



PLANNING COMMISSION MEETING

STAFF REPORT

Thursday, September 15, 2016

- | | |
|-----------------------------------|---|
| Item 1
PL2016-138
6:00 p.m. | Smalls Corporation dba 9RoundKickbox Fitness (user)
Park Place Bloomington LLC (owner)
10700 France Avenue
Conditional Use Permit for a health club (kickboxing gym) within the Park Place on France development |
| Item 2
PL2016-142
6:05 p.m. | City of Bloomington
Amending and reorganizing sections of Chapters 19 and 21 of the Bloomington City Code pertaining to the Flood Hazard Overlay District. The proposed changes update City Code language to be consistent with Federal Emergency Management Agency (FEMA) requirements and move the current Flood Hazard Overlay District section from Chapter 19 to Chapter 21 |
| Item 3
PL2016-144
6:10 p.m. | City of Bloomington
A rezoning ordinance modifying the boundaries of the Flood Hazard (FH) Overlay District to match the updated Flood Insurance Rate Maps (FIRMs) |
| Item 4
(study item) | City of Bloomington
Discuss Industrial Zoning Districts and Standards |
| Item 5 | City of Bloomington
Consider approval of draft 8/25/16 Planning Commission meeting synopsis |

Originator
Planning

Item
**Conditional Use Permit for a Kickboxing Gym (Health Club) at 10700
France Avenue South**

Date
9/15/2016

Description

Applicant: Damion Smalls (user)
Park Place Retail, LLC (owner)

Location: 10700 France Avenue South

Request: Conditional use permit for a kickboxing gym (health club) within Park Place on France development

Requested Action

Note the Planning Commission has final approval authority on this conditional use permit application unless an appeal to the City Council is received by 4:30 p.m. on September 20, 2016.

Staff recommends the following motion:

In Case PL2016-138, having been able to make the required findings, I move to adopt a resolution approving a conditional use permit for a health club located at 10700 France Avenue South, subject to the conditions attached to the staff report.

Attachments:

Staff Report
Recommended Conditions of Approval
Resolution
Project Description
Floor Plan
Notification Map
Publication Verification

GENERAL INFORMATION

Applicant: Damion Smalls (user)
Park Place Retail, LLC (owner)

Location: 10700 France Avenue South

Request: Conditional use permit for a kickboxing gym (health club) within Park Place on France development

Existing Land Use and Zoning: Retail and office, zoned B-4(PD)

Surrounding Land Use and Zoning: West – Offices, zoned B-2 and Multifamily Housing; zoned R-4;
North and East – Retail Shopping Center, zoned B-4 and B-4(PD) and Multifamily Housing, zoned R-4; and
South – Single family residential; zoned R-1 and R-4

Comprehensive Plan Designation: General Business

HISTORY

City Council Action: August 6, 2007 – Adopted an ordinance approving the rezoning from B-4, Neighborhood Commercial to B-4(PD), Neighborhood Commercial (Planned Development) and approved the preliminary and final development plan for three retail buildings (Case 8926ABC-07).

Planning Manager Action: October 27, 2008 – Administratively approved revised final development plans for building footprint and exterior modifications of a proposed retail center (Case 8926A-08).

Planning Commission Action: May 21, 2015 – Approved conditional use permits for three restaurants (Case 8926BCD-15).

Planning Commission Action: October 8, 2015 – Approved a conditional use permit for a 10 indoor seat and 20 outdoor seat restaurant (Case 8926G-15) and approved an amendment to a previously approved conditional use permit to relocate a 60 indoor seat and 10 outdoor seat restaurant (Case 8926H-15).

City Council Action: October 19, 2015 – Approved an amendment to a previously approved conditional use permit to expand a 180 indoor seat and 57 rooftop seat restaurant (Case 8926I-15)

and approved a major revision to the final development plan for an approximately 1,400 square foot second floor addition (Case 8926F-15).

