned what would stop a developer from using the Community Comment section on the Agenda to solicit ideas from the Commission as long as no formal application has been made. Commissioner Grabiell said the goal is not to exclude the public in the process but to provide feedback. If everything is formalized the sketch plan review would just add another step to the process. Commissioner Brown suggested that to "get around" the time frame constraints that the applicant could withdraw an application and reapply. Planner Teague agreed. Each new application restarts the clock.

Chair Fischer suggested that further discussion on the sketch plan review process be put on hold.

Chair Fischer referred to the Rules/Standards portion of the ordinance and asked Planner Teague to briefly go through them.

Planner Teague said that points 1-4 are general; plan modifications, who maintains the records, codification of developers agreement, expiration language, etc. Number 5 needs to be filled in as the PUD is developed. Chair Fischer said as he reviews the proposed ordinance it appears that what is before the Commission is the framework for an actual PUD Ordinance. Planner Teague responded agreed that it was at least a framework for an Ordinance.

### **Public Comment**

John Bohan, 800 Coventry, told the Commission he understands the spirit of the PUD; however, he believes in practicality this issue is very complex .

#### **III. COMMUNITY COMMENT:**

None.

#### **IV. INTERGOVERNMENTAL BUSINESS:**

Chair Fischer acknowledged back of packet materials.

Chair Fischer reported that next month, April 8<sup>th</sup>; the Public Works Small Area Guide Process will kick off. Chair Fischer there will be no meeting of the Zoning Ordinance Update Committee in April.

Commissioner Risser reported that the Green Steps event was very successful, adding Heather Worthington did an excellent job with the summary. Commissioner Risser said the event also included a report on Copenhagen and an update from the school district on their green program. Commissioner Staunton also thanked Commissioner Risser for her report on her travels.

Commissioner Grabiell said he would like to make sure that the City Attorney is present at a Zoning Ordinance Update Committee meeting when the Commission tackles PUD and sketch plan review, etc.

#### **V. NEXT MEETING DATE:**

April 28, 2010

**Topic:                   Planned Unit Development (PUD)**

**Date Introduced:   January 13, 2010**

**Date of Discussion:   May 12, 2010**

The Planning Commission has now concluded its discussion on each of the four elements of the PUD. The four elements include: 1) Purpose and Intent (goals) 2) Applicability/Criteria; 3) Process/Procedures; and 4) Rules/Standards. The result of those discussions is the working draft of the framework for a PUD Ordinance below.

Staff has added some language in regard to podium height as a result of our building height discussions. This issue can be further analyzed as we meet with the City Council at a future work session.

During our last discussion, the issue of the 60/120 day rule came up. The City Attorney has advised that the rule does apply to a sketch plan review. The Commission recommended that we further examine the issue with the City Attorney, as we try to establish our procedures. Roger Knutson, our City Attorney will be at the meeting to discuss the issue.

***Purpose and Intent (goals)***

1.     Purpose and Intent. The purpose of the PUD District is to provide comprehensive procedures and standards intended to allow more creativity and flexibility in site plan design than would be possible under a conventional zoning district. The decision to zone property to PUD is a public policy decision for the city council to make in its legislative capacity. The purpose and intent of a PUD is to include most or all of the following:
  - a.     Provide for the establishment of PUD (planned unit development) zoning districts in appropriate settings and situations to create or maintain a development pattern that is consistent with the city's comprehensive plan.
  - b.     Promote a more creative and efficient approach to land use within the city, while at the same time protecting and promoting the health, safety, comfort, aesthetics, economic viability, and general welfare of the city.
  - c.     Provide for variations to the strict application of the land use regulations in order to improve site design and operation, while at the same time incorporate design elements that exceed the city's standards to offset the effect of any variations. **Desired design**

city have entered into an agreement to ensure that the low or moderate cost units remain available to persons of low or moderate income for a specific period of time.

- c. Any PUD which involves a single land use type or housing type may be permitted provided that it is otherwise consistent with the objectives of this ordinance and the comprehensive plan.
- d. Permitted densities may be specifically stated in the appropriate planned development designation and shall be in general conformance with the comprehensive plan.
- e. The setback regulation, building coverage and floor area ratio of the most closely related conventional zoning district shall be considered presumptively appropriate, but may be departed from to accomplish the purpose and intent described in #1 above.

## **Procedures**

1. **Pre-Application Conference:** Prior to filing of an application for 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 his proposal for the area for which it is proposed and its conformity to the provisions of this title before incurring substantial expense in the preparation of plans, surveys and other data.
2. **Pre-Application Sketch Review:** Prior to filing of a PUD, the applicant must submit a sketch of the project to the City Planner. The plan shall be conceptual but shall be processed according to the information requirements, standards and procedures for sketch plans established by Section 850.04 of this Chapter. (See below.) The submittal shall include a statement providing justification for the PUD, including but not limited to the intended utilization of the items listed in the Purpose and Intent, and Criteria above.
3. **Commission Sketch Plan Review and Meeting.** The Planner will review the Sketch Plan and the other information provided by the petitioner, and forward a report /and or background information to the Commission. The Commission shall conduct a public meeting regarding the Sketch Plan. A notice of the date, time, place and purpose of the meeting shall be published in the official newspaper of the City at least ten days prior to the date of the meeting. A similar notice of meeting 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

The following properties are zoned planned unit development, in accordance with the identified ordinance or as provided herein:

- A. reserved. (Future PUD districts and regulations would be listed here.)

1. Prior to the formulation of a site plan, applicants may present a sketch plan to the Planner prior to filing of a formal application. If submitting an application for a rezoning, a Sketch Plan is required. The plan shall be conceptual but shall be drawn to scale with topography of a contour interval not greater than two feet (2') and may include the following:
  - a. The proposed site with reference to existing development, topography, and drainage conditions on adjacent properties, at least to within two hundred feet (200').
  - b. Natural features.
  - c. A site plan showing general location of existing and proposed structures.
  - d. Amenities to be provided such as recreational areas, open space, walkways, landscaping, etc.
  - e. Tentative access, circulation and street arrangements, both public and private.
  - f. General location of parking areas.
  - g. Building elevations or sketches of what buildings may look like, including general building heights.
  - h. General estimate of building square footage.
  - i. A statement showing the proposed density of the project with the method of calculating said density also shown.
  - j. Other items as may be deemed necessary by City staff.
2. The City 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/or City Council shall be considered advisory only and shall not constitute a binding decision on the request.
3. Commission Sketch Plan Review and Meeting. Within 45 days after receipt by the Planner of the petition, fee and all other required information, in form and substance acceptable to the Planner, the Planner will review the Sketch Plan and the other information provided by the petitioner, and forward a report /and or background information to the Commission. The Commission shall conduct a public meeting regarding the Sketch Plan. A notice of the date, time, place and purpose of the

2. Proof Of Ownership Or Authorization: The applicant shall supply proof of title and the legal description of the property for which the site plan approval is requested, consisting of an abstract of title and as applicable supply documented authorization from the owner(s) of the property in question to proceed with the requested site plan application.
  3. Technical Reports: The Planner shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in conducting an evaluation of the request.
  4. Additional Information: City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert assistance with the consent and at the expense of the applicant concerning operational factors. Said information is to be declared necessary to evaluate the request and/or to establish performance conditions in relation to all pertinent sections of this Title. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.
  5. Meeting with the Planner And/Or Staff: The applicant or a representative thereof shall meet with the Planner and/or City staff in order to present information and answer questions concerning the proposed requests.
- F. Standards. In evaluating a site plan, the planning commission and city council shall consider its compliance with the following:
1. consistency with the elements and objectives of the city's development guides, including the comprehensive plan and water resources management plan;
  2. consistency with this ordinance;
  3. creation of a harmonious relationship of buildings and open spaces with natural site features and with existing and future buildings having a visual relationship to the development;
  4. promotion of energy conservation through design, location, orientation and elevation of structures, the use and location of glass in structures and the use of landscape materials and site grading; and
  5. protection of adjacent and neighboring properties through reasonable provision for surface water drainage, sound and sight buffers, preservation of views, light and air and those aspects of design not adequately covered by other regulations which may have substantial effects on neighboring land uses.

- iii. Location of all adjacent buildings located within one hundred feet (100') of the exterior boundaries of the property in question.
  - iv. Location, number, dimensions, and setbacks of proposed parking spaces and drive aisles.
  - v. Location, number, and dimensions of proposed loading spaces.
  - vi. Location, width, and setbacks of all curb cuts and driveways.
  - vii. Vehicular circulation.
  - viii. Sidewalks, walkways, trails.
  - ix. Location and type of all proposed lighting, including details of all proposed fixtures.
  - x. Location of recreation and service areas.
  - xi. Location of rooftop equipment and proposed screening.
  - xii. Provisions for storage and disposal of waste, garbage, and recyclables, including details for screening exterior trash/recycling enclosures.
  - xiii. Location, sizing, and type of water and sewer system mains and proposed service connections.
3. Grading/stormwater drainage plan, utilizing a copy of the current certificate of survey as a base for the site in question, prepared and signed by a Minnesota licensed engineer, depicting the following:
- a. Existing contours at two foot (2') intervals (may be prepared by a Minnesota licensed surveyor).
  - b. Proposed grade elevations at two foot (2') maximum intervals.
  - c. Drainage plan, including the configuration of drainage areas and calculations.
  - d. Storm sewer, catch basins, invert elevations, type of castings, and type of materials.
  - e. Spot elevations (may be prepared by a Minnesota licensed surveyor).
  - f. Proposed driveway grades.

shall be provided showing the perspective of the site from the neighboring property at the property line elevation.

