REPORT/RECOMMENDATION

To:	**MAYOR AND COUNCIL**	**Agenda Item**	**Item No. VI.E**
From:	**Cary Teague** **Planning Director**	☒ ☐	**Action** **Discussion**
Date:	**January 3, 2011**	☐	**Information**
Subject:	**Ordinance No. 2012-02 regarding the regulation of utility/mechanical equipment.**		
Deadline for a City Decision:	**No Deadline**		

ACTION REQUESTED:
Consideration of the attached Ordinance regarding the regulation of utility/mechanical equipment. If the Council is comfortable with the proposed language, please waive the second reading of the Ordinance.

INFORMATION/BACKGROUND:
As a result of the of the 100 square foot, 12-foot tall air conditioning unit was installed at York Gardens within the required setback, staff and the Planning Commission have been drafting an Ordinance amendment to more clearly define the regulation of this type of equipment. Utility cabinets and equipment have traditionally not been required to meet structure setbacks in Edina. In summary, the Ordinance amendment would require the following for utility poles and wires, water, gas, electric and mechanical equipment regulations:

1. If the footprint is less than 36 square feet in area, and 6 feet in height, utility and/or mechanical equipment shall be permitted at any location in a front, side or rear yard with no minimum setback from any property line. If utility or mechanical equipment is located within city right-of-way a permit is required.

2. If the footprint is larger than 36 square feet in area or 6 feet in height, utility and/or mechanical equipment shall be required to meet all setback requirements in the underlying zoning district. Utility and mechanical equipment that is grouped together and in the aggregate exceeds 36 square feet in area shall also be required to meet all setback requirements in the underlying zoning district.

3. Air conditioning units in the R-1 and R-2 Zoning Districts shall comply with the setback requirements for accessory uses.

4. All mechanical equipment accessory to any building, except single dwelling unit and double dwelling unit buildings, shall be screened from all lot lines and streets in accordance with Section 850.10. Subd. 2.C.

5. Noise from mechanical equipment shall be subject to the City's Noise regulations in accordance with Section 1040.

Planning Commission Recommendation: On December 14, 2011, the Planning Commission unanimously recommended approval of the attached Ordinance 2012-02.

ATTACHMENTS:

- Ordinance No. 2012-02
- Planning Commission Staff Reports & Memo's: September 28, November 9 and December 14, 2011.
- Minutes from the September 28, November 9 and December 14, 2011 Edina Planning Commission meetings.

ORDINANCE NO. 2012-02

AN ORDINANCE AMENDMENT CONCERNING THE REGULATION OF UTILITY EQUIPMENT

The City Council Of Edina Ordains:

Section 1. Subsection 850.07. Subd. 23. is amended to read:

Subd. 23 **Utility Buildings and Structures.**

A. Utility Buildings and Structures Owned by the City. Utility buildings and structures owned by the City and used for rendering service to all or any part of the City (but excluding warehouses, maintenance buildings and storage yards) shall be a permitted principal or accessory use in all districts.

B. Other Utility Buildings and Structures. Utility buildings and structures owned by private utility companies or governmental units other than the City, and used for rendering service to all or any part of the City (but excluding warehouses, maintenance buildings and storage yards) shall be a conditional use in all districts and shall only be constructed pursuant to a conditional use permit granted in accordance with Subd. 4 of Subsection 850.04.

C. Utility poles and wires, water, gas, electric and mechanical equipment regulations:

1. If the footprint is less than 36 square feet in area, and 6 feet in height, utility and/or mechanical equipment shall be permitted at any location in a front, side or rear yard with no minimum setback from any property line. If utility or mechanical equipment is located within city right-of-way a permit is required.

2. If the footprint is larger than 36 square feet in area or 6 feet in height, utility and/or mechanical equipment shall be required to meet all setback requirements in the underlying zoning district. Utility and mechanical equipment that is grouped together and in the aggregate exceeds 36 square feet in area shall also be required to meet all setback requirements in the underlying zoning district.

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

3. Air conditioning units in the R-1 and R-2 Zoning Districts shall comply with the setback requirements for accessory uses.

