

**MINUTES
OF THE WORK SESSION OF THE
EDINA ZONING ORDINANCE UPDATE COMMITTEE
EDINA CITY HALL COUNCIL CHAMBERS
MAY 13, 2009
7:00 PM**

Chair Fischer called the meeting to order at 7:05 pm, in the City of Edina Council Chambers. Commission Members present: Carpenter, Grabiell, Staunton, Schroeder, Scherer, Schnettler, Forrest, Risser. Staff present included, Cary Teague, City Planner, Kris Aaker, Assistant Planner and Jackie Hoogenakker, Planning Commission Secretary. Developers present were: Tom Miller, Jim Nelson, Paul May (architect for Jim Nelson), Scott Busyn, and Gene Haugland General Public present were: Mr. and Mrs. John Bohan, Steven Helgeson and Tom Bonneville

Chair Fischer stated the purpose of the work session was to receive input from developers on their experience with interpreting Edina Zoning Ordinance 850 and with the development process. The developers selected have recently conducted business in the City of Edina.

Chair Fischer asked that the work session be a candid interchange, adding the Commission wants to hear what people are thinking. Chair Fischer said the work session will be informal. Chair Fischer opened the floor to the developers.

Tom Miller, Jim Nelson, Paul May, Scott Busyn, and Gene Haugland relayed the following to the Commission:

- It was suggested there be more continuity between city staff, city council and planning commission. A lot of time is wasted in micro-managing staff – rely more on staff.
- Recognize that Edina is a completely developed city. What the city gets and what the city needs may be two different things and develop and redevelop accordingly (if the city wants to retain green space buildings have to go up)
- Look at developing a planned unit development (PUD). A PUD would offer flexibility whereby the city would get higher quality projects.
- The city was smart in making small adjustments to the R-1 section of the code to address massing. Let what's in place play-out and see if it works.
- Establishing a FAR for residential properties wouldn't be a good idea.
- Overall good opinion of the code as it relates to the R-1 Single Dwelling Unit District. Suggest credit for outdoor living spaces.
- Acknowledge that "styles" in homes, office buildings, commercial properties, etc. and their accessory use change with time.
- Consider providing performance based incentives.

- Study ways to streamline the review and development process. Even if it's not considered - time is money and it's unrealistic to think otherwise.
- The city council and planning commission should remember they represent the entire community, not just the most vocal element at the time.
- Keep in mind Edina's past developments that occurred during the 1950 and 1960's. Edina stepped up to the plate and was a city with great vision and courageous citizens. It isn't good for any city to cling to the past.
- Reiterate the need for a PUD – many projects could be better but are ham-strung by the code. Many developers back away from going through the variance process and in many instances if a variance were granted those projects would be better.
- LEED-sustainability. Encourage LEED and sustainability but recognize that LEED certification is very difficult and expensive.
- The Commission should have an understanding of their boundaries.

The following are comments raised during the interchange between commissioners and developers:

- Too much politics – playing to the vocal minority - what about the silent majority
- No common sense used on some issues
- Reiterated the unease of going through the variance process and identifying a hardship.
- The planning commission is the bridge to the city council.
- The planning commission lends creditability and there is consistency in the record of the commission
- Greater need for clarity and flexibility in the code.
- Commissioners should better understand the ways developers and residents look at the code
- How does the city create more affordable housing opportunities, acknowledging that land in Edina is expensive?
- Establish an award and/or program that recognize good performances from developers. It is important to be recognized for a “job well done”.
- Consider implementing a sketch plan review process to get an earlier feel for a development
- Encourage communication between the developer and neighbors
- More certainly from staff on the outcome of projects – if a project meets code why should the process still drag out
- Try to remember that the planning commission looks at the facts. No politics.
- Don't require more parking if it isn't needed – green space is very important and citizens are becoming more aware of the environment.

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- Suggest that a list is kept of code changes believed would help and code changes necessary to comply with the Comprehensive Plan.