- j. Other existing or proposed conditions which could be expected to affect landscaping.
5. Other plans and information as required by the Planner including, but not limited to:
- a. Architectural elevations of all principal and accessory buildings (type, color, and materials used in all external surfaces).
  - b. "Typical" floor plan and "typical" room plan drawn to scale with a summary of square footage for each use or activity.
  - c. Fire protection plan.
  - d. Extent of and any proposed modifications to land within the Environmental Protection Districts, as established by Chapter 45 of this Title.
  - e. Type, location and size (area and height) of all signs to be erected upon the property in question.
  - f. Vicinity map showing the subject property in reference to nearby highways or major street intersections.
  - g. Sound source control plan.
  - h. Lighting plan.
- H. Changes to Approved Site Plan. Minor changes in the location and placement of buildings or other improvements due to unforeseen circumstances may be authorized by the Planner. Proposed changes to the approved 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 Site Plan, except that a three-fifths favorable vote of the Council shall be required to authorize the proposed change.
- I. Lapse of Approved Site Plan by Non-User; Extension of Time.
- 1. If a building permit has not been obtained, and if erection or alteration of a building, as described in the application for Site Plan, has not begun within two years after Site Plan approval, the approval shall be null and void

**Topic:                   Planned Unit Development (PUD)**

**Date Introduced:   January 13, 2010**

**Date of Discussion:   September 1, 2010**

The Planning Commission has concluded its discussion on each of the four elements of the PUD. The Commission is now asked to consider how the Ordinance would fit into the overall Zoning Ordinance.

Attached is an ordinance amendment to Section 850.04, which is the entire Section of the Ordinance regarding administration and procedures for variances and appeals, rezoning, transfer to planned districts (final development plans) and conditional use permits.

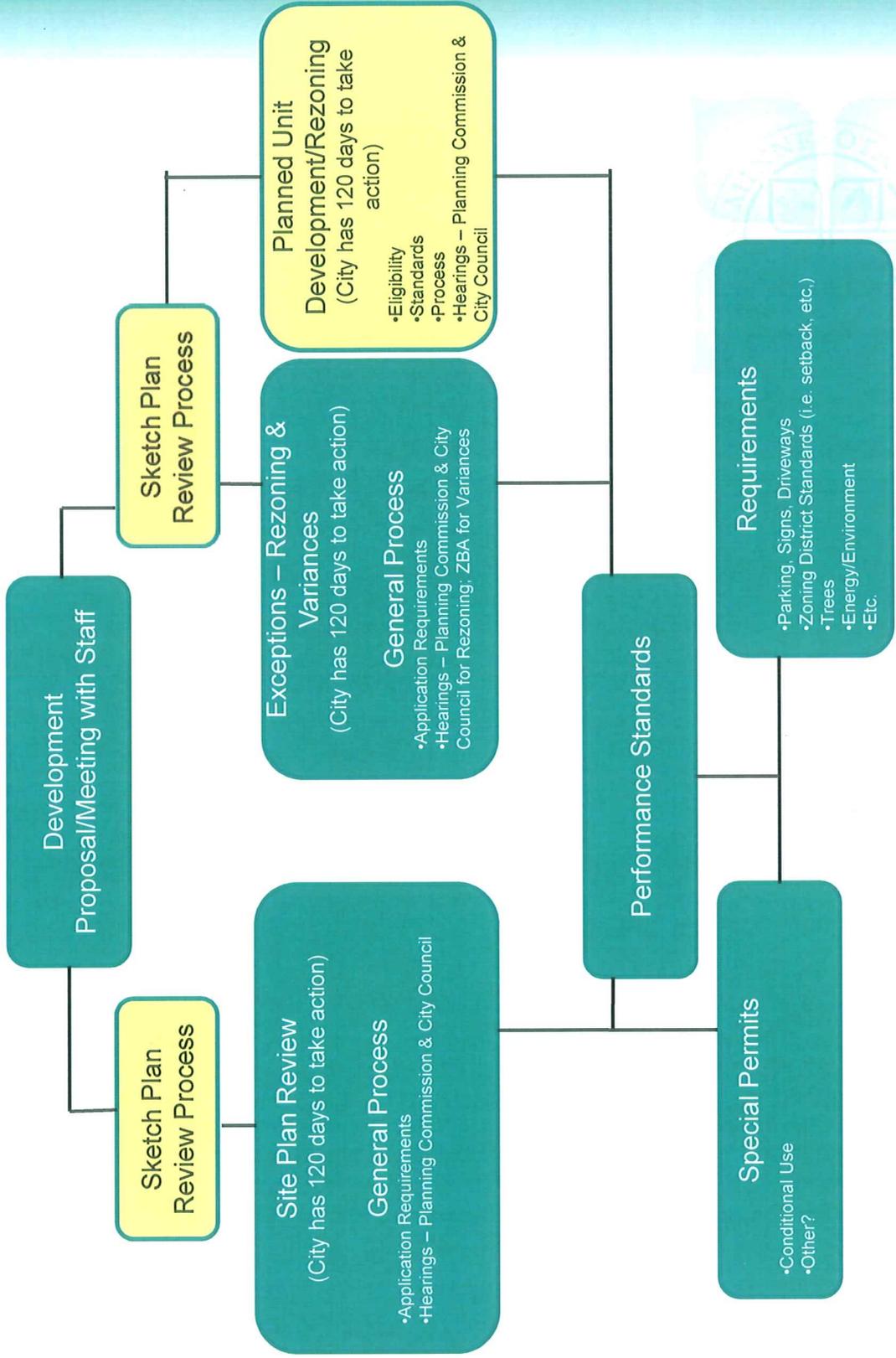
A summary of the suggested changes within the Ordinance Amendment is listed below. Please note that in addition to the PUD related amendments, there are some procedural amendments suggested as well.

1. Adds language regarding the 60/120-day rule. (The State Statute regarding when cities must take action on applications.) Existing code language regarding timing of applications is removed.
2. The variance section is amended to comply with the City's existing variance procedure practice. That includes the staff appeal of variances attached to other applications. No change to the status of the Zoning Board of Appeals at this time.
3. Eliminates the "transfer to planned district" which is where the final development plan procedure is currently found. The change is to a traditional site plan review, which is what a final development plan really is. This change will make the code easier to navigate.
4. Adds sketch plan review as previously recommended.
5. Amends submittal requirements.
6. Establishes the PUD District as previously recommended.

Concern is still raised in regard to Subd. 3 Rezoning; this includes the new PUD language. Other than adding the PUD, there are no substantive changes recommended to this section at this time; however, the issue of this section complying with the 60/120-day rule remains. This section requires a 2-3 step process, similar to the proposed PUD, which is difficult to go through each step and still comply with the State Statute.

7. Suggests new CUP standards as recommended by the City Attorney.
8. Eliminates temporary CUP's which are not legal.

# Development Review Process



## ORDINANCE NO. 2010-\_\_\_\_\_

**AN ORDINANCE AMENDING THE ZONING ORDINANCE CONCERNING  
ADMINISTRATION AND PROCEDURES AND ESTABLISHING A PUD  
DISTRICT**

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The City Of Edina Ordains:

**Section 1.** Sub Section 850.04 is hereby amendment as follows:

**850.04 Administration and Procedures for Variances and Appeals, Rezoning, Site Plan Review, Transfer to Planned Districts and Conditional Use Permits.**

**Subd. 1 Pursuant to Minnesota Statutes 15.99, applications shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended by the City pursuant to statute or a time waiver is granted by the applicant.**

**Subd. 4 2 Variances and Appeals.**

- A. Zoning Board of Appeals. There is continued a separate Zoning Board of Appeals of the City. The Zoning Board of Appeals is the board of appeals and adjustments created pursuant to M.S. 462.354, Subd. 2. All members of the Commission, from time to time, shall be members, and the other members shall be six residents of the City appointed for a term of three years by the Mayor with the consent of a majority of the members of the Council. For hearings, the Board shall consist, at a maximum, of any five members, but three members shall constitute a quorum for conducting such hearings and making decisions. However, at least one Commission member shall be in attendance at each Board meeting, and shall be deemed to be the representative of the Commission for purposes of review and report by the Commission as required by M.S. 462.354, Subd. 2. The Board shall make no decision until the Commission, or a representative of it, has had reasonable opportunity, not to exceed 60 days, to review and report to the Board concerning the decision. All members shall serve without compensation. Members may resign voluntarily or be removed by a majority vote of the Council or pursuant to Section 180 of this Code. That Commission member in attendance at a meeting who has the then longest continuous service on the Commission shall be the Chair for that meeting. The Board shall adopt such bylaws as shall be necessary or desirable for conduct of its business. Staff services shall be provided by the Planning Department. Board members who

discontinue legal residency in the City shall be automatically removed from office effective as of the date of such discontinuance. Vacancies shall be filed pursuant to Subsection 180.03 of this Code.