4. All mechanical equipment accessory to any building, except single dwelling unit and double dwelling unit buildings, shall be screened from all lot lines and streets in accordance with Section 850.10. Subd. 2.C.

5. Noise from mechanical equipment shall be subject to the City's Noise regulations in accordance with Section 1040.

Section 2. This ordinance is effective immediately upon its passage and publication.

First Reading:
Second Reading:
Published:

ATTEST:

_____ _____

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

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

CERTIFICATE OF CITY CLERK

I, the undersigned duly appointed and acting City Clerk for the City of Edina do hereby certify that the attached and foregoing Ordinance was duly adopted by the Edina City Council at its Regular Meeting of _____, 2012, and as recorded in the Minutes of said Regular Meeting.

WITNESS my hand and seal of said City this _____ day of _____, 2012.

_____

City Clerk

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

Topic: **Utility & Mechanical Equipment Ordinance**

Date Introduced: **September 28, 2011**

Date of Discussion: **September 28, 2011**

Why on the list: It has come to the City's attention after the 100 square foot, 10-foot tall air conditioning unit was installed at York Gardens within the required setback that based on the City's definition of structure, all utility cabinets and mechanical equipment are required to meet required setbacks. However, as the City has developed, utility and mechanical equipment have been installed all over town, and not been required to meet a structure setback.

History: Utility cabinets and equipment have traditionally not been required to meet structure setbacks in Edina. However, as a result of the air conditioning unit installed at York Gardens, it would seem appropriate to require a structure setback for utility equipment at a certain size, and exempt smaller equipment.

Decision Point: Should the City require setbacks for utility equipment?

Options:

1. Leave the requirement as it is today, and enforce setback regulations for all utility equipment.

2. Amend the Zoning Ordinance to exempt small utility equipment and require setbacks for large equipment.

For Discussion: Staff has done a survey of cities and discovered that most cities do not require setbacks for utility equipment, and do not address large mechanical equipment.

City	Setback Required for Utility and Mechanical Equipment
EDINA	**Yes – Same as structure setback**
Columbia Heights	Require a 1-foot setback
Blaine	No setback required – Must be within an easement area
Bloomington	No setback required
Burnsville	No setback required
Coon Rapids	No setback required
Cottage Grove	No setback required
Robbinsdale	No setback required – Permit required if in a r-o-w
Eden Prairie	No setback required – typically located on lot lines
Hopkins	No setback required
Lakeville	No setback required

Maple Grove	No setback required
Minnetonka	No setback required – A permit required if within the r-o-w
Minneapolis	Two-foot setback
New Brighton	No setback required
St. Louis Park	Require utilities to be underground or in the building (in practice this is not enforced)
Wayzata	No setback required

Based on the above survey and issues, staff is recommending the attached ordinance.

The ordinance would exempt small utility and mechanical equipment from required setbacks as has been the standard practice in Edina. The ordinance would require setbacks to be met for equipment over 80 square feet or 6 feet tall.

Additionally, the Ordinance would require setbacks for air-conditioning units in the R-1 and R-2 District similar to accessory uses. This regulation would make the standard practice in Edina of requiring a 5-foot side yard setback for small air conditioning units adjacent to single-family homes and duplexes more clear in the ordinance.

Ordinance Considered Sept. 26, 2011

ORDINANCE NO. 2011-__

AN ORDINANCE AMENDMENT CONCERNING THE REGULATION OF UTILITY EQUIPMENT

The City Council Of Edina Ordains:

Section 1. Subsection 850.07. Subd. 23. is amended to read:

Subd. 23 **Utility Buildings and Structures.**

A. Utility Buildings and Structures Owned by the City. Utility buildings and structures owned by the City and used for rendering service to all or any part of the City (but excluding warehouses, maintenance buildings and storage yards) shall be a permitted principal or accessory use in all districts.

B. Other Utility Buildings and Structures. Utility buildings and structures owned by private utility companies or governmental units other than the City, and used for rendering service to all or any part of the City (but excluding warehouses, maintenance buildings and storage yards) shall be a conditional use in all districts and shall only be constructed pursuant to a conditional use permit granted in accordance with Subd. 4 of Subsection 850.04.