CHRONOLOGY

Planning Commission 09/15/16 Public hearing scheduled

DEADLINE FOR AGENCY ACTION

Application Date:	08/09/16
60 Days:	10/08/16
120 Days:	12/07/16
Applicable Deadline:	10/08/16
Newspaper Notification:	Confirmed – (09/01/16 Sun Current – 10 day notice)
Direct Mail Notification:	Confirmed – (500 buffer – 10 day notice)

STAFF CONTACT

Mike Centinario
(952) 563-8921, mcentinario@BloomingtonMN.gov

PROPOSAL

Damion Smalls, 9Round Kickboxing, is requesting a conditional use permit for a health club within a vacant tenant space at the Park Place on France shopping center. The applicant is proposing to open a 9Rounds Kickboxing health club franchise. The proposed club would encompass 950 square feet, which would be comprised of a small entry area with kiosk, member storage area, restroom, and nine circuit training “stations.” The applicant plans to initially have only one staff member, but may additional trainers as membership increases. No exterior changes to the building or site are proposed.

ANALYSIS

Health clubs are *conditional accessory* uses within the B-4 zoning district. Therefore, a conditional use permit is required and the floor area is limited to 25 percent of the site. The proposed health club is approximately 4.5 percent of the building and is consistent with the accessory requirement.

The 950 square foot tenant space is located between Sports Clips and Firehouse Subs within the Park Place on France shopping center. Consistent with other tenant spaces, the primary entrance would be oriented towards the interior parking lot, although there would be a secondary entrance along France Avenue. The applicant submitted both an interior floor plan and a fitness equipment plan – the space includes a small entrance kiosk and member storage area while the majority of space is dedicated to circuit training stations. No outdoor activities are proposed.

The applicant anticipates 10 to 15 members during peak hours; typically peak hours are during lunch and between 4 and 8 pm. The City Code requires one parking stall for each 250 square feet of floor area, which translates to four parking spaces for a health club use at this size. This tenant space was originally identified as retail, which has a slightly higher parking ratio, one stall for each 180 square feet of floor area, or five stalls. The proposed health club has a lower parking requirement than the previously approved use mix. City Code parking requirements are met for the proposed health club.

Staff believes the Park Place on France development is underserved with bike racks and has received complaints there are insufficient bike storage facilities. Bike racks were installed underneath the emergency access staircase along the south side of the building, but those racks are not visible from, or particularly useful for, the remainder of the shopping center. Staff is recommending a Condition of Approval requiring the property owner to install bike racks to accommodate bikes throughout the development. The patio area located between the building and street corner is a logical place for bike racks. A 2007 plan identified bike racks in this location, although bike racks have not been installed in the patio.

Presumably, the applicant would have signage on the building exterior. Sign review is handled administratively – a separate permit is required for all signage and the sign must be consistent with the approved Uniform Sign Design approved for the Park Place on France center. Staff would work with the applicant and their sign designer to accommodate new signage for the site.

FINDINGS

Section 21.501.04(e)(1-5) Conditional Use Permits

- (1) The proposed use is not in conflict with the Comprehensive Plan;**
 - The Comprehensive Plan designates the property as General Business, which allows retail and service uses such as a health club. A health club is a conditional accessory use in the B-4 zoning district and is consistent with the General Business designation in the Comprehensive Plan.
- (2) The proposed use is not in conflict with any adopted District Plan for the area;**
 - The property is not in a location with an adopted district plan.

(3) The proposed use is not in conflict with City Code provisions;

- A health club is a conditional accessory use in the B-4 zoning district and the use is not in conflict with applicable code provisions.

(4) The proposed use will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development; and

- The proposed health club is not anticipated to create an excessive burden on public facilities and utilities. Health clubs are commonly located within retail strip centers as they complement the business mix.

(5) The proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.

- A health club is a community service use which is consistent with the surrounding uses and neighborhood. The submitted plans reflect a use which is not anticipated to be injurious to the surrounding tenants and property owners. The use is compatible with the neighborhood and will support healthy lifestyles in the community.

RECOMMENDATION

Note the Planning Commission has final approval authority on this conditional use permit application unless an appeal to the City Council is received by 4:30 p.m. on September 20, 2016.

Staff recommends the following motion:

In Case PL2016-138, having been able to make the required findings, I move to adopt a resolution approving a conditional use permit for a health club located at 10700 France Avenue South, subject to the conditions attached to the staff report.

RECOMMENDED CONDITIONS OF APPROVAL

Case PL2016-138

Project Description: A 950 square foot kickboxing gym (health club) within the Park Place on France development located at 10700 France Avenue South

Address: 10700 FRANCE AVE S

The following conditions of approval are arranged according to when they must be satisfied. In addition to conditions of approval, the use and improvements must also comply with all applicable local, state, and federal codes. Codes to which the applicant should pay particular attention are included below.