- B. Powers and Duties of Board. The Board shall have the power and duty of hearing and deciding, subject to appeal to the Council, the following matters:
1. Requests for variances from the literal provisions of this Section. **If a variance request is part of another land use application, including but not limited to a conditional use permit, rezoning, and preliminary or final site plan, the decision by the Zoning Board of Appeals is automatically appealed to the City Council. The City Council would then take official action on the applications including the variance. If a variance request is made along with a Certificate of Appropriateness for the Heritage Preservation Commission, the Zoning Board of Appeals decision is not automatically appealed.**
  2. Appeals in which it is alleged that there is an error in any order, requirement, decision or determination made by an administrative officer in the interpretation or enforcement of this Section; and
  3. Requests for variances from the literal provisions of Section 1046 of this Code.
  4. Requests for modifications from the requirements of Section 815 of this Code.
- C. Petitions for Variances. The owner or owners of land to which the variance relates may file a petition for a variance with the Planning Department. The petition shall be made on forms provided by the Planning Department and shall be accompanied by the fee set forth in Section 185 of this Code. The petition shall be accompanied by plans and drawings to scale which clearly illustrate, to the satisfaction of the Planner, the improvements to be made if the variance is granted. The Planner may require the petitioner to submit a certificate by a registered professional land surveyor verifying the location of all buildings, setbacks and building coverage, and certifying other facts that in the opinion of the Planner are necessary for evaluation of the petition.
- D. Appeals of Administrative Decisions. A person who deems himself or herself aggrieved by an alleged error in any order, requirement, decision or determination made by an administrative officer in the interpretation and enforcement of this Section, may appeal to the Board by filing a written appeal with the Planning Department within 30 days after the date of such

order, requirement, decision or determination. The appeal shall fully state the order to be appealed and the relevant facts of the matter.

E. Hearing and Decision by the Board; Notice.

~~1. Within 60 days after the Planner determines that a variance petition is complete, and all required fees and information, including plans, drawings and surveys, have been received, or within 60 days after the filing of an appeal of an administrative decision, the Board shall conduct a public hearing and after hearing the oral and written views of all interested persons, the Board shall make its decision at the same meeting or at a specified future meeting.~~

12. Notice of variance hearings shall be mailed not less than ten days before the date of the hearing to the person who filed the petition for variance and to each owner of property situated wholly or partially within 200 feet of the property to which the variance relates insofar as the names and addresses of such owners can be reasonably determined by the Clerk from records maintained by the Assessor.

23. A notice of hearing for appeals of administrative decisions shall be published in the official newspaper of the City not less than ten days before the hearing. A notice shall also be mailed to the appellant.

34. No new notice need be given for any hearing which is continued by the Board to a specified future date.

F. Findings For Variances. The Board shall not grant a petition for a variance unless it finds that the strict enforcement of this Section would cause undue hardship because of circumstances unique to the petitioner's property and that the grant of said variance is in keeping with the spirit and intent of this Section. "Undue hardship" means that (i) the property in question cannot be put to a reasonable use as allowed by this Section; (ii) the plight of the petitioner is due to circumstances unique to the petitioner's property which were not created by the petitioner; and (iii) the variance, if granted, will not alter the essential character of the property or its surroundings. Economic considerations alone shall not constitute an undue hardship if reason-able use for the petitioner's property exists under the terms of this Section. A favorable vote by the Board shall be deemed to include a favorable finding on each of the foregoing matters even if not specifically set out in the approval resolution or the minutes of the Board meeting.

G. Appeals from Decisions of the Board.

1. The following individuals may appeal a decision of the Board:

- a. any petitioner for a variance;
  - b. any owner to whom notice of the variance hearing is required to be mailed pursuant to this Section;
  - c. the appellant in the case of an appeal of an administrative decision;
  - d. any person who deems to be aggrieved by the Board's decision on the appeal of an administrative decision; and
  - e. any administrative officer of the City;
2. An appeal from a decision of the Board shall be filed with the Clerk no later than ten days after the decision by the Board. If not so filed, the right of appeal shall be deemed waived, and the decision of the Board shall be final.
- H. Hearing and Decision by Council. The Council shall hear and decide all appeals from the decisions of the Board, **and Variances associated with other land use applications.** The Appeal shall be heard not later than 60 days after the date the appeal is filed. The Council shall follow the same procedures as to notices, hearings, findings for variances and decisions that the Board is required to follow relative to the subject matter of the appeal pursuant to this Section. A favorable vote by the Council shall be deemed to include a favorable finding on each of the required findings even if not specifically set out in the approval resolution or the minutes of the Council meeting.
- I. Conditions on Variance Approvals. In granting a variance, the Board, or the Council on appeal, may impose conditions to ensure compliance with the purpose and intent of this Code and to protect adjacent properties.
- J. Form of Action Taken and Record. The Board, or the Council on appeal, shall maintain a record of its proceedings which shall include the minutes of its meetings and final order concerning the variance petition or appeal of administrative decision. If a variance is granted, the petitioner, at the petitioner's expense, shall duly record the final order in the proper office to give constructive notice. A verified copy of such order, with the recording data, shall be delivered to the Planner. The Board, or the Council on appeal, may require such order to be recorded and such verified copy to be delivered to the Planner before the variance shall be effective.
- K. Lapse of Variance By Non-User, Extension of Time.

1. If, within one year after the date of the meeting of the Board, or the Council on appeal, at which the variance was granted, the owner or occupant of the affected land shall not have obtained a building permit, if one is required, and commenced the work or improvement described in such petition, the variance shall become null and void unless a petition for extension of time in which to commence the proposed work or improvement has been granted.
  2. A petition for extension shall be in writing and filed with the Clerk within such one year period. The petition for extension shall state facts showing a good faith attempt to use the variance and shall state the additional time requested to begin the proposed work or improvement. The petition shall be presented to the Board for hearing, findings and decision in the same manner as then required by this Section 850 for an original petition for variance. The Board may grant an extension of the variance for up to one year upon finding that a good faith attempt to use the variance has been made, that there is a reasonable expectation that the variance will be used during the extension, that speculation will thereby not be fostered, and that the facts and circumstances under which the original variance was granted are not materially changed.
- L. Denial: No application for a variance which has been denied in whole or in part shall be resubmitted within twelve (12) months of the date of the order of denial, except that a new application may be permitted to the same denying board, if new evidence or a change of circumstances warrant it.

**Subd. 3 ~~Transfer to Planned Districts.~~ Site Plan Review.**

- ~~A. Improved Lots. Any lot transferred by this Section to a planned district, including, without limitation, the Planned Residential District, Planned Office District, Planned Commercial District, Planned Industrial District, Mixed Development District or Regional Medical District, which, on March 7, 1984, was improved with a building or buildings, shall not be required to comply with the provisions of Subsection 850.04 relative to a transfer of that lot to the planned district; provided that:~~
- ~~1. No new buildings shall be constructed on the lot, which result in an increase in gross floor area of all buildings on the lot by more than ten percent;~~
  - ~~2. No building existing on the lot as of March 7, 1984, shall be added to or enlarged in gross floor area by more than ten percent;~~
  - ~~3. No dwelling units shall be added; and~~

~~4. No such existing building, if damaged or destroyed by fire, wind, earthquake, explosion or other casualty, shall be restored or repaired if the cost of restoration or repair exceeds one half of the fair market value of the entire building on the date immediately prior to the date of such casualty (as such cost and fair market value are determined by the Assessor, or other person selected by the Manager); unless, in each case of 1., 2., 3., and 4. above, the then owner or owners of the lot shall comply with and complete the process for Final Development Plan approval established by Subparagraphs 4 through 10 of paragraph C. of Subd. 2 of this Subsection 850.04 and shall conform to and comply with all other provisions of this Section; provided that only three-fifths favorable vote of the Council shall be required to grant Final Development Plan approval. The requirements of this paragraph are in addition to those in Subd. 20 of Subsection 850.07 relating to non-conforming uses, buildings and lots. The installation of a sign as required by Paragraph B of Subd. 2 of this Subsection shall be required prior to consideration of a Final Development Plan by the Commission.~~

~~B. Unimproved Lots. Any lot transferred by this Section to a planned district, including, without limitation, the Planned Residential District, Planned Office District, Planned Commercial District, Planned Industrial District, Mixed Development District or Regional Medical District, which, on March 7, 1984, was not improved with a building or buildings shall be required, notwithstanding the transfer to such district by this Section, in connection with any improvement of the lot, to comply with and complete the process for Final Development Plan approval established by subparagraphs 4 through 10 of paragraph C. of Subd. 2 of this Subsection 850.04, and shall conform to and comply with all other provisions of this Section, provided that only three-fifths favorable vote of the Council shall be required to grant Final Development Plan approval. The installation of a sign as required by Paragraph B of Subd. 2 of this Subsection shall be required prior to consideration of a Final Development Plan by the Commission.~~

A. Purpose. The purpose of this Section is to establish a formal site plan review procedure and provide regulations pertaining to ensure compliance with the with site design standards imposed by sections 460 and 850 of the city code

B. Approval Required. Without first obtaining site plan approval it shall be unlawful to do any of the following:

1. Construct a new building or add on to an existing building that would result in an increase in gross floor area of all buildings on the lot by more than ten percent.

2. Move a building to any lot within the city.

3. Expand or change the use of a building or parcel of land or modify a building, accessory structure or site or land feature in any manner which results in a different intensity of use, including the requirement for additional parking.
4. Grade or take other actions to prepare a site for development, except in conformance with a permit or an approved plan.
5. Remove earth, soils, gravel or other natural material from or place the same on a site, except in conformance with a permit or an approved plan.

C. Exceptions. Except in those cases specifically cited within this Title, the following shall be excepted from the foregoing requirements of this Chapter:

1. Construction or alteration of a single family or two-family residential building or accessory building.
2. Enlargement of a building by less than 10 percent of its gross floor area, provided that there is no variance involved and also provided that the Planner has conducted an administrative review pursuant to section 850 of this ordinance.
3. Changes in the leasable space of a multi-tenant building where the change does not intensify the use, require additional parking, or result in an inability to maintain required performance standards as specified in section 850 of this ordinance.