C. Utility poles and wires, water, gas, electric, and mechanical equipment are permitted at any location in a front, side or rear yard with no minimum setback from any property line. If utility or mechanical equipment is located within city right-of-way a permit is required. Utility and mechanical equipment that is larger than 80 square feet or 6 feet tall shall be required to meet all setback requirements in the underlying zoning district. Air conditioning units in the R-1 and R-2 Zoning Districts shall comply with the setback requirements for accessory uses.

Section 2. This ordinance is effective immediately upon its passage and publication.

Topic: **Utility & Mechanical Equipment Ordinance**

Date Introduced: **September 28, 2011**

Date of Discussion: **November 9, 2011**

Why on the list: It has come to the City's attention after the 100 square foot, 12-foot tall air conditioning unit was installed at York Gardens within the required setback that based on the City's definition of structure, all utility cabinets and mechanical equipment are required to meet required setbacks. However, as the City has developed, utility and mechanical equipment have been installed all over town, and not been required to meet a structure setback.

History: Utility cabinets and equipment have traditionally not been required to meet structure setbacks in Edina. However, as a result of the air conditioning unit installed at York Gardens, it would seem appropriate to require a structure setback for utility equipment at a certain size, and exempt smaller equipment.

Decision Point: Should the City require setbacks for utility equipment?

Options:

1. Leave the requirement as it is today, and enforce setback regulations for all utility equipment.
2. Amend the Zoning Ordinance to exempt small utility equipment, as has been the City's practice, and require setbacks for large equipment.

For Discussion: Staff has done a survey of cities and discovered that most cities do not require setbacks for utility equipment, and do not address large mechanical equipment.

City	Setback Required for Utility and Mechanical Equipment
EDINA	**Yes – Same as structure setback (however, this has not been traditionally enforced for small equipment)**
Columbia Heights	Require a 1-foot setback
Blaine	No setback required – Must be within an easement area
Bloomington	No setback required
Burnsville	No setback required
Coon Rapids	No setback required
Cottage Grove	No setback required
Robbinsdale	No setback required – Permit required if in a r-o-w
Eden Prairie	No setback required – typically located on lot lines

Hopkins	No setback required
Lakeville	No setback required
Maple Grove	No setback required
Minnetonka	No setback required – A permit required if within the r-o-w
Minneapolis	Two-foot setback
New Brighton	No setback required
St. Louis Park	Require utilities to be underground or in the building (in practice this is not enforced)
Wayzata	No setback required

Based on the above survey and issues, staff is recommending the attached ordinance.

The Ordinance would accomplish the following:

1. It would exempt smaller utility and mechanical equipment, less than 80 square feet or 6 feet in height, from required setbacks. This has been the standard practice in Edina.

2. The ordinance would require setbacks to be met for equipment over 80 square feet or 6 feet tall. This has not been required until the air conditioning unit was installed at York Gardens.

3. The Ordinance would require setbacks for air-conditioning units in the R-1 and R-2 District similar to accessory uses. This regulation would make the standard practice in Edina of requiring a 5-foot side yard setback for small air conditioning units adjacent to single-family homes and duplexes more clear in the ordinance.

4. Screening would still be required for ALL mechanical equipment per Section 850.10. Subd. 2.A.5 as follows: "All mechanical equipment accessory to any building, except single dwelling unit and double dwelling unit buildings, shall be screened from all lot lines and streets." Per Section 850.10. Subd.2.C "required screening may be achieved with fences, walls, earth berms, hedges and other landscape materials. All walls and fences shall be architecturally harmonious with the principal building. Earth berms shall not be steeper than 3:1. All materials, including landscaping, shall have a minimum opacity of 90 percent year round."