Chair Fischer thanked everyone for their input. Chair Fischer opened the floor to the public. Their thoughts and comments follow:

- The city needs to be careful with PUD's – there is danger during the negotiating process that the project could be lost. Static zoning appears to be the future of zoning. Keep a check list for each zoning category what's good, what's bad, etc.
- Property owners must be able to depend on code. Undue hardship is case law – suggest that variances are considered at the time of preliminary approval. That would save conflict because you are dealing with it upfront.
- City staff is good and professional – variance process is difficult – common sense can't be legislated.
- Not impressed with Edina's current code. Many of Edina's zoning code requirements dates back to the 1960's. Many cities are going to form based codes.

Chair Fischer and PC Members thanked everyone for their attendance and participation in the work session.

Chair Fischer asked the Commissioners for issues or comments that struck them during the work session:

- Carrot in lieu of stick
- Clarity and predictability
- Streamlined
- PUD
- Sketch Plan review process
- LEED-Sustainability
- Performance based/incentives
- Cost of land
- Hardship/variance process has value
- Parking
- Scale differences
- Less ECC-more staff
- Ordinance-reliance-neighbors
- Communication-developers/neighbors
- The whole community - balance both points of view - stakeholders

Work session adjourned at 9:30 PM

Next work session scheduled for June 10, 2009, 7:00 PM

Edina Zoning Ordinance Update Developer Input Session Summary of Key issues Raised

Held: Wednesday, May 13, 2009, 7:30-9:45

Developers attended: Scott Busyn, Tom Miller, Gene Haugland, Jim Nelson, Paul May (architect for Jim Nelson)

Planning Commissioners/Staff attended: Michael Fischer, Kevin Staunton, Julie Risser, Arlene Forrest, Michael Schroeder, Floyd Grabel, Nancy Scherer, Cary Teague, Jackie Hoogenakker, and Kris Aaker

General Public: John Bohan and Mrs. Bohan, Stephan Helgeson, Tom Bonneville, John Crabtree

Planning Commissioners compiled a list of "Key Issues" to consider as they move forward with the Ordinance update process, based upon a discussion with the developers and community members in attendance at the May 13th input session.

- Use a philosophy of a carrot instead of a stick to move development toward community goals
- Provide clarity and predictability in ordinances and the development review process
- Look for ways to streamline the development review process
- Institute a planned unit development ordinance that offers flexibility in achieving higher quality projects
- Use a sketch plan review process to gain an early understanding of potential development proposals
- LEED – Sustainability
- Performance-based incentives
- Cost of land
- Hardship/variance process provides some benefits
- Parking

- Scale differences
- Encourage more reliance on staff level reviews, and less on presentations to the City Council
- Understand the ways in which developers and neighbors rely on the ordinances
- Improve communication between developers and neighbors
- Strive for balance in planning level decisions that recognizes the whole community and immediately affected parcels

**MINUTES
OF THE WORK SESSION OF THE
EDINA ZONING ORDINANCE UPDATE COMMITTEE
EDINA CITY HALL COUNCIL CHAMBERS
4801 WEST 50TH STREET
JUNE 10, 2009
7:00 PM**

Chair Fischer called the meeting to order at 7:00 pm in the City of Edina Council Chambers. Commission Members present: Julie Risser, Floyd Grabel, Arlene Forrest, Nancy Scherer Kevin Staunton, Jeff Carpenter, Steve Brown, Michael Schroeder, Mike Fischer. Staff present: Heather Worthington, Assistant City Manager, Cary Teague, City Planner, Kris Aaker, Assistant Planner and Jackie Hoogenakker, Planning Commission Secretary. Energy and Environment Commission Members present: Diane Plunkett Latham, Surya Iyer, Ray O'Connell, Paul Thompson, Germana Paterlini, Mike Platteter, and Steve Christianson.

Attendees introduced themselves.

Chair Fischer and Commissioner Staunton explained the role of the Planning Commission, adding their role is divided up into two duties; the Legislative and the Quasi Judicial. Chair Fischer said the purpose of the meeting this evening is to seek input from the Energy and Environment Commission on how to make the zoning code a better tool for all to use. Chair Fischer shared the Commissions goals in updating zoning ordinance No. 850:

1. Bring 850 into compliance with the Comprehensive Plan
2. Revise where appropriate
3. Create a PUD
4. Resolve procedural issues
5. Add performance standards

Chair Fischer said he believes the revisions to the zoning ordinance would take 18 + months.