D. Sketch Plan:

1. Prior to the formulation of a site plan, applicants are strongly encouraged to present a sketch plan to the Planner prior to filing of a formal application. The plan shall be conceptual but shall be drawn to scale with topography of a contour interval not greater than two feet (2') and may include the following:
  - a. The proposed site with reference to existing development, topography, and drainage conditions on adjacent properties, at least to within two hundred feet (200').
  - b. Natural features.
  - c. General location of existing and proposed structures including signs.
  - d. Tentative access, circulation and street arrangements, both public and private.

- e. Amenities to be provided such as recreational areas, open space, walkways, landscaping, etc.
  - f. General location of parking areas.
  - g. Proposed public sanitary sewer, water and storm drainage.
  - h. A statement showing the proposed density of the project with the method of calculating said density also shown.
  - i. Other items as may be deemed necessary by City staff.
2. 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.

#### E. Procedure.

1. Filing Of Request: Request for site plan approval, as provided within this Title, shall be filed with the Planner on an official application form. Such application shall be accompanied by a fee as established by City Council resolution. Such application shall also be accompanied by detailed written and graphic materials, the number and size as prescribed by the Planner, fully explaining the proposed change, development, or use. The request shall be considered as being officially submitted and complete when the applicant has complied with all specified information requirements. In cases where an application is judged to be incomplete, the Planner shall notify the applicant, in writing, within fifteen (15) days of the date of submission.
2. Proof Of Ownership Or Authorization: The applicant shall supply proof of title and the legal description of the property for which the site plan approval is requested, consisting of an abstract of title and as applicable supply documented authorization from the owner(s) of the property in question to proceed with the requested site plan application.
3. Technical Reports: The Planner shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in conducting an evaluation of the request.
4. Additional Information: City staff shall have the authority to request additional information from the applicant concerning operational factors or

to retain expert assistance with the consent and at the expense of the applicant concerning operational factors. Said information is to be declared necessary to evaluate the request and to establish performance conditions in relation to all pertinent sections of this Title. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.

5. Meeting with the Planner and Staff: The applicant or a representative thereof shall meet with the Planner and City staff in order to present information and answer questions concerning the proposed requests.

6. Commission Review and Hearing. The Commission shall conduct a public hearing regarding the 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, which are continued by the Commission to a specified future date. The Commission shall recommend approval by the Council upon finding that the proposed development meets the standards of Section 850 of City Code.

7. Council Hearing and Decision. The Council shall conduct a public hearing on the Site Plan in the same manner as the Commission above.

F. Standards. In evaluating a site plan, the planning commission and city council shall consider its compliance with the following:

1. consistency with the elements and objectives of the city's development guides, including the comprehensive plan and water resources management plan;

2. consistency with this ordinance;

3. protection of adjacent and neighboring properties through reasonable provision for surface water drainage, sound and sight buffers, preservation of views, light and air and those aspects of design not adequately covered by other regulations which may have substantial effects on neighboring land uses.

G. Information Required. The information required for all site plan applications generally consists of the following items, and shall be submitted unless waived by the Planner.

1. Site boundaries, buildings, structures and other improvements shall be identified on-site with a current certificate of survey, prepared and signed by a Minnesota licensed land surveyor, depicting the following:

- a. Scale of plan (engineering scale only, at one inch equals fifty feet (1" = 50') or less.
- b. North point indication.
- c. Existing boundaries with lot dimension and area.
- d. Existing site improvements.
- e. All encroachments.
- f. Easements of record.
- g. Legal description of the property.
- h. Ponds, lakes, springs, rivers or other waterways bordering on or running through the subject property.

2. A site plan utilizing a copy of the current certificate of survey as a base for the site in question, depicting the following:

- a. Name and address of developer/owner.
- b. Name and address of architect/designer.
- c. Date of plan preparation.
- d. Dates and description of all revisions.
- e. Name of project or development.
- f. All proposed improvements, including:
  - i. Required and proposed setbacks.
  - ii. Location, setback and dimensions of all proposed buildings and structures.

- iii. Location of all adjacent buildings located within one hundred feet (100') of the exterior boundaries of the property in question.
  - iv. Location, number, dimensions, and setbacks of proposed parking spaces and drive aisles.
  - v. Location, number, and dimensions of proposed loading spaces.
  - vi. Location, width, and setbacks of all curb cuts and driveways.
  - vii. Vehicular circulation.
  - viii. Sidewalks, walkways, trails.
  - ix. Location and type of all proposed lighting, including details of all proposed fixtures.
  - x. Location of recreation and service areas.
  - xi. Location of rooftop equipment and proposed screening.
  - xii. Provisions for storage and disposal of waste, garbage, and recyclables, including details for screening exterior trash/recycling enclosures.
  - xiii. Location, sizing, and type of water and sewer system mains and proposed service connections.
3. Grading/stormwater drainage plan, utilizing a copy of the current certificate of survey as a base for the site in question, prepared and signed by a Minnesota licensed engineer, depicting the following:
- a. Existing contours at two foot (2') intervals (may be prepared by a Minnesota licensed surveyor).
  - b. Proposed grade elevations at two foot (2') maximum intervals.
  - c. Drainage plan, including the configuration of drainage areas and calculations.
  - d. Storm sewer, catch basins, invert elevations, type of castings, and type of materials.
  - e. Spot elevations (may be prepared by a Minnesota licensed surveyor).
  - f. Proposed driveway grades.

- g. Surface water ponding and treatment areas.
  - h. Erosion control measures.
4. Landscaping plan in accordance with Section 850.10. Landscape Plan must utilize a copy of the current certificate of survey as a base for the site in question, depicting the following:
- a. Planting schedule (table) containing:
    - i. Symbols.
    - ii. Quantities.
    - iii. Common names.
    - iv. Botanical names.
    - v. Sizes of plant material.
    - vi. Root specification (bare root, balled and burlapped, potted, etc.).
    - vii. Special planting instructions.
  - b. Location, type and size of all existing significant trees to be removed or preserved.
  - c. Planting detail (show all species to scale at normal mature crown diameter or spread for local hardiness zone).
  - d. Typical sections with details of fences, tie walls, planter boxes, tot lots, picnic areas, berms and the like.
  - e. Typical sections with details of landscape islands, planter beds, and foundation plantings with identification of materials used.
  - f. Note indicating how disturbed soil areas will be restored through the use of sodding, seeding, or other techniques.
  - g. Delineation of both sodded and seeded areas with respective areas in square feet.
  - h. Coverage plan for underground irrigation system, if any.

- i. Where landscape or manmade materials are used to provide screening from adjacent and neighboring properties, a cross-through section shall be provided showing the perspective of the site from the neighboring property at the property line elevation.
  - j. Other existing or proposed conditions which could be expected to affect landscaping.
- 5. Other plans and information as required by the Planner including, but not limited to:
  - a. Architectural elevations of all principal and accessory buildings (type, color, and materials used in all external surfaces).
  - b. "Typical" floor plan and "typical" room plan drawn to scale with a summary of square footage for each use or activity.
  - c. Fire protection plan.
  - d. Type, location and size (area and height) of all signs to be erected upon the property in question.
  - e. Vicinity map showing the subject property in reference to nearby highways or major street intersections.
  - f. Lighting plan.
- H. Plan Modifications. Minor changes due to unforeseen circumstances may be authorized by the Planner. Proposed changes to the approved 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 Site Plan.
- I. Existing Approved Final Development Plan. All existing approved Final Development Plans as of (date of ordinance) are now deemed to be approved Site Plans.
- J. Lapse of Approved Final Development Site Plan by Non-User; Extension of Time.
  - 1. If a building permit has not been obtained, and if erection or alteration of a building, as described in the application for final development 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.

2. 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:
  - a. there is a reasonable expectation that the proposed work or improvement will commence during the extension, and
  - b. the facts which were the basis for approving the final development plan have not materially changed. No more than one extension shall be granted.

#### **Subd. 2 4 Rezoning.**

##### **A. Initiation of Rezoning Process.**

1. A petition for rezoning may be initiated by the owner of land proposed for transfer to another district or subdistrict, the Council or the Commission.
2. A petition by an owner shall be on forms provided by the Planner, shall be submitted with plans, data and information required by this Section, and such other information that the Planner believes necessary for evaluation of the petition. The petition shall be accompanied by the fee set forth in Section 185 of this Code.

- B. Sign.** The petitioner for rezoning shall erect, or cause to be erected, at least one sign per street frontage on the land described in the petition. The sign or signs shall be of a design approved by the Planner, shall be 36 inches by 60 inches in size, shall have letters at least four inches high using Helvetica medium typeface or other letter style approved by the Planner, shall be constructed of sturdy material, shall be neatly lettered, and shall be easily viewable from, and readable by persons on, the adjoining street. The sign or signs shall contain the following information:

"This property proposed for rezoning by:  
(Name of Petitioner or Applicant)  
(Telephone of Petitioner or Applicant)

For information contact Edina Planning Department:  
Telephone No. 927-8861"

~~The petition shall not be deemed filed and the Commission shall not be required to hold any hearings on the petition until the sign has been erected as required and for at least ten days preceding the hearing. The sign shall be kept in good repair and shall be maintained in place until a final decision on the petition has been made by the Council, and shall be removed by the petitioner within five days after the final decision. The failure of any petitioner to comply fully with the provisions of this paragraph relating to the sign shall not prevent the Commission and Council from acting on the petition nor invalidate any rezoning granted by the Council. If the signs are not kept in good repair or removed as required, then the signs shall be deemed a nuisance and may be abated by the City by proceedings under M.S. 429, or any other then applicable provisions of this Code or State Law, and the cost of abatement, including administrative expenses and attorneys' fees, may be levied as a special assessment against the property upon which the sign is located.~~

C. Procedure for Rezoning to Planned Residential District, Regional Medical District, Planned Office District, Planned Commercial District and Planned Industrial District.