5. Noise from mechanical equipment would continue to be subject to the City's Noise regulations, as they are today.

Ordinance Considered Nov. 9, 2011

ORDINANCE NO. 2011-__

AN ORDINANCE AMENDMENT CONCERNING THE REGULATION OF UTILITY EQUIPMENT

The City Council Of Edina Ordains:

Section 1. Subsection 850.07. Subd. 23. is amended to read:

Subd. 23 **Utility Buildings and Structures.**

A. Utility Buildings and Structures Owned by the City. Utility buildings and structures owned by the City and used for rendering service to all or any part of the City (but excluding warehouses, maintenance buildings and storage yards) shall be a permitted principal or accessory use in all districts.

B. Other Utility Buildings and Structures. Utility buildings and structures owned by private utility companies or governmental units other than the City, and used for rendering service to all or any part of the City (but excluding warehouses, maintenance buildings and storage yards) shall be a conditional use in all districts and shall only be constructed pursuant to a conditional use permit granted in accordance with Subd. 4 of Subsection 850.04.

C. Utility poles and wires, water, gas, electric and mechanical equipment regulations:

1. If less than 80 square feet in size, and 6 feet in height, utility and/or mechanical equipment shall be permitted at any location in a front, side or rear yard with no minimum setback from any property line. If utility or mechanical equipment is located within city right-of-way a permit is required.

2. If larger than 80 square feet or 6 feet in height, utility and/or mechanical equipment shall be required to meet all setback requirements in the underlying zoning district.

3. Air conditioning units in the R-1 and R-2 Zoning Districts shall comply with the setback requirements for accessory uses.

4. All mechanical equipment accessory to any building, except single dwelling unit and double dwelling unit buildings, shall be

screened from all lot lines and streets in accordance with Section 850.10. Subd. 2.C.

5. Noise from mechanical equipment shall be subject to the City's Noise regulations in accordance with Section 1040.

Section 2. This ordinance is effective immediately upon its passage and publication.

First Reading:

Second Reading:

Published:

ATTEST:

_____ _____

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

Please publish in the Edina Sun Current on:

Send two affidavits of publication.

Bill to Edina City Clerk

CERTIFICATE OF CITY CLERK

I, the undersigned duly appointed and acting City Clerk for the City of Edina do hereby certify that the attached and foregoing Ordinance was duly adopted by the Edina City Council at its Regular Meeting of _____, 2011, and as recorded in the Minutes of said Regular Meeting.

WITNESS my hand and seal of said City this _____ day of _____, 2011.

_____

CITY OF EDINA

MEMO

City Hall • 4801 W. 50th St., Edina, MN 55424
Phone 952-927-8861 • Fax 952-826-0390 • www.CityofEdina.com

Date: December 14, 2011

To: Planning Commission

From: Cary Teague, Planning Director

Re: Zoning Ordinance Amendment – Utility & Mechanical Equipment Ordinance

---

The Planning Commission discussed the Ordinance amendment at last month's meeting, and tabled the item for further changes. (See attached minutes.) As a result of the Planning Commission discussion, staff has revised the Ordinance to address the issues. The size of the utility and mechanical equipment that must meet required setback has been reduced from 80 to 36 square feet. Also, a condition was added that notes that equipment grouped together that exceeds 36 square feet must also meet the required setbacks.

Ordinance considered Dec. 14, 2011

ORDINANCE NO. 2012-__

AN ORDINANCE AMENDMENT CONCERNING THE REGULATION OF UTILITY EQUIPMENT

The City Council Of Edina Ordains:

Section 1. Subsection 850.07. Subd. 23. is amended to read:

Subd. 23 **Utility Buildings and Structures.**

A. Utility Buildings and Structures Owned by the City. Utility buildings and structures owned by the City and used for rendering service to all or any part of the City (but excluding warehouses, maintenance buildings and storage yards) shall be a permitted principal or accessory use in all districts.

B. Other Utility Buildings and Structures. Utility buildings and structures owned by private utility companies or governmental units other than the City, and used for rendering service to all or any part of the City (but excluding warehouses, maintenance buildings and storage yards) shall be a conditional use in all districts and shall only be constructed pursuant to a conditional use permit granted in accordance with Subd. 4 of Subsection 850.04.