Chair Fischer and Mr. Staunton gave power point presentations.

Chair Iyer informed Commissioners that the Energy and Environment Commission is the newest Commission formed by the City Council and operates as one body but is organized into four working group sub-committees:

1. Recycling and Solid Waste – Diane Plunkett Latham Chair
2. Air and Water Quality – Julie Risser/Chair
3. Education and Outreach – Paul Thompson
4. Carbon Reduction – Germana Paterlini

Ms. Paterlini explained she works with sustainability and is involved in a pilot project of 17 cities trying to assess energy consumption at the city level.

Mr. Thompson said a large goal is to enlighten the community on energy consumption and it appears the best way to do that is through education and outreach. The Energy and Environment Commission has learned that the message needs to be "taken to the people", noting that at this time it's the kids who are driving much of the interest in composting.

It was noted that the timing is perfect in making changes to the zoning ordinance in light of the renewed interest in the energy and environment.

Chair Fischer commented that the Commission has been considering a tree ordinance; however, enforcement would be an issue. Ms. Plunkett Latham agreed, adding she has found that single family home owners usually don't remove trees unless it is needed. She said in her opinion the problem is on the development side. Mr. Grabiell pointed out the zoning ordinance does have a section on landscaping and screening for industrial/office/commercial ventures, adding all projects have to comply with landscaping standards.

The discussion focused on the role of the Council observing that direction and commitment from the Council is needed to support progressive ideas with regard to "going green". The Council has to either decide Edina will be a leader in this endeavor or something different.

It was also noted that utility companies have been mandated to meet certain environmental standards which in reality will trickle down to the consumers.

The concept of carrot/stick was discussed in getting both developers and residents to reduce energy consumption. It was also noted that the City itself must be a leader in "going green" and LEED certifications. It would be difficult to hold others to a higher standard. Ms. Worthington said the City of Edina is committed to energy reduction and where possible is implementing measures to reduce consumption. With the new public works facility the City has chosen to use the existing building, not tear it down and rebuild. An energy efficient roof is being considered and "day brightening" procedures are also being implemented. Ms. Worthington said the City budget is very limited but the City will do its best in all areas possible to "go green".

Mr. Staunton said at the Commission level the Commission operates in "snap shot" and other commissions "streaming" Mr. Staunton said the Commission can't do the streaming..

Chair Fischer thanked everyone for their input and told members of the Energy and Environment Commission they are a very pro-active group.

Chair Fischer asked everyone to share issues or comments that struck them during the work session based on key issues raised

- Snap Shot VS streaming/snap shot contemplating streaming
- Building life cycles
- Livability
- Verifying performance beyond approval
- Total true cost
- LEED concepts as apposed to LEED certification
- Breaking LEED apart
- Incentives VS Mandates
- Tree ordinance/policy
- Level of commitment from City Council to support progressive ideas that might not have market support
- The City as an example/model
- Recognizing merchant developer VS long-term owners
- City commitment to broad energy C.-R goals. How do we help the city council meet LCLEI commitments
- How do we identify performance standards that will really work
- Look at everything 30 years old as a target for change

Meeting adjourned at 9:00 PM

Next meeting of the Planning Commission Work Session/Ordinance Re-write
July 8, 2009

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Edina Zoning Ordinance Update Energy and Environment Commission Input Session Summary of Key Issues Raised

Held: Wednesday, June 10, 2009, 7:00 – 9:30

Energy and Environment Commission Members present: Chair Surya Iyer, Diane Plunkett Latham, Raymond O'Connell, M. Germana Paterlini, Julie Risser, Paul Thompson, Michael Platteter and Steve Christianson

Planning Commissioners/Staff attended: Michael Fischer, Kevin Staunton, Julie Risser, Arlene Forest, Michael Schroeder, Floyd Grabel, and Nancy Scherer

The following is a list of "bullet points" provided by the Commissioners based upon the key issues raised by the members of the Energy and Environment Commission in attendance at the June 10, 2009 input session.