1. Preliminary Development **Rezoning and Site** Plan. The petition for rezoning shall include a Preliminary Development **Site** Plan drawn to a scale of not smaller than 30 feet to the inch upon which are shown the following data and information:
  - a. a boundary survey, prepared by a registered land surveyor, showing the entire outline, dimensions and area of the property to which the petition relates, and any existing structures, easements, water bodies, water courses and flood plains;
  - b. all existing structures, rights-of-way widths and traveled widths of all streets and alleys located within 100 feet of the perimeter of the property;
  - c. the location, general exterior dimensions and height of all proposed structures, and approximate gross floor area of non-residential buildings or number of dwelling units in residential buildings;
  - d. the location, arrangement and number of automobile parking stalls and truck loading facilities; and
  - e. such other information as is necessary, in the opinion of the Planner, to evaluate the petition, to determine consistency with the

Comprehensive Plan, and to ensure compliance with the requirements of this Section and other applicable sections of this Code.

~~2.~~<sup>3.</sup> Commission Review and Hearing. ~~Within 45 days after~~ Upon receipt by the Planner of the petition, fee and all other required information, in form and substance acceptable to the Planner, the Planner will review the petition, Preliminary Development **Site** Plan and the other information provided by the petitioner, and forward a report to the Commission. The Commission shall conduct a public hearing regarding the petition and Preliminary Development **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, which are continued by the Commission to a specified future date.

~~3.~~<sup>4.</sup> Council Hearings and Decision; Preliminary Zoning Approval. Upon request of the Planner, Manager or petitioner, and after review and recommendation by the Commission, the Council shall conduct a public hearing regarding the petition and Preliminary Development **Site** Plan. ~~The hearing shall be held not later than 60 days after the date of the recommendation by the Commission.~~ 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, which 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 Development **Site** Plan. In granting preliminary rezoning approval, the Council may make modifications to the Preliminary Development **Site** Plan and may impose conditions on its approval. The petitioner shall include the modifications, and comply with the conditions, in the Final Development **Site** Plan, or at another time and by other documents, as the Council may require or as shall be appropriate.”

45. Final Development **Site** Plan. The Final Development **Site** Plan shall include all required information and data delineated on the Preliminary Development **Site** Plan and, in addition, the following data and information: **required data and information in Section 850.04 Subd. 3. above.**
- a. ~~exact location and elevation drawings of all existing and proposed structures on the tract including a description of existing and proposed exterior building materials;~~
  - b. ~~the locations, dimensions and design features of all proposed streets, driveways, vehicular entrances and exits, driveway intersections with streets, parking areas, loading areas, maneuvering areas and sidewalks, together with dimensions and locations of all existing and proposed public and private easements;~~
  - c. ~~a landscape plan and schedule in accordance with Subsection 850.10;~~
  - d. ~~a general overall grading plan indicating final grades and the direction and destination of surface drainage;~~
  - e. ~~location of all existing, and preliminary layout and design of all proposed, water mains, sanitary sewers, drainage facilities and storm sewers, together with dimensions and locations of all existing and proposed public and private easements; and~~
  - f. ~~any other information necessary, in the opinion of the Planner, to evaluate the plan, determine consistency with the Comprehensive Plan and to ensure compliance with this Section and other applicable provisions of this Code.~~
56. Final Development **Rezoning and Site** Plan; Commission Review and Hearing. The Final Development Plan shall be in form and substance acceptable to the Planner. Within 45 days after receipt by the Planner of the Final Development Plan, the Planner shall forward a report to the Commission. The Commission shall conduct a public hearing

regarding the Final Development Plan **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, which are continued by the Commission to a specified future date. The Commission shall recommend approval by the Council upon finding that the proposed development:

- a. is consistent with the Comprehensive Plan;
- b. is consistent with the Preliminary Development **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 Development **Site** Plan.
- c. will not be detrimental to properties surrounding the tract;
- d. will not result in an overly intensive land use;
- e. will not result in undue traffic congestion or traffic hazards;
- f. conforms to the provisions of this Section and other applicable provisions of this Code; and
- g. provides a proper relationship between the proposed improvements, existing structures, open space and natural features.

A recommendation of approval by the Commission shall be deemed to include a favorable finding on each of the foregoing matters even if not specifically set out in the approval resolution or the minutes of the Commission meeting.

**67.** Council Hearing and Decision; Final Rezoning. ~~Within 60 days after the recommendation on the Final Development Plan by the Commission,~~ the Council shall conduct a public hearing on the Final Development Plan **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 Development **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. ~~Approval may be made subject to modifications and conditions which, together with the Council's modifications and conditions at the time of preliminary rezoning approval and not done and fulfilled by the Final Development Plan, must be fulfilled and met, to the satisfaction of the Planner, before the final approval becomes effective. Approval of the Final Development Plan shall also constitute final rezoning of the tract included in the plans, and the publication of the ordinance amendment effecting the zoning change shall thereby be authorized, but no publication shall be done until any modifications and conditions made by the Council have been met and fulfilled to the satisfaction of the Planner.~~

7. ~~Exceptions From Requirements. The Council may authorize exceptions from otherwise applicable requirements in the proposed district in connection with and at the same time as final rezoning approval.~~
8. Filing. The approved Final Development **Site** Plan shall be filed in the Planning Department.
9. Development. The development of the tract shall be done and accomplished in full compliance with the approved Final Development **Site** Plan, as modified by, and with the conditions made by, the Council, and in full compliance with this Section 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 Section, the approved Final Development **Site** Plan, as modified by, and with the conditions made by, the Council, and other applicable provisions of this Code.
10. Changes to Approved Final Development **Site** Plan. Minor changes in the location and placement of buildings or other improvements due to unforeseen circumstances may be authorized by the Planner. Proposed changes to the approved Final Development **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 Development Site Plan, except that a three-fifths favorable vote of the Council shall be required to authorize the proposed change.

11. Lapse of Approved Final Development Site Plan by Non-User; 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 development plan, has not begun within two years after final development 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:
    - i. there is a reasonable expectation that the proposed work or improvement will commence during the extension, and
    - ii. the facts which were the basis for approving the final development plan have not materially changed. No more than one extension shall be granted.

D. Procedure for Rezoning to Mixed Development District.

1. Preliminary Development Rezoning and Site Plan. The petition for rezoning shall include a Preliminary Development Site Plan drawn to a scale of not smaller than 30 feet to the inch upon which are shown the following data and information:
  - a. a boundary survey, prepared by a registered land surveyor, showing the entire outline, dimensions and area of the property to which the petition relates, and any of its existing structures, easements, water bodies, watercourses and floodplains;

- b. all existing structures, rights-of-way widths and traveled widths of all streets and alleys located within 100 feet of the perimeter of the property;
  - c. the general location, general exterior dimensions and height of all proposed structures, and approximate gross floor area of non-residential buildings or number of dwelling units in residential buildings;
  - d. the location, arrangement and number of automobile parking stalls;
  - e. a traffic impact analysis, and travel demand management plan for projects proposed for rezoning to MDD-5 District or MDD-6 District (analysis and plan shall be separate documents delivered with the Preliminary Development **Site** Plan); and
  - f. such other information as is necessary, in the opinion of the Planner, to evaluate the petition, to determine consistency with the Comprehensive Plan, and to ensure compliance with the requirements of this Section and other applicable provisions of this Code.
2. ~~Commission Review and Hearing. Within 45 days after receipt by the Planner of the petition, fee and all other required information, in form and substance acceptable to the Planner, the Planner will review the petition, Preliminary Development Plan and the other information provided by the petitioner, and forward a report to the Commission. The Commission shall conduct a public hearing regarding the petition and Preliminary Development 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, which are continued by the Commission to a specified future date.~~
3. ~~Council Hearing and Decision; Preliminary Zoning Approval. Upon request of the Planner, Manager or petitioner, and after review and recommendation by the Commission, the Council shall conduct a public hearing regarding the petition. and Preliminary Development Plan. The hearing shall be held not later than 60 days after the date of the recommendation by the Commission. 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. 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 which 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 an Overall Development **Site** Plan for final rezoning approval. In granting preliminary rezoning approval, the Council may make modifications to the Preliminary Development **Site** Plan and may impose conditions on its approval. The petitioner shall include such modifications, and comply with such conditions, in the Overall Development **Site** Plan, or at such other time and by such other documents, as the Council may require or as shall be appropriate.

4. Council Hearing and Decision; Preliminary Zoning Approval. Upon request of the Planner, Manager or petitioner, and after review and recommendation by the Commission, the Council shall conduct a public hearing regarding the petition. ~~and Preliminary Development Plan. The hearing shall be held not later than 60 days after the date of the recommendation by the Commission.~~ 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 500 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. After the 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 which are continued by the Council to a specified future date. An affirmative vote of four-fifths of all members of the Council shall be required to grant preliminary approval. If preliminary rezoning approval is granted, the petitioner may prepare an Overall Development Plan for final rezoning approval. In granting preliminary rezoning approval, the Council may make modifications to the Preliminary Development **Site** Plan and may impose conditions on its approval. The petitioner shall include such modifications, and comply with such conditions, in the Overall

Development **Site** Plan, or at such other time and by such other documents, as the Council may require or as shall be appropriate.