1. Prior to Permit Sewer Availability Charges (SAC) must be satisfied.
2. Prior to C/O Bicycle parking spaces must be provided throughout the site. Location and number of racks as approved by the City Engineer.
3. Ongoing The conditional use permit is limited to the floor area shown on the approved plans in Case File # PL2016-138.
4. Ongoing All trash and recyclable materials must be stored inside the principal building (Sec. 19.51).
5. Ongoing Signs must be in conformance with the requirements of Chapter 19, Article X of the City Code and Uniform Design Plan.
6. Ongoing No waste, construction or otherwise, may be dumped in storm sewers.

PLANNING COMMISSION RESOLUTION NO. 2016 - ____

A RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR A HEALTH CLUB LOCATED AT 10700 FRANCE AVENUE SOUTH, BLOOMINGTON, MINNESOTA

WHEREAS, the Bloomington Planning Commission is empowered under State Law and the Bloomington City Code to act upon certain types of conditional use permits; and

WHEREAS, an application (Case PL2016-138) has been filed on behalf of Park Place Retail, LLC, the owner of the premises located at 10700 France Avenue South, and legally described as follows:

Lot 2, Block 1, BLOOMDALE REDEVELOPMENT

For a conditional use permit for a health club in the B-4 General Commercial Zoning District (Planned Development).

WHEREAS, the Planning Commission has reviewed said request at a duly called public hearing; and

WHEREAS, the Planning Commission has considered the report of the City staff, comments at the public hearing and the findings required to be met prior to issuance of a

conditional use permit in Bloomington City Code Section 21.501.04 (e) (1) through (5) and has found as follows:

- (1) The proposed use is not in conflict with the Comprehensive Plan;
 - The Comprehensive Plan designates the property as General Business, which allows retail and service uses such as a health club. A health club is a conditional accessory use in the B-4 zoning district and is consistent with the General Business designation in the Comprehensive Plan.
- (2) The proposed use is not in conflict with any adopted District Plan for the area;
 - The property is not in a location with an adopted district plan.
- (3) The proposed use is not in conflict with City Code provisions;
 - A health club is a conditional accessory use in the B-4 zoning district and the use is not in conflict with applicable code provisions.
- (4) The proposed use will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development; and
 - The proposed health club is not anticipated to create an excessive burden on public facilities and utilities. Health clubs are commonly located within retail shopping centers as they complement the business mix.
- (5) The proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.
 - A health club is a community service use which is consistent with the surrounding uses and neighborhood. The submitted plans reflect a use which is not anticipated to be injurious to the surrounding tenants and property owners. The use is compatible with the neighborhood and will support healthy lifestyles in the community.

NOW THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF BLOOMINGTON IN REGULAR MEETING ASSEMBLED:

- A. That the recommendation of the City Staff is adopted;

B. That the conditional use permit shall expire if not used or applied in accordance with the provisions of City Code Section 21.501.04(g);

C. That the conditional use permit may be suspended or revoked in accordance with the provisions of City Code Section 21.501.04(h);

D. That the requested conditional use permit for a health club at 10700

France Avenue South is approved, subject to the following conditions:

1. Sewer Availability Charges (SAC) must be satisfied.
2. Bicycle parking spaces must be provided throughout the site. Location and number of racks as approved by the City Engineer.
3. Conditional use permit is limited to the floor area shown on the approved plans in Case File PL2016-138.
4. All trash and recyclable materials must be stored inside the principal building (Sec. 19.51).
5. Signs must be in conformance with the requirements of Chapter 19, Article X of the City Code and Uniform Design Plan.
6. No waste, construction or otherwise, may be dumped in storm sewers.

E. That additional conditional use permit documents in Case PL2016-138 relating to the subject premises will be available for inspection pursuant to Minnesota Statutes Section 462.36, Subd. 1, through the Bloomington Planning Division Offices.

Passed and adopted this 15th day of September, 2016.

The three day period to appeal the Planning Commission's decision to the City Council expired on September 20, 2016.

- An appeal was not received and the conditional use permit is now in effect.
- An appeal was received and the final decision on the conditional use permit will therefore be made by the Bloomington City Council.

Planning Commission Chair

Date

ATTEST:

Secretary to the Planning Commission

Date

City of Bloomington, MN Conditional Use Permit Application

Smalls Co., a Minnesota Corporation (Corporation), d/b/a 9Round Franchising, LLC

Smalls Co., is a business entity under the laws of Minnesota, We intend to open a 950 sq ft. 9Round Kickbox Fitness health gym at 10700 France Ave. S. Suite 114, Bloomington, MN 55431.