- Snap shot VS. streaming/snap shot contemplating streaming
- Building life cycles
- Livability
- Verifying performance beyond approval
- Total true cost
- LEED concepts as apposed to LEED certification
- Breaking LEED apart
- Incentives VS. mandates
- Tree ordinance/policy
- Level of commitment from City Council to support progressive ideas that might not have market support
- The city as an example/model
- Recognizing merchant developer VS. long-term owners
- City commitment to broad energy C.-R. goals. How do we help the city council meet ICLEI commitments
- How do we Identify performance standards that will really work
- Look at everything 30 years old as a target for change

**MINUTES
OF THE WORK SESSION OF THE
EDINA ZONING ORDINANCE UPDATE COMMITTEE
EDINA CITY HALL COUNCIL CHAMBERS
4801 WEST 50TH STREET
JULY 29, 2009
5:00 PM**

Vice-Chair Staunton called the meeting to order at 5:00 pm in the City of Edina Mayor's Conference Room. Commission Members Present: Vice-Chair Staunton, Michael Schroeder, Arlene Forrest, Floyd Grabel and Jeff Carpenter. (Planning Chair Mike Fischer arrived late) Staff Present: Cary Teague, John Keprios, Kris Aaker, Joyce Repya, Jackie Hoogenakker. Members of Other Commissions Present: Chris Rofidal, Heritage Preservation Board; Todd Fronek, Edina Park Board; Paul Mooty and Tom Bonneville, Transportation Commission. Others Present: Gene Haugland, Tom Miller, Andy Porter, J. Westin.

Vice-Chair Staunton stated the purpose of this work session is to share and gather information from the Park Board, Transportation Commission and Heritage Preservation Board regarding the Planning Commission's efforts to review and revise the City's Zoning Code. He explained the process the Planning Commission has adopted and the current stage of the process, emphasizing the desire of the Planning Commission to gather input from other City commissions. He asked that representatives from the Park Board, Transportation Commission, and Heritage Preservation Board provide a brief overview of their focus, the issues they are currently encountering, and any suggestions they have for the Planning Commission as it works on the zoning code. Introductions were made.

Mr. Bonneville questioned if during the "re-write" process the Planning Commission would consider eliminating "static zones" and create a PUD development process in the Code. Vice-Chair Staunton responded that suggestion is currently "on the table", and will be considered.

Park Board Discussion

Mr. Fronek, the chair of the Park Board, explained that the Park Board is comprised of 11 members with the purpose of maintaining Edina's park system and its community parks. Mr. Fronek said the Park Board recently surveyed Edina residents and the survey indicated that residents want to see the continuation of park maintenance and improvements to the parks while keeping in mind budget restraints. Mr. Fronek pointed out parks are located within residential neighborhoods and it's important to keep the dialogue open between the City and residents during the park improvement process. Mr. Fronek reported that another issue the Park Board is looking into is establishing alternative

transportation routes between parks to ensure adequate circulation. The Nine Mile Creek Regional Trail and the CP Rail line were mentioned as potential areas of future focus.

Director Keprios explained the Park Department participated in the Comprehensive Plan process and learned that the community wants more walking/biking paths/trails and more indoor recreation centers. Director Keprios said that the community has also indicated they do not want park land sold – period. Concluding, Director Keprios stated he isn't sure how this ties in with zoning and future developments. Commissioner Carpenter added he isn't sure how the zoning ordinance is setup to consider the "park aspect" when a development or re-development arises.

Commissioner Schroeder commented the ordinance could encourage (where appropriate) that outdoor gathering/open spaces are created. Director Keprios commented that the park land dedication fund (developer's fund) has limited funds, pointing out Edina is fully developed, therefore, very little money is coming into the fund. Maintenance of City parks/trails/open spaces continues to be expensive, adding requiring the developers provide more open/greenspace is a good idea, but any upkeep needs to be done by the property owner, not City.

Mr. Bonneville interjected that the Commission could consider during the re-write process adding a paragraph stating that an "easement" providing open and/or gathering space be required when a development or re-development reaches a certain threshold. Commissioner Schroeder acknowledged that it appears to him the demand for public space isn't diminishing.

Commissioner Forrest asked if the developers and City could work together in joint ventures. Director Keprios responded that the Park Department would welcome opportunities to work with others. Director Keprios added the skate board park was a joint effort between Edina and Richfield.