5. Overall Development **Site** Plan; Commission Review and Hearing. The Overall Development **Site** Plan shall be in form and substance acceptable to the Planner. ~~Within 45 days after receipt by the Planner of the Overall Development Plan, the Planner shall forward a report to the Commission.~~ The Commission shall conduct a public hearing regarding the Overall Development **Site** Plan **in conjunction with the rezoning**. 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, which are continued by the Commission to a specified future date. The Commission shall recommend approval by the Council upon finding that the proposed development:
  - a. is consistent with the Comprehensive Plan;
  - b. is consistent with the Preliminary Development **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 Development **Site** Plan.
  - c. will not be detrimental to properties surrounding the tract;
  - d. will not result in an overly intensive land use;
  - e. will not result in undue traffic congestion or traffic hazards;
  - f. conforms to the provisions of this Section and other applicable provisions of this Code; and
  - g. provides a proper relationship between the proposed improvements, existing structures, open space and natural features.

A recommendation of approval by the Commission shall be deemed to include a favorable finding on each of the foregoing matters even if not

specifically set out in the approval resolution or the minutes of the Commission meeting.

6. Council Hearing and Decision; Overall Rezoning. ~~Within 60 days~~ After the recommendation on the Overall Development Site Plan by the Commission, the Council shall conduct a public hearing on the Overall Development Site Plan **in conjunction with the rezoning** 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 Overall Development Site Plan. Final approval shall require a four-fifths favorable vote of all members of the Council. Approval may be made subject to modifications and conditions which, together with the Council's modifications and conditions at the time of preliminary rezoning approval and not done and fulfilled by the Overall Development Site Plan, must be fulfilled and met, to the satisfaction of the Planner, before the final approval becomes effective.

Approval of the Overall Development Site Plan shall also constitute final rezoning of the tract included in the plans. The publication of the amendment effecting the zoning change shall thereby be authorized, but no final rezoning or publication shall be effective or done until the modifications and conditions, if any, made by the Council have been met and fulfilled to the satisfaction of the Planner.

7. Exceptions From Requirements. The Council may authorize exceptions from otherwise applicable requirements in the proposed district in connection with and at the same time as Final Site Plan approval or Overall Rezoning approval.
8. Filing. The approved Overall Development Plan and approved Final Site Plan shall be filed in the Planning Department.
9. Final Site Plan Approval. Multiple phase developments shall be subject to Final Site Plan review and action by the Commission and Council in the same manner as they review and act on the Overall Development Site Plan, except that a three-fifths favorable vote of the Council shall be required for approval. The installation of a sign as required by Paragraph B of Subd. 2 of this Subsection shall be required prior to consideration of a Final Site Plan by the Commission. Single phase developments shall include all information required for Final Site Plan approval at the time of Overall Development Site Plan review. Overall Development Site Plan approval shall also constitute Final Site Plan approval. Final Site Plan approval shall include all required information and data delineated on the Overall Development Site Plan and, in addition, the following data and information:

- a. the exact location and elevation drawings of all existing and proposed structures in the proposed phase including a description of existing and proposed exterior building materials;
  - b. a landscape plan and schedule in accordance with Subsection 850.10;
  - c. the locations, dimensions and design features of all proposed streets, driveways, vehicular entrances and exits, driveway intersections with streets, parking areas, loading areas, maneuvering areas and sidewalks, together with dimensions and locations of all existing and proposed public and private easements;
  - d. location of all existing, and preliminary layout and design of all proposed, water mains, sanitary sewers, drainage facilities and storm sewers, together with dimensions and locations of all existing and proposed public and private easements;
  - e. any other information necessary, in the opinion of the Planner, to evaluate the plans and ensure compliance with requirements of this Section and other applicable sections of this Code; and
  - f. demonstrate that the Final Site Plan shall be consistent with the Overall Development **Site** Plan as approved and modified by the Council and containing the conditions imposed by the Council to the extent such conditions can be complied with by the Final Site Plans.
10. 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 Section and other applicable provisions of this Code. Applications for building permits shall be reviewed by the Planner prior to issuance of such permits to determine if they conform to the provisions of this Section, the approved Final Site Plan, as modified by, and with the conditions made by, the Council, and other applicable sections of this Code.
11. Changes to Approved Overall Development **Site** Plan and Final Site Plan. Minor changes in the location and placement of buildings or other improvements due to unforeseen circumstances may be authorized by the Planner. Proposed changes to the approved Overall Development **Site** Plan or Final Site Plan affecting structural types, building location, 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.

## E. Procedure for Rezoning to a Planned Unit Development (PUD) District.

1. Purpose and Intent. The purpose of the PUD District is to provide comprehensive procedures and standards intended to allow more creativity and flexibility in site plan design than would be possible under a conventional zoning district. The decision to zone property to PUD is a public policy decision for the city council to make in its legislative capacity. The purpose and intent of a PUD is to include most or all of the following:
  - a. Provide for the establishment of PUD (planned unit development) zoning districts in appropriate settings and situations to create or maintain a development pattern that is consistent with the city's comprehensive plan.
  - b. Promote a more creative and efficient approach to land use within the city, while at the same time protecting and promoting the health, safety, comfort, aesthetics, economic viability, and general welfare of the city.
  - c. Provide for variations to the strict application of the land use regulations in order to improve site design and operation, while at the same time incorporate design elements that exceed the city's standards to offset the effect of any variations. Desired design elements may include: sustainable design, greater utilization of new technologies in building design, special construction materials, landscaping, lighting, stormwater management, pedestrian oriented design, and podium height at a street or transition to residential neighborhoods, parks or other sensitive uses.
  - d. Ensure high quality of design and design compatible with surrounding land uses, including both existing and planned.
  - e. Maintain or improve the efficiency of public streets and utilities.
  - f. Preserve and enhance site characteristics including natural features, wetland protection, trees, open space, scenic views, and screening.
  - g. Allow for mixing of land uses within a development.
  - h. Encourage a variety of housing types including affordable housing.

- i. Ensure the establishment of appropriate transitions between differing land uses.

## 2. Applicability/Criteria

- a. Uses. All permitted uses, permitted accessory uses, conditional uses, and uses allowed by administrative permit contained in the various zoning districts defined in Section 850 of this title shall be treated as potentially allowable uses within a PUD district, provided they would be allowable on the site under the comprehensive plan. Property currently zoned R-1, R-2 and PRD-1 shall not be eligible for a PUD
- b. Eligibility Standards. To be eligible for a PUD district, all development should be in compliance with the following:
  - i. Where the site of a proposed PUD is designated for more than one land use in the comprehensive plan, city may require that the PUD include all the land uses so designated or such combination of the designated uses as the city council shall deem appropriate to achieve the purposes of this ordinance and the comprehensive plan.
  - ii. The city may utilize incentives to encourage the construction of projects which are consistent with the city's housing goals. Incentives may include modification of density and floor area ratio requirements for developments providing affordable housing. Incentives may be approved by the city only after the developer and city have entered into an agreement to ensure that the low or moderate cost units remain available to persons of low or moderate income for a specific period of time.
  - iii. Any PUD which involves a single land use type or housing type may be permitted provided that it is otherwise consistent with the objectives of this ordinance and the comprehensive plan.
  - iv. Permitted densities may be specifically stated in the appropriate planned development designation and shall be in general conformance with the comprehensive plan.

- v. The setback regulation, building coverage and floor area ratio of the most closely related conventional zoning district shall be considered presumptively appropriate, but may be departed from to accomplish the purpose and intent described in #1 above.

### 3. Procedures

- a. Pre-Application Conference: Prior to filing of an application for 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 title before incurring substantial expense in the preparation of plans, surveys and other data.
- b. Pre-Application Sketch Review: Prior to filing of a PUD, the applicant is strongly encouraged to submit a sketch plan of the project to the City Planner. The plan shall be conceptual but shall be processed according to the information requirements, standards and procedures for sketch plans established by Section 850.04 of this Chapter. The submittal shall include a statement providing justification for the PUD, including but not limited to the intended utilization of the items listed in the Purpose and Intent, and Criteria above.
- 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 & 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 Section 850.04. Subd. 3. (Site Plan Review.) Preliminary Rezoning procedure is stipulated in Section 850.04 Subd. 4.

e. Final Development Plan & 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 Section 850.04. (Site Plan Review.) Final Rezoning procedure is stipulated in Section 850.04. Subd. 4.

Final Rezoning to PUD becomes official upon adoption of an ordinance rezoning the property.

E. F. Procedure for Rezoning to Single Dwelling Unit District, Double Dwelling Unit District and Automobile Parking District.

1. Commission Review and Hearing. ~~Within 45 days After receipt by the Planner of the petition, fee and all other required information, in form and substance acceptable to the Planner,~~ The Planner will review the petition and the other information provided by the petitioner, and forward a report to the Commission. The Commission shall conduct a public hearing regarding the petition. 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, which are continued by the Commission to a specified future date.
2. Council Hearing and Decision; Preliminary Rezoning Approval. Upon request of the Planner, Manager or petitioner, and after review and recommendation by the Commission, the Council shall conduct a public hearing regarding the petition. The hearing shall be held not later than 60 days after the date of the recommendation by the Commission. 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 500 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. After hearing the oral and 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 which are continued 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. In granting preliminary rezoning approval, the Council may make modifications to, and impose conditions on, the proposed rezoning.