C. Utility poles and wires, water, gas, electric and mechanical equipment regulations:

1. If less than 36 square feet in ~~size~~, and 6 feet in height, utility and/or mechanical equipment shall be permitted at any location in a front, side or rear yard with no minimum setback from any property line. If utility or mechanical equipment is located within city right-of-way a permit is required.

2. If larger than 36 square feet or 6 feet in height, utility and/or mechanical equipment shall be required to meet all setback requirements in the underlying zoning district. Utility and mechanical equipment that is grouped together and in the aggregate exceeds 36 square feet in area shall also be required to meet all setback requirements in the underlying zoning district.

3. Air conditioning units in the R-1 and R-2 Zoning Districts shall comply with the setback requirements for accessory uses.

4. All mechanical equipment accessory to any building, except single dwelling unit and double dwelling unit buildings, shall be screened from all lot lines and streets in accordance with Section 850.10. Subd. 2.C.

5. Noise from mechanical equipment shall be subject to the City's Noise regulations in accordance with Section 1040.

Section 2. This ordinance is effective immediately upon its passage and publication.

First Reading:
Second Reading:
Published:

ATTEST:

_____ _____

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

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

CERTIFICATE OF CITY CLERK

I, the undersigned duly appointed and acting City Clerk for the City of Edina do hereby certify that the attached and foregoing Ordinance was duly adopted by the Edina City Council at its Regular Meeting of _____, 2012, and as recorded in the Minutes of said Regular Meeting.

WITNESS my hand and seal of said City this _____ day of _____, 2012.

_____

City Clerk

Sept. 28, 2011
P.C. Minutes

Commissioner Platteter said he wasn't a fan of this amendment, adding that it's only his opinion that real estate signs are large enough. Commissioner Forrest stated she agrees with Platteter, adding just because industry standards change that doesn't mean the Sign Code needs to change.

Commissioner Carpenter said that staff's research confirmed that industry standards had changed due to a number of things (web) and if the ordinance wasn't amended to recognize this change Edina would have a lot of non-conforming real estate signs. Continuing, Carpenter said he is in favor of the proposed amendment, adding if amended the ordinance would match what is occurring in the industry. Carpenter said he wasn't in the real estate business and can't comment on what the reality business believes was the appropriate size for signs.

Commissioner Forrest stated that the City shouldn't have to meet industry standards.

Commissioner Potts pointed out if the ordinance wasn't changed this could become an enforcement issue. Planner Aaker agreed; she stated that the industry standard has changed and enforcement would be difficult.

Commissioner Grabiel said he supports the amendment as proposed.

Commissioner Rock questioned what would happen if the ordinance standard changes again.

Motion

Commissioner Carpenter moved to recommend adoption of the proposed amendment to Edina's Sign Ordinance No. 460. Commissioner Potts seconded the motion. Ayes; Carpenter, Potts, Grabiel. Nay; Platteter, Forrest. Motion carried.

Zoning Ordinance Amendment – Utility and Mechanical Equipment

Planner Presentation

Planner Aaker told the Commission when York Gardens was constructed the mechanical equipment became an issue. Aaker said that Edina and the majority of cities do not require mechanical equipment to meet setbacks. At this time staff would like to know if the City should require setbacks for utility equipment. Should the requirement remain as it is today, and enforce setback regulations for all utility equipment or should the City amend the zoning ordinance to exempt small utility equipment and require setbacks for large equipment.

Discussion

Commissioner Forrest questioned how the City would clarify small vs. large. Forrest also questioned if churches and schools would be exempt Planner Aaker agreed that a clarification in size may need to be determined. Commissioner Carpenter said another thing to consider would be how to measure the size of the utility equipment.

Commissioner Forrest said in her opinion utility boxes/structures isn't attractive, adding other issues to consider would be screening and noise. Commissioner Platteter added clarification needs to be made on what requires screening and what doesn't. Would that be made by equipment size?

A discussion ensued with Commissioners in agreement that more study needs to be done on the proposed amendment. Size, setback, exempt/non-exempt, noise all need to be addressed including the issue of screening.

Chair Grabiel asked Planner Aaker to have Planner Teague take another look at this. Grabiel commented that amending the ordinance in this instance wasn't as easy as it appeared at first glance.