Mr. Haugland asked Director Keprios if there is a minimum park or open space size. Director Keprios responded there isn't; adding at present the City owns a number of outlots that are held as open space.

A question was raised about the City's ability to incorporate private open spaces dedicated to public use or gathering space through park dedication provisions of the zoning code. The possibility of using a PUD or some other exchange (like setback relief) to encourage redevelopment to include open space and other gathering space was also discussed.

Transportation Commission

Mr. Paul Mooty, the Vice-Chair of the Transportation Commission, summarized that commission's role and current activities. He said the Transportation

Commission just completed studies of Northeast Edina and West 70th Street and that, in general, the Transportation Commission looks at the impact development and redevelopment projects have on the road systems. Mr. Mooty said if changes are required on the city's streets to accommodate a proposal it can become an issue of "who pays for what." He stressed, as with anything, who pays for it is an issue. Mr. Mooty explained that the Transportation Commission is evolving; adding big issues are in the future such as enhancing the bridge at France Avenue/Crosstown Hwy, which will be a long and expensive fix. Mr. Mooty observed there are always tradeoffs and it is challenging. Concluding, Mr. Mooty pointed out one thing that is changing is how roadways are reviewed, adding it now appears that with every road change etc. the commission needs to keep bikers in mind.

Vice-Chair Staunton asked Mr. Mooty if the Transportation Commission is satisfied with the procedure. Mr. Mooty responded that it appears to him that what the Transportation Commission does is duplicated by the Planning Commission, adding two separate bodies are reviewing and commenting on the same thing - which can slow up the process. He would like to see the Transportation Commission looking ahead and mapping out a long-range vision for transportation in the community, not only reacting to planning proposals. Discussion ensued with mention that it might make sense to streamline the process by having traffic issues related to specific developments skip the Transportation Commission and be handled as part of the development review process by the Planning Commission.

Mr. Bonneville asked if any "pre-meetings" have been considered for projects. Commissioner Forrest responded it has been suggested that the application process could include a "sketch plan" review option, especially for major developments or re-developments. This would include transportation issues.

Heritage Preservation Board

Mr. Chris Rofidal, Chair of the HPB, provided a summary of the HPB role and current focus. He explained the role of the HPB is to ensure that Edina's buildings and streetscapes are preserved. Mr. Rofidal said one issue that is constant is finding a balance between property owner rights and the neighbor rights. Currently, the Board spends the majority of its time reviewing proposals in the Country Club District. The HPB recently updated the Plan of Treatment and for the most part the changes have been positive. He said the Board is constantly looking at ways to communicate with residents adding that, at this time, the HPB is finishing up a "procedure guideline" for Certificates of Appropriateness. Mr. Rofidal said a "sketch plan" process has also been suggested to be included in the procedures. The HPB has noted some disconnect between what is required and/or suggested in the Plan of Treatment and what is in the Zoning Ordinance. Drive-way widths, building height and tree preservation are HPB issues that can conflict with the Zoning Ordinance.

Concluding a summary of the HPB's current activities, he said the attention of the HPB is shifting to the Morningside Bungalow area.

Mr. Rofidal listed the following areas the HPB had identified as being important to consider in a zoning code review process:

1. Making the process clear – there are questions for applicants, members of the Board and Planning Commission, and staff regarding how the HPB and zoning code review processes relate to one another.
2. Driveway Width – the zoning code citywide requirements for width often conflict with what makes sense from a heritage preservation perspective.
3. Timelines for Review – the 60-day rule is problematic when both the Board and Planning Commission are reviewing a proposal.
4. Making the HPB Plan of Treatment and the Zoning Code compatible – differences between the regulations send mixed messages to developers.
5. Tree Preservation – the HPB is supportive of a tree preservation ordinance.
6. Demolition – there should be some “flag” in the demolition process that alerts staff or the Chair of the HPB to allow for documentation of historic sites before they are destroyed.
7. The Planning Commission should be cognizant of the fact that some setback provisions can eliminate the possibility of certain housing styles. To the extent such housing styles are ones that the Board's Plan of Treatment aims to preserve, we need to address that conflict.
8. Other Conflicts between the Zoning Code and the Plan of Treatment – we should work together to avoid conflicts and, if they cannot be avoided, plan for how they will be resolved when they arise in the redevelopment process.