We plan to have a successful 9Round Kickbox Fitness franchise in the Bloomington, MN area. 9Round is a low maintenance operation and includes Full body 30 minute kickboxing workout, no class time (circuit training), workout changes daily and trainer is always included and plan to focus on the customer first hand.

9Round Franchising, LLC., is a South Carolina limited liability company that franchises to owner operators worldwide. 9Round members will have unlimited access of the gym during business hours. Bloomington, MN will be the first for a 9Round Kickbox Fitness.

9Round Fitness Bloomington will offer 3 different package options for memberships. You can choose from Term (Contract), Month to Month and PIF (Paid in Full). Members are issued a key tag which allows access to the gym for workout during business hours. Members will have the option to workout for 30 minutes from 8am-1pm and 4pm-8pm. Peak hours vary from 10-15 members during lunch and at reopen.

The philosophy of 9Round, to close the gym between the hours of 1pm-4pm to market the business by cold calling, marketing, word of mouth and mailing flyers to the neighborhoods.

Initially the gym will be ran by one person, owner/manager and as the memberships grow we will add more trainers. The main purpose is to run the gym with a simple and easy clean operation with also Fun and Fitness!

Attached are the site improvement floor plan.

Respectfully submitted by: Damion Smalls, President of Smalls Corporation

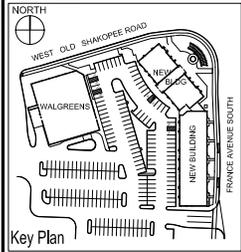
KICKBOXING FITNESS TENANT IMPROVEMENTS

10700 France Avenue South #114

Bloomington, MN 55437

ARCHITECTURAL CONSORTIUM L.L.C.

901 North Third Street, Suite 220 Minneapolis, MN 55401 612-436-4030 Fax 612-692-9960



Mark	Revision / Issue	Date
PERMIT SET		07-18-16

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision, and that I am a duly Licensed Architect under the laws of the State of Minnesota.
Printed Name: Kelly L. Anderson
Signature: [Signature]
Date: 07-18-16 License #: 22286

KICKBOXING FITNESS TI BLOOMINGTON, MN

PROJECT /CODE INFO. SCALE: AS NOTED

PROJECT NUMBER:	16-1062-01
ISSUED DATE:	07-18-16
DRAWN BY:	GAM
CHECKED BY:	KA

A1.1

Architectural Consortium, L.L.C. 2015

PROJECT INFO

LANDLORD
SOLOMON REAL ESTATE GROUP
1508 WELAND AVE
MINNETONKA, MN 55305
CONTACT: JAY SCOTT
(651) 336-6060
JayScott@solomone.com

ARCHITECT

901 NORTH 3RD STREET, SUITE 220
MINNEAPOLIS, MN 55401
ARCHITECTURAL CONSORTIUM L.L.C.
CONTACT: CHRIS MUELLER
(612) 314-4372 (OFFICE)
cmueller@archconsort.com

TENANT

KICKBOXING FITNESS
SMALLS CORPORATION
2401 CHICAGO AVE S
MINNEAPOLIS, MN 55404
CONTACT: DAMON SMALLS
(612) 857-4067

MECH., ELEC., PLUMBING HVAC, & FIREPROTECTION

DESIGN BUILT BY GENERAL CONTRACTOR

SHEET INDEX

- A1.1 PROJECT /CODE INFO & ROOF PLAN
- A2.1 FLOOR PLAN & DETAILS
- A2.2 REFLECTED CEILING AND LIGHTING PLAN
- A2.3 COORDINATION POWER AND DATA PLAN