VIII. CORRESPONDENCE AND PETITIONS

Chair Grabiel acknowledged receipt of Council Connection.

IX. CHAIR AND COMMISSION MEMBER COMMENTS

Commissioner Forrest said that a committee was formed to study transportation issues for Edina's seniors.

Chair Grabiel reminded everyone if they were interested in the pocket neighborhood concept to visit the website at www.pocket-neighborhood.net

X. STAFF COMMENTS

None.

XI. ADJOURNMENT

Commissioner Potts moved adjournment at 9:10 PM. Commissioner Platteter seconded the motion. All voted aye; motion carried.

Jackie Hoogenakker
Respectfully submitted

Nov. 9, 2011
P.C. Mintg

Discussion

A discussion ensued with Commissioners questioning what constitutes change; is it a change in building color, change in exterior materials, increase or decrease in size , etc.

The Commission suggested the following:

- Change in building materials including color needs to be brought back before the Commission and City Council.
- A property cannot be located in an Edina Heritage Landmark District.

Chair Grabiel suggested that Planner Teague retool the amended ordinance to include those suggestions and bring the final draft back before the Commission.

Zoning Ordinance Amendment-Revision to Utility & Mechanical Equipment

Planner Teague reminded the Commission that utility and mechanical equipment was previously discussed with the Commission suggesting that more study needs to be done on size, setback, exempt/non-exempt equipment etc.

Discussion

A discussion ensued with the Commission making the following suggestions:

- 80-feet was too large. Consider reducing equipment size to 36 square feet.
- 6-feet may be too tall; reconsider height.
- Consider establishing a minimum setback for mechanical equipment
- Include these structures on the site plan when at all possible

Concern was also expressed on sites with numerous equipment pointing out there was no cap on "grouped" equipment. The Commission suggested a cap.

Commissioner Platteter commented that he views the majority of mechanical equipment as "eyesores" and amending the code to tighten up the standards was a good thing.

Chair Grabiel asked Planner Teague to "take another look" at the ordinance and bring back to the Commission a draft containing issues brought up at this meeting.

VIII. CORRESPONDENCE AND PETITIONS

Chair Grabiel acknowledged receipt of the Council Connection

IX. CHAIR AND COMMISSION MEMBER COMMENTS

Dec. 14, 2011
P.C. Minutes

Zoning Ordinance Amendment – Revisions to Approved Site Plans

Planner Teague reminded the Commission that the Planning Commission previously discussed this issue and as a result of the past discussions staff revised the Ordinance to address the concerns.

Changes to the Ordinance were to Conditions #4 and #5.These changes were added to ensure that minor changes to site plan approvals do not include changes to any conditions required, including building material or color; and no changes may occur in the Heritage Preservation District.

Discussion

Commissioner Staunton asked Planner Teague to clarify for him what the "one time" constitutes. Is there a time limit? Planner Teague clarified that the "one time" has an expiration date of 2-years after final approval.

Motion

Commissioner Carpenter moved to recommend Ordinance Amendment approval as modified. Commissioner Scherer seconded the motion. All voted aye; motion carried.

Zoning Ordinance Amendment – Utility & Mechanical Equipment Ordinance

Planner Teague said the Commission has reviewed the proposed amendment on a number of occasions and the following changes have been added.

- The size of the utility and mechanical equipment that must meet required setback has been reduced from 80 to 36 square feet.
- Grouped equipment that exceeds 36 square feet must also meet the required setbacks.

Discussion

Commissioner Carpenter asked for clarification on if the 36 square feet refers to the footprint of the utility equipment. Planner Teague responded in the affirmative.

Carpenter suggested that the reference to 36 square feet be modified to include the word footprint. Teague agreed with the suggested modification.

Commissioner Forrest said another form of utility equipment to keep in mind is the wind generator. Planner Teague agreed adding that wind generators are currently addressed by Ordinance.

Motion

Commissioner Platteter moved to recommend Ordinance Amendment approval with the clarification that the 36 square feet refers to the footprint of the utility equipment. Commissioner Forrest seconded the motion. All voted aye; motion carried.