A discussion ensued on how to rectify the discrepancies between what the HPB indicates they need and the Zoning Ordinance. Planner Teague acknowledged that this is an issue and it is possible to write into the Zoning Ordinance a reference to HPB standards where appropriate.

Vice-Chair thanked everyone who attended for their input.

Meeting was adjourned at 6:55 pm

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Next meeting of the Edina Zoning Ordinance Update Committee is August 12, 2009

**MINUTES
OF THE WORK SESSION OF THE
EDINA ZONING ORDINANCE UPDATE COMMITTEE
EDINA CITY HALL COUNCIL CHAMBERS
4801 WEST 50TH STREET
August 12, 2009
7:00 PM**

Chair Fischer called the meeting to order at 7:00 pm in the City of Edina Council Chambers. Commission Members present: Julie Risser, Floyd Grabiell, Arlene Forrest, Nancy Scherer, Jeff Carpenter, Steve Brown, Michael Schroeder, Mike Fischer. Staff present: Cary Teague, City Planner, Kris Aaker, Assistant Planner. Dan Conejo, Planning Consultant and Roger Knutson, City Attorney.

Attendees introduced themselves.

Dan Conejo shared his extensive 36 year experience as a planner with many communities including Vancouver Canada and Staten Island to name a few.

Roger Knutson indicated that he too has been involved for 36+ years, similar to Mr. Conejo, within the practice of land use law primarily for municipalities. Mr. Knutson stated that he has never written a zoning ordinance nor has he been involved in policy. Mr. Knutson's concern is if Edina's zoning ordinance is consistent with the State Statute, if it is updated every year given any statute changes and if the language in the ordinance is very clear. Mr. Knutson stated that anytime you have things in the zoning ordinance it must be clear if the action is to be Legislative or Quasi Judicial. If the code is questioned by the courts, the ruling will not generally be in favor of the city.

Dan Cornejo expressed that the zoning ordinance is a tool to implement city policy through the vision created by the comprehensive plan. The question is how can we get what we want where we want it using the "tools" of the zoning ordinance. If the vision isn't clear or supported, it won't work.

Both Mr. Knutson and Mr. Cornejo agreed that if there are a series of variance requests for the same thing that it might be time to look at that particular aspect of the zoning ordinance for potential amendment. Mr. Cornejo stated that Edina spends a lot of time processing variances and that perhaps streamlining them or the process might be beneficial to allow the Commission to concentrate on the more spectacular projects. Mr. Conejo stated that it is important to audit and update the comprehensive plan given vision and market changes so the zoning ordinance may be amended to support changes.

Roger Knutson stated that there should be no suggestions and no guidelines in the zoning ordinance. Discretion in the ordinance is problematic and where the

city can get in to trouble. Ordinances cannot be in conflict with State law. Edina cannot require a higher or lower vote or add/subtract from the State Building Code. State law pre-empts any local ordinances. Jeff Carpenter asked if the city is currently out of compliance with State Statute. Mr. Knutson said that the existing code is out of compliance with the nonconforming use section of the code.

Michael Fischer asked about the feasibility of a "sketch plan review" and if other cities review them. Mr. Fischer stated that projects come to them so far down the road with complete plans and drawings that the public perceives the project as a done deal where as the developer is anxious because so much money and time has been spent up front with no clear indication of how it will be received. Mr. Knutson stated that there are a few cities that use sketch plan review, however, some have been hesitant to comment or give direction on a plan that doesn't have much detail or may seem "half baked" and that hasn't been reviewed by the public. Mr. Knutson pointed out that the "clock starts ticking" whenever a plan is submitted for review and that the Commission has to be very aware of time tables. The sketch plan review should be voluntary and not part of a formal application to avoid getting into time restrictions.

Mr. Cornejo stated that a sketch plan review's purpose must be clear for the developer to get the needed feed back to go forward or abandon a project. The Commission needs to be clear on the strengths and weaknesses of a proposal and point out the pitfalls, understanding that the Commission cannot give an up or down indication of approval likelihood. Mr. Cornejo questioned whether it could ever be structured so that the City Council need not be so heavily involved in review and approval of a project. Perhaps the Planning Commission would decide zoning actions and projects would only be heard by Council on appeal.