GENERAL NOTES

- GENERAL CONTRACTOR SHALL BE RESPONSIBLE TO FIELD VERIFY ALL EXISTING CONDITIONS & DIMENSIONS PRIOR TO COMMENCING WITH WORK AND TO NOTIFY ARCHITECT IMMEDIATELY OF ANY DISCREPANCIES.
- GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR THE COORDINATION AND MODIFICATION OF ALL MECHANICAL, ELECTRICAL, PLUMBING, HVAC, FIRE PROTECTION AND STRUCTURAL CONSTRUCTION AND SHALL COMPLY WITH ALL APPLICABLE CODES.
- GENERAL CONTRACTOR SHALL COORDINATE & INSTALL ALL NECESSARY BLOCKING, SHIMS & BACKING FOR FIXTURES, EQUIPMENT, AND ACCESSORIES FOR LANDLORD WORK.
- GAGE, SPACING, BRIDGING, CONNECTIONS AND BRACING OF ALL LIGHT GAGE FRAMING MEMBERS SHALL BE PROVIDED BY SUPPLIER.
- COORDINATE SCHEDULE LOCATION AND SEQUENCING WITH LANDLORD AND ALL APPLICABLE PARTIES TO ENSURE NO DISRUPTION TO ADJACENT TENANTS AND/OR SHARED COMMON SPACES.
- GENERAL CONTRACTOR SHALL MAKE ANY NECESSARY REPAIRS AT NO COST TO LANDLORD AND/OR TENANT FOR DAMAGE TO ADJACENT AREAS AS A RESULT OF WORK.
- GENERAL CONTRACTOR SHALL PROVIDE PROTECTION OF THE WORK THROUGHOUT THE CONSTRUCTION AS REQUIRED AND PER CODE.
- GENERAL CONTRACTOR SHALL COORDINATE AND PROVIDE SUBMITTAL INFORMATION BUT IS LIMITED TO MEP ITEMS, FINISH MATERIALS, APPLICABLE SHOP DRAWINGS TO ALL PARTIES FOR REVIEW AND APPROVAL AND SHALL BE RESPONSIBLE FOR PROVIDING DEFERRED SUBMITTAL ITEMS TO CITY PRIOR TO EXECUTION OF APPLICABLE WORK.

CODE DATA

- GENERAL SITE AND PROJECT INFORMATION**
 - Plans contain improvements and built out to suit specific future tenant requirements beyond the initial shell space prepared by Landlord. The existing shell building is being reused with no modifications to the existing structure other than penetrations where noted.
 - The building is protected by an automatic fire suppression system. System shall be modified where necessary as a result of work and layout contained here in.
- GOVERNING CODES**
 - 2015 MINNESOTA STATE BUILDING CODE WITH AMENDMENTS INCORPORATING THE FOLLOWING:

2012 International Building Code (IBC)	2015 International Fire Code (IFC)
2015 Minnesota Plumbing Code	W/ MN Amendments per MN Chapter 7511 per MN Chapter 47.14
2012 International Mechanical Code (IMC)	2015 Minnesota State Energy Code
W/ MN Amendments per Chapter 1346	2015 MN Accessibility Code - ICC-117.1-0096
2014 National Electrical Code (NEC)	W/ MN Amendments per MN Chapter 1341
W/ MN Amendments per Chapter 1315	2015 MN Conservation Code for Existing Buildings
	W/ MN Amendments per MN Chapter 1311

- USE AND OCCUPANCY CLASSIFICATION**
 - Tab. 508.1- One hour separation required for storage area over 100 sq. ft. or provide fire suppression system however incidental storage space must not be the passage of smoke.
 - Sec. 508.3.2- Non-Separated, Mixed Use per shall - No separation req'd between occupancy groups A, B, M, & S-1 given the most restrictive occupancy groups.
 - Sec. 303.- Portion of the building affected by this work is Mixed Occupancy Non-separated
 - Future Kickboxing Fitness Assembly type A-3 Occupancy.

- TYPE OF CONSTRUCTION**
 - Tab. 601.- Original Construction type per shell documents is V-8, sprinkled. It requires no fire resistance ratings for structural framing, interior bearing walls, floor construction, or for roof construction and floor for such assemblies to be constructed of any materials as permitted by the code including. Typical non-combustible commercial construction is intended for the purposes of this work.

- INTERIOR FINISHES**
 - Tab. 803.8- Interior wall and ceiling finishes for occupancy Group A-3 sprinkled, are Class B for exit enclosures, wall passageways, Class B for corridors, and Class C for rooms and enclosed spaces.

- MEANS OF EGRESS**
 - ASSEMBLY USE ASSUMED - (1 Occupant per 90 SF gross-Exercise rooms) 950 SF = 19 Occupants
TOTAL = 19 Occupants

- Egress width calculation values are from Sec. 1005.1 and calculations above. Sprinkled buildings require 0.15' per occupant for means of egress other than stairs. Spaces is provided with no less than 1' exit (See VII. D below) which provides a minimum of 32' of exit width.

- DOOR REQUIREMENTS**
 - Sec. 1008.1.2- Egress doors shall be side hinged swinging and swing in the direction of egress travel where serving an occupant load of 50 or more persons or a high-hazard occupancy. Operating force for interior side swinging doors without closers shall not exceed a 5 lb. force. For other doors the latch shall release when subjected to a 15 lb. force. The door shall be set in motion when subjected to a 20 lb. force and shall swing to a full open position when subjected to a 15 lb. force. All forces shall be applied to each side.
 - Sec. 1008.1.5- Egress doors shall be readily operable from the egress side without the use of a key or special knowledge or effort.
 - Sec. 1008.1.8.3- Unlatching of any door or leaf shall not require more than one operation except where identified by other code sections and upon approval by Building Code Official.
 - Spaces with an occupant load of 40 or less occupants are required to have only one means of egress as per Tab. 1015.1 in addition to a maximum path of travel of 75 feet per Sec. 1014.3. Max. travel distance of 72' provided.

- MEANS OF EGRESS**
 - Values are from Sec. 1019, Tab. 1015.1, and actual plan layout contained in these construction documents. Minimum of 2 exits required for 1-500 occupants except where allowed otherwise by code as per Item VII. D above.
 - Tab. 1015.1 - Maximum exit access travel distance, measured along the exit path, shall not exceed 250 feet for sprinkled buildings of occupancy Group M, B or S-1.
 - Sec. 1014.2 - Egress from a room or space shall not pass through adjoining or intervening rooms or areas, except where such adjoining rooms or areas are accessory to the area served, are not a high-hazard occupancy, and provide a discernible path of egress travel to an exit. Egress shall not pass through store rooms, or spaces used for a similar purpose.

- ACCESSIBILITY**
 - Space shall meet the requirements of the 2015 MSBC and referenced ANSI A117.1-2009 standard with Chapter 1341 amendments as required including but not limited to all entrance, exit path of travel, door clearances and include an accessible route which is provided at the front entry of the tenant space.
 - Toilet shall be in keeping with current standards and located along an accessible route.

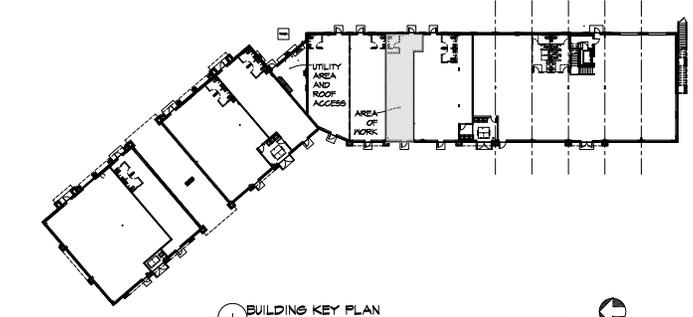
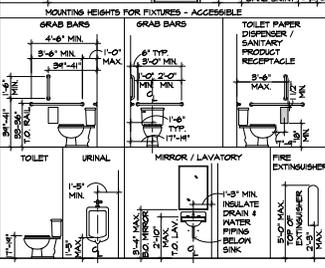
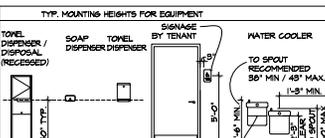
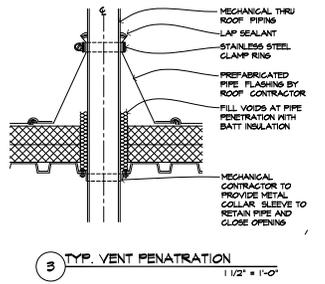
- MINIMUM PLUMBING FACILITIES**
 - Amended Sec. 2902.2 - Separate toilet facilities shall be provided for each sex with the exception of the following:
 - Separate facilities shall not be required for dwelling units and sleeping units.
 - Separate facilities shall not be required in situations or tenets spaces with a total occupant load, including both employees and patrons, of 20 or less.
 - Separate facilities shall not be required in Mercantile occupancies where the total occupant load is 100 or less.
 - Amended Table 2902.1
 - A drinking fountain shall not be required in buildings or tenant spaces having an occupant load less than 50.
 - A service sink is not required in type M or B occupancies where the total occupant load is 15 or less.

- COMPONENTS: FUTURE KICKBOXING FITNESS**
 - Water closet req'd: Single Unit-Sex allowed and provided per A 2 above. Urinal not req'd.
 - Lavatory req'd: Single Unit-Sex provided.
 - Drinking fountain per 1,000 occupants req'd. None provided / Req'd per S. 1 above.
 - 1 service sink: Single service sink provided.

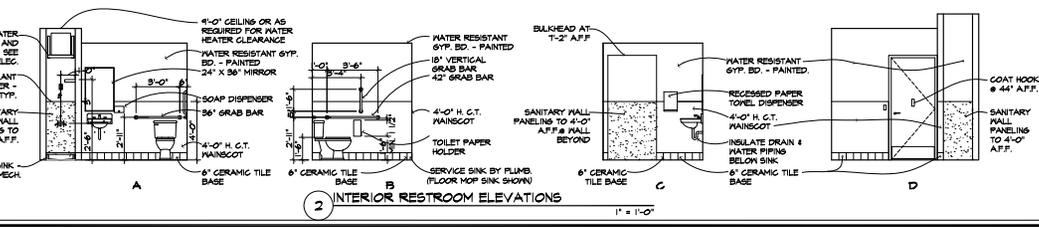
- Amended Section 2902.9 - Controlled access to required facilities.
 - Tenant reserves right for controlled access of required facilities, and shall recognize that said facilities must remain available for utilization by those employees, customers and/or patrons as applies but only in such event that a specific request is made for customers and/or patrons.

DEFERRED SUBMITTAL ITEMS:

- Deferred submittals are those portions of the design that are not submitted at time of the application for the building permit. Deferred submittals are allowed in MSBC 1500.030 Subj. 8.9 but are required to be submitted within a specified time and with the building officials prior approval. All items must be submitted to Architect prior to installation.
- FIRE PROTECTION / SPRINKLER DESIGN, FIRE ALARM
- MECHANICAL, ELECTRICAL, PLUMBING AND HVAC



- TOILET GENERAL NOTES:**
 - 2015 MSBC ALLOWS THE DOOR SWING TO OVERLAP BOTH THE CLEAR FLOOR SPACE AT FIXTURES & THE 5' DIA. TURNING SPACE ASSUMING A CLEAR FLOOR AREA IS AVAILABLE PAST THE OPEN SWING OF THE DOOR.
 - PLUMBING FIXTURES AND TOILET ACCESSORIES TO BE IN COMPLIANCE WITH 2015 MN ACCESSIBILITY CODE AND REFERENCED ICC / ANSI A117.1-2009 STANDARD W/ CHAPTER 1341 AMENDMENTS.
 - PROVIDE MOOD BLOCKING AT ALL GRAB BARS AND TOILET ACCESSORIES.
 - USE 5/8" MOISTURE RESISTANT GYP BRD ON ALL INTERIOR WALLS AND CEILINGS WHERE APPLIES AT TOILET ROOMS.
 - PROVIDE ADA FLOORING TRANSITIONS BETWEEN FLOORING MATERIALS AS REQ'D.
 - PROVIDE AND INSTALL THE FOLLOWING: SURFACE TOILET PAPER DISPENSER, RECESSED PAPER TOWEL DISPENSER, GRAB BARS, 24" DIA. STAINLESS STEEL FRAMED MIRROR, AND ADA SIGNAGE. SOAP DISPENSER, TRASH AND OTHER ITEMS NOT LISTED AS APPLIES BY TENANT. COORD. BACKLOG / BLOCKING IN WALLS AS NECESSARY.

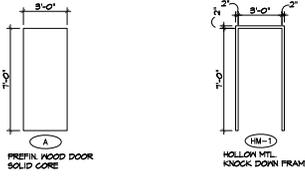


ROOM FINISH SCHEDULE										
ROOM NAME	FLOOR			WALLS			CEILING			REMARKS
	MATL.	FIN.	BASE	MATL.	FIN.	ACP-I	FIN.	HST.		
114-1 MAIN ROOM	CONC.	-	-	5/8" B	-	ACP-I	-	11'-0"	1, 2, B, 4	
114-2 TOILET	CONC.	GT	GT	5/8" B	GT/PT	5/8" B	PT	10'-0"	1, 2, B, 4	

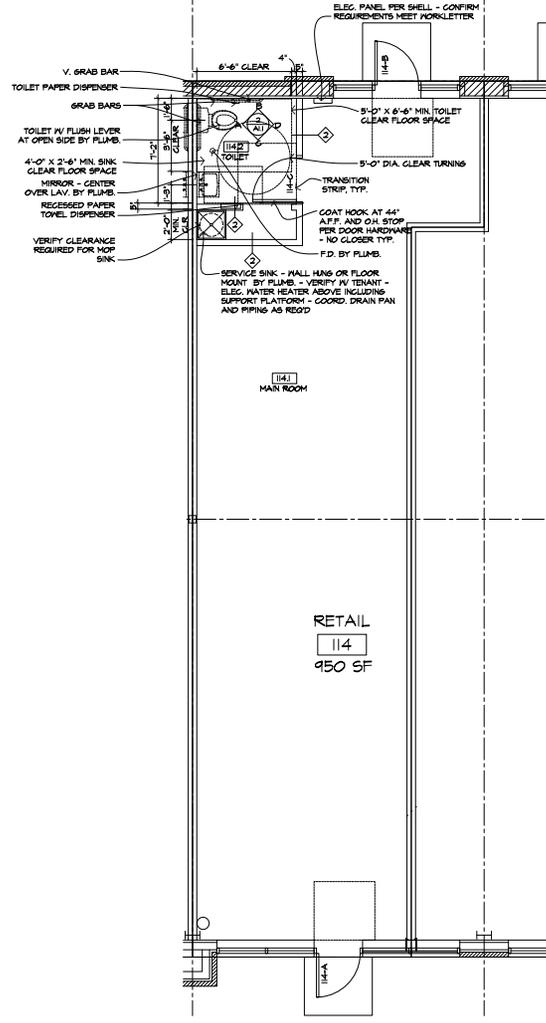
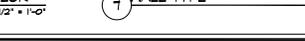
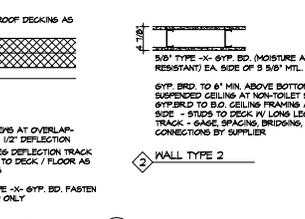
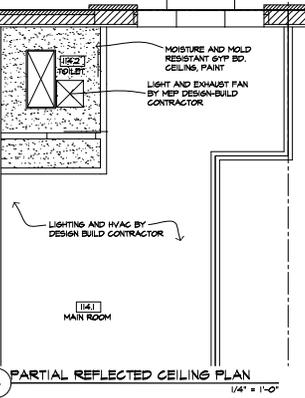
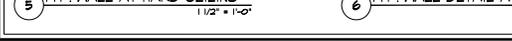
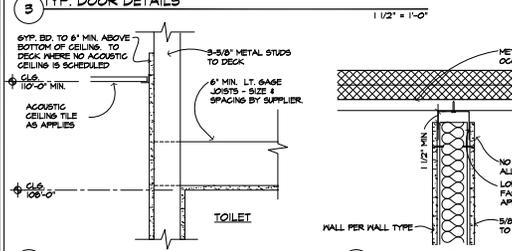
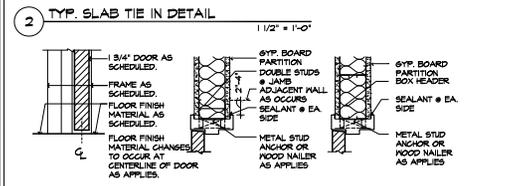
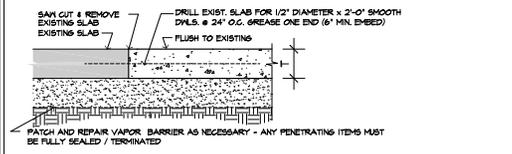
- 1) CONFIRM EXISTING EXTERIOR AND EXTERIOR WALLS TO BE PAINT READY TO DECK.
- 2) ADA TRANSITION STRIP AT FLOORING CHANGE REQ'D
- 3) ADDITIONAL FINISHES BY TENANT AS APPLIES, N.C. - REFER TO DRAWINGS BY OTHERS
- 4) CONC. SLAB TO BE READY TO ACCEPT TENANT FLOORING AND OR REIN. EXPOSED CONCRETE AND SHALL BE FREE OF DIRT AND OR DEBRIS, VOID OF ANY BUMPS OR DEPRESSIONS AND BE LEVEL IN ANY DIRECTION WITH IN 1/8" PER 10 FT.