3. Final Rezoning Approval. Upon request of the Planner, Manager or petitioner, after preliminary rezoning approval has been granted and after the modifications and conditions made and imposed by the Council have been met and fulfilled to the satisfaction of the Planner, the Council shall place the petition on its agenda and shall consider final rezoning approval. 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. Final rezoning approval shall include authorization to publish the amendment effecting the zoning change. Approval may be made subject to modifications and conditions which must be fulfilled and met, to the satisfaction of the Planner, before the final approval becomes effective and before the amendment is published.

**F.G.** One Year Limitation on Preliminary Rezoning Approval. Any petition which has not been granted final rezoning approval by the Council within one year after the date it received preliminary approval, shall be deemed rejected by the Council and the petition must again be filed, processed and approved pursuant to this Section as if it were a new petition.

**G.H.** 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.

**H.I.** Lapse of Rezoning by Non-User. If a building permit (if one is required) has not been obtained, and if the erection or alteration of a building, as described in the petition, has not begun, within two years after final rezoning approval of the tract by the Council, then the Commission, at any time and until the

building permit is obtained and the erection or alteration begun, may review the zoning classification of the tract to determine if it continues to conform with the Comprehensive Plan. Based upon the review, the Commission may recommend to the Council that the final rezoning approval of the tract as previously granted be rescinded and become null and void, or that the tract be transferred to a different zoning district. The recommendation of the Commission shall be presented to the Council for hearing and decision, and notice shall be given in the same manner as is then required for an original petition for rezoning as provided by this Section. The Council may accept or reject the recommendation of the Commission and rescind the previously granted final rezoning approval, transfer the tract to a different zoning district, or reaffirm the final rezoning approval previously granted.

#### **Subd. 5 Conditional Use Permits.**

##### **A. Initiation of Conditional Use Permit.**

An application for a conditional use permit may be initiated by the owner or owners of the lot or building in question.

1. The application shall be on forms provided by the Planner and shall be submitted with required plans, data and information, and such other information as, in the opinion of the Planner, is necessary for evaluation of the application. The application shall be accompanied by the fee set forth in Section 185 of this Code.

##### **B. Sign.** All provisions and requirements in this Subsection relating to erection of a sign in connection with a rezoning of property shall apply to the applicant for a conditional use permit, and the applicant shall comply with all such provisions and requirements, except that the sign shall state that a conditional use permit is proposed for the property instead of rezoning.

##### **C. Application Data.**

1. If the conditional use permit is requested to allow a principal or accessory use that requires the construction of a new building or accessory use facilities, or additions or enlargements to an existing building or accessory use facilities, the application shall be drawn to a scale acceptable to the Planner, and be accompanied by plans containing the following data and information:
  - a. elevation drawings of all new buildings or accessory use facilities, or additions and enlargements to existing buildings or accessory use facilities, including a description of existing and proposed exterior building materials;

- b. the location, dimensions and other pertinent information as to all proposed and existing buildings, structures and other improvements, streets, alleys, driveways, parking areas, loading areas and sidewalks;
  - c. a landscape plan and schedule in accordance with Subsection 850.10;
  - d. a floor plan showing the location, arrangement and floor area of existing and proposed uses; and
  - e. any other information required, in the opinion of the Planner, to evaluate the application, to determine consistency with the Comprehensive Plan, and to ensure compliance with the requirements contained in this Section and other applicable provisions of this Code.
2. If the conditional use permit is requested to allow a principal or accessory use that does not require construction of a new building or accessory use facilities, or additions or enlargements to an existing building or accessory use facilities, the application shall be accompanied by plans showing:
- a. the location, arrangement and floor area of existing and proposed uses;
  - b. the location, dimensions and other pertinent information as to all buildings, structures, streets, alleys, driveways, parking areas, loading areas, sidewalks and landscaping; and
  - c. any other information required, in the opinion of the Planner, to evaluate the application, determine consistency, with the Comprehensive Plan, and ensure compliance with the requirements contained in this Section and other applicable provisions of this Code.
- D. Commission Review and Hearing. Within 45 days after receipt by the Planner of the application, fee and all other required information, in form and substance acceptable to the Planner, the Planner will review the application and the other information provided by the petitioner, and forward a report to the Commission. The Commission shall conduct a public hearing regarding the application. 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, which are continued by the Commission to a specified future date.

- E. City Council Hearing and Decision. Upon request of the Planner, Manager or applicant, and after review and recommendation by the Commission, the Council shall conduct a public hearing regarding the application. The hearing shall be held not later than 60 days after the date of the recommendation by the Commission. 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 application relates insofar as the names and addresses of such owners can reasonably be determined by the Clerk from records maintained by the Assessor. After hearing the oral and 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 which are continued to a specified future date. The Council shall not grant a conditional use permit unless it finds that the establishment, maintenance and operation of the use:

~~1. Will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety, morals and general welfare;~~

1. Does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements;

~~2. Will not cause undue traffic hazards, congestion or parking shortages;~~  
Will generate traffic within the capabilities of the streets serving the property;

~~3. Will not be injurious to the use and enjoyment, or decrease the value, of other property in the vicinity, and will not be a nuisance;~~

3. Does not have an undue adverse impact on the public health, safety or welfare.

4. Will not impede the normal and orderly development and improvement of other property in the vicinity;

~~5. Will not create an excessive burden on parks, streets and other public facilities;~~

5. 6. Conforms to the applicable restrictions and special conditions of the district in which it is located as imposed by this Section; and

6. 7. Is consistent with the Comprehensive Plan.

Approval of a conditional use permit requires a three-fifths favorable vote of all members of the Council. A favorable vote by the Council shall be deemed to include a favorable finding on each of the foregoing matters even if not specifically set out in the approval resolution or the minutes of the Council meeting.

- F. Conditions and Restrictions. The Commission may recommend that the Council impose, and the Council with or without such recommendation may impose, conditions and restrictions upon the establishment, location, construction, maintenance, operation or duration of the use as deemed necessary for the protection of the public interest and adjacent properties, to ensure compliance with the requirements of this Section and other applicable provisions of this Code, and to ensure consistency with the Comprehensive Plan. The Council may require such evidence and guarantees as it may deem necessary to secure compliance with any conditions imposed. No use shall be established or maintained, and no building or other permit for establishing or maintaining such use shall be granted, until the applicant has met and fulfilled all conditions imposed by the Council to the satisfaction of the Planner.
- G. Expansions of Conditional Uses. No use allowed by conditional use permit, or any building or structure accessory thereto, shall be increased in gross floor area or height, nor shall any off-street parking facilities accessory to the building or structure be enlarged in surface area to accommodate additional automobiles, without first obtaining, in each instance, a conditional use permit.
- H. Restriction on Resubmission After Denial. No application for a conditional use permit which has been denied by the Council shall be resubmitted for a period of one year following the date of the denial by the Council. Provided, however, that the application may be resubmitted 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 proposed use or tract on which it is to be located.
- I. Lapse of Conditional Use Permit by Non-User, Extension of Time.
  - 1. If no use allowed by the conditional use permit has begun within two years from the granting of the conditional use permit, the conditional use permit shall become null and void unless a petition for extension of time has been granted.

2. A petition for extension shall be in writing and filed with the Clerk within two years from the granting of the conditional use permit. The petition for extension shall state facts showing a good faith attempt to use the conditional use permit and shall state the additional time requested to begin the use. 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 the conditional use permit for up to one year upon finding that:

- a. a good faith attempt to use the conditional use permit has been made,
- b. there is a reasonable expectation that the conditional use permit will be used during the extension, and
- c. the facts which were the basis for the findings under which the original conditional use permit was granted have not materially changed. No more than one extension shall be granted. For purposes of this paragraph, a use shall be deemed begun when all work described in the original application, or information provided, has been completed and has received final City approvals and the use is operating for the purposes described in the original application.

J. Filing of Conditional Use Permit. If a conditional use permit is granted, the applicant, at the applicant's expense, shall duly file or record the permit in the proper office to give constructive notice of it. A verified copy of the permit, with the recording data on it, shall be delivered to the Planner. The Council may require that the permit be so recorded or filed, and the verified copy delivered to the Planner, before the permit shall become effective.

**~~Subd. 5 – Temporary Conditional Use Permits.~~**

~~A. Purpose. The purpose of temporary conditional use permits is to allow disabled residents of dwelling units to conduct and operate permitted customary home occupations in their residence by means of such variances from the conditions otherwise imposed by this Section on such occupation as the Council deems necessary and appropriate to allow such persons to properly conduct and operate such occupation from their residence. The Council hereby finds and determines that it is in the best interests of the City and its citizens to provide a process and means by which disabled persons can carry on home occupations from their residence and thereby become or remain productive and gainfully employed, and that the granting of conditional use permits pursuant to this Subdivision will promote the public health, safety, morals and general welfare of the City, and its citizens. However, disabled residents who do not need variances from conditions imposed by this Section on customary home occupations need not, and are not required to, obtain a conditional use permit pursuant to this Subdivision.~~

~~B. Conditional Use Provisions Apply. All the provisions of paragraphs D. and H. of Subd. 4 of this Subsection 850.04 relative to the issuance of conditional use permits shall apply to temporary conditional use permits issued pursuant to this Subdivision, except as specifically changed by this Subdivision.~~

~~C. Application and Notice.~~

- ~~1. An application for a temporary conditional use permit may be initiated by the occupant of the residence from which the home occupation is to be conducted, whether such occupant is an owner or a lessee of the residence. The application shall be accompanied by the fee set forth in Section 185 of this Code.~~
- ~~2. The application for a temporary conditional use permit shall also be accompanied by the following additional information:
  - ~~a. a letter (which shall be dated not earlier than 30 days prior to the date of the application) from the applicant's attending physician (who shall be duly licensed to practice medicine in Minnesota) certifying that the applicant is physically unable to be employed full-time outside of the applicant's residence;~~
  - ~~b. the specific home occupation proposed by the applicant, including the expected number of weekly automobile trips to the dwelling unit by individuals other than the residents of the home expected to be generated by the home occupation, the number of hours per day and the number of days per week the home occupation will operate;~~
  - ~~c. any proposed interior or exterior alterations to the dwelling unit necessary due to the proposed home occupation; and~~
  - ~~d. any other information required, in the opinion of the Planner, to evaluate the application, to determine consistency with the Comprehensive Plan, and ensure compliance with the requirements contained in this Section and other applicable provisions of this Code.~~~~
- ~~3. The erection of a sign shall not be required in connection with the application for a temporary conditional use permit.~~
- ~~4. Notice of hearing before the Council shall be published and mailed as provided in paragraph E. of Subd. 4 of this Subsection 850.04 except that mailed notice shall be given only to owners of property situated wholly or partly within 350 feet of the property to which the application relates.~~

~~D. Conditions and Findings.~~

- ~~1. In order to grant a temporary conditional use permit, the Council must make the same findings as set forth in paragraph E. of Subd. 4 of this Subsection 850.04.~~
- ~~2. In order to grant a temporary conditional use permit, the Council must also find that the proposed home occupation complies with the conditions of paragraph A. of Subd. 4 of Subsection 850.07, provided, however, that:
  - ~~a. the Council may grant a variance of any condition in paragraph A. of Subd. 4 of Subsection 850.07, if deemed necessary by the Council to permit the applicant to properly operate and conduct the proposed home occupation and if the Council finds that such use will not negate or violate any of the findings to be made pursuant to paragraph E. of Subd. 4 of this Subsection 850.04; and~~
  - ~~b. the maximum number of automobile trips to the dwelling unit of the applicant by individuals other than its residents generated as a result of such home occupation may be increased by the Council from ten per week to a maximum of twenty per week in connection with the granting of the permit.~~~~
- ~~3. Any permit granted pursuant to this Subdivision 850.04 shall remain in effect, if not earlier terminated under other provisions of this Section, only so long as the following conditions are observed and complied with:
  - ~~a. that the applicant occupy the dwelling unit described in the permit, and then only so long as such applicant is physically unable to be employed full time outside of the applicant's residence;~~
  - ~~b. that the findings made by the Council as set forth in paragraph E. of Subd. 4 of this Subsection 850.04 continue without change or violation; and~~
  - ~~c. that the conditions of paragraph A. of Subd. 4 of Subsection 850.07, as varied by variances granted by the Council, are not violated.~~~~

~~E. Duration and Review of Permits.~~

- ~~1. Each permit issued pursuant to this Subdivision shall remain in effect only so long as the conditions set out in subparagraph 3. of paragraph D. of this Subd. 5 are observed and not violated.~~
- ~~2. The Council shall review each permit issued pursuant to this Subd. 5 on the first anniversary of the effective date of the permit and on each second anniversary (i.e., every other year) of the effective date of the permit to~~

determine if any of the conditions are not being observed, or are being violated. Such review shall be made at a public hearing, notice of which shall be published and mailed in the same manner as notice would then be given under this Section for a then new conditional use permit. All persons may be heard, and the Council shall receive such evidence and information as it deems necessary or desirable, orally and in writing, at the hearing and continuations of the hearing. If, at the hearing, or a continuation thereof, the Council concludes, by resolution, that one or more of the conditions set out in Subparagraph 3. of paragraph D. of this Subdivision are not being observed or are being violated, then the Council may direct the Manager to institute proceedings to revoke the permit as provided in Subd. 9 of this Subsection 850.04. The foregoing provisions shall not prevent the City from exercising any remedies for violations of any conditions applicable to any conditional use permit whenever they occur.

~~F. All Districts. Customary home occupations conducted pursuant to temporary conditional use permits issued under this Subd. 5 shall be allowed as a conditional use in all districts in which dwelling units are allowed.~~

#### **Subd. 6 Fees and Charges.**

- A. Petitions and Applications. Each petition or application filed with or submitted to the City pursuant to this Section shall not be deemed filed or submitted, and the City shall have no duty to process it, to act on it or respond to it, unless and until there is paid to the City the applicable fee for such petition or application, as then required by Section 185 of this Code. This paragraph shall not apply to petitions or applications filed or submitted by the Council, the Commission or any City official in its official capacity.
- B. Administrative Expenses and Attorneys' Fees. Each petitioner and applicant, by filing or submitting a petition or application, shall have agreed to pay all administrative expenses and attorneys' fees, with interest and costs as provided, incurred by the City in connection with or as a result of reviewing and acting on such petition or application. If more than one person signs a petition or application, all such signers shall be jointly and severally liable for such expenses and fees, with interest and costs as provided. The expenses and fees to be paid to the City pursuant to this paragraph shall be payable upon demand made by the City, and if not paid within five days after such demand, shall bear interest from the date of demand until paid at a rate equal to the lesser of the highest interest rate allowed by law or two percentage points in excess of the reference rate. The petitioners and applicants shall also pay all costs, including attorneys' fees, incurred by the City in collecting the expenses, fees and interest, with interest on the costs of collection from the dates incurred until paid, at the same interest rate as is payable on the expenses and fees. For purposes of this paragraph, reference rate shall

mean the rate publicly announced from time to time by First Edina National Bank, or any successor, as its reference rate, and if the bank, or its successor, ceases publicly announcing its reference rate, reference rate shall mean the interest rate charged from time to time by the bank on 90-day unsecured business loans to its most credit-worthy customers.

**Subd. 7 Mailed Notice.**

Whenever this Section requires or permits mailed notice to property owners, the failure to give mailed notice, or defects in the notice, shall not invalidate the proceedings, provided a good faith attempt to comply with the applicable notice requirements was made. Any appropriate records may be used by the person responsible for mailing the notice to determine names and addresses of owners.

**Subd. 8 Evidence of Ownership.**

If, in connection with any petition or application, the Planner requests evidence of ownership of the property to which the petition or application relates, the petitioner or applicant shall obtain, at the petitioner's or applicant's expense, and deliver to the Planner, a title opinion from an attorney acceptable to the Planner, or other evidence of such ownership acceptable to the Planner, in each case addressed to the City. Also, if so requested by the Planner, the petitioner or applicant shall obtain a written consent to the petition or application by all owners of such property as shown by the title opinion or other evidence of ownership and, if the request is made, the City shall have no duty to process, or to act on or respond to, such petition or application until such consents are delivered to the Planner.

**Subd. 9 Violation, Penalty, Remedies.**

- A. Misdemeanor. Any owner or lessee of an entire building or property in or upon which a violation has been committed or shall exist, or any owner or lessee of that part of the building or property in or upon which a violation has been committed or shall exist, shall be guilty of a misdemeanor and subject to the penalties and remedies provided in Subsection 100.09 of this Code.
- B. Civil Penalty. Any such person who, after being served with an order to remove any such violation, shall fail to comply with the order within ten days after being served, or shall continue to violate any provision of the regulations made under authority of this Section in the respect named in such order, shall also be subject to a civil penalty of not to exceed \$500.
- C. Violation of Conditions in Conditional Use Permits. If any person violates any condition or restriction imposed by the Council in connection with the grant or issuance of a conditional use permit, the City, in addition to other remedies

available to it as provided in this Subdivision, may revoke the permit and all rights attributable to such permit. Revocation shall be done in the following manner:

1. The Manager or Planner shall notify the owner and occupant of the property to which such permit exists insofar as the names and addresses of such owner and occupant can reasonably be determined by the Clerk from records maintained by the Assessor, of the violation and request removal within a stated period, but not less than five days.
2. If the violation is not removed within the stated period, the Manager or Planner shall submit a report on the matter to the Council and request a hearing.
3. The Council, upon receipt of the report, shall set a hearing date, and notice shall be given to the owner and occupant at least ten days prior to the hearing.
4. After receiving the oral and written views of all interested persons, the Council shall make its decision at the same meeting or at a specified future date.
5. If the hearing is continued to a specified future date, no new notice need be given. If such permit is revoked by the Council, all use, activity and rights allowed by and attributable to such permit shall immediately cease.

**Section 2.** Sub Section 850.09 and 850.10 are hereby amended to add the following:

**850.09 Districts.** For the purposes of this Section, the City shall be divided into the following zoning districts:

Single Dwelling Unit District (R-1)  
Double Dwelling Unit District (R-2)  
Planned Residence District (PRD and PSR)  
Mixed Development District (MDD)  
Planned Office District (POD)  
Planned Commercial District (PCD)  
Planned Industrial District (PID)  
Regional Medical District (RMD)  
Automobile Parking District (APD)  
Heritage Preservation Overlay District (HPD)  
Floodplain Overlay District (FD)  
Planned Unit Development District (PUD)

**850.10 District Boundaries.** The boundaries of all such districts except the Floodplain Overlay District, shall be as shown in the official Zoning Map entitled "Official Zoning Map", a composite copy of, which reduced in size, is appended to this Code. The Official Zoning Map, with all explanatory information, is adopted by reference and declared to be a part of this Code. The boundaries shown on the Official Zoning Map may be changed by amendment to this Section. The Official Zoning Map shall be on file in the office of the Planning Department and shall be open to public inspection during normal business hours of the City. The boundaries of the Floodplain Overlay District shall be as shown on the Official Floodplain Zoning Map described and identified in Subsection 850.21, as such map is to be interpreted and used as provided in Subsection 850.21.