Mr. Knutson stated that the way things stand with the Zoning Board of Appeals currently that streamlining the system won't work. Edina has a very difficult process to navigate and it is difficult to make sense of it at times. The process is difficult to navigate for a developer and difficult for Council, Commission and Board of Appeal members to comprehend the order and logic of things. Mr. Knutson added that the Commission should look at streamlining the variance process. Variances shouldn't have to take a lot of time. If the community knows how the Board/Commission stands on certain variances they simply won't be applied for. Mr. Knutson also stated that the Commission/Board should not be concerned with setting a precedent. It has been Mr. Knutson's experience that precedent very rarely if ever occurs and he has only experienced one ruling of exact conditions based upon precedent. Mr. Knutson stated that the Board/Commission should be more concerned with treating people fairly and maintaining equal protection. Arlene Forest stated that the Zoning Board looks at all properties on an individual basis. Mr. Cornejo shared that the city needs to look at physical hardship on each property. Roger Knutson said that the variance

process isn't a popularity contest with regard to neighboring property owners. Mr. Knutson stated that part of the problem with the city's zoning ordinance is that the text in many cases has been written for a specific project such as Centennial Lakes for example. Trying to apply the zoning code to a different project requires text amendments. Currently a text amendment is the only method to address some new projects. A better solution suggested Mr. Knutson would be a PUD option coupled with strong, clear underlying zoning requirements per district.

Michael Fischer asked what kind of properties would be appropriate for a PUD. Mr. Knutson responded that Edina is unique, with even one building potentially rising to the use of a PUD. Mr. Cornejo indicated that a PUD allows the city to tighten the use of standard variances while allowing more creativity in designing for a particular site. Mr. Cornejo stated that you have to make sure underlying zoning works well and have a PUD available for the more creative solutions. Floyd Grabel asked Mr. Knutson about how to respond to those who state that they are entitled to rely on the current zoning of a property and that it shouldn't change and the city shouldn't change the code. Mr. Knutson replied that there are never any guarantees that the zoning of a property or the code will not change. Mr. Knutson stated that the Comp. Plan, the city code and the zoning of a property may all change in order to be consistent with one another. Mr. Knutson cautioned the Commission that restrictions/conditions on a PUD must be clear and to be mindful of the Quasi-Judicial and Legislative role of the Commission. Mr. Knutson stated that if the rules are challenged the decision is typically construed against the city. Rules must be clear with nouns and verbs; no pronouns or adverbs. Mr. Knutson reminded the Commission that they are the "idea people" and that it is up to city staff to craft those ideas into ordinance and his job to review it from a legal perspective. Chair Fischer asked if review of the ordinance should be broken down by section or reviewed all at once. Mr. Knutson responded that for consistency it should be reviewed all at once.

General discussion ensued regarding building sustainable projects. Mr. Knutson stated that the Commission has to be very careful about getting into building design. The Commission must tread carefully so as to not be in conflict with state building codes. Certain things can be in the zoning ordinance such as lot coverage but energy efficiencies are mandated by the state. Michael Schroeder mentioned "carbon footprints", stating that he didn't believe that the state has any language regarding that yet. Julie Risser expressed her disagreement with a proposed ordinance amendment that would have allowed a drive through near Wooddale and Valley view because of the fumes produced by idling cars. Ms. Risser felt that from an environmental stand point the ordinance should not be changed. Roger Knutson stated that the ordinance needs to be modified when reacting to specific projects since the ordinance is so restrictive and there are no other methods built into the ordinance, such as a PUD, etc., to address them. Mr. Knutson said that it is however, up to the Commission and Council with our current process if they want to change the code.

Chair Fischer thanked everyone that participated and reiterated that the purpose is to update the zoning ordinance to be consistent with the Comprehensive Plan, to update and change the code in areas needed and to make the zoning code a better tool for all to use.

Meeting adjourned at 9:00 PM

Next meeting of the Planning Commission Work Session/Ordinance Re-write
September 9th, 2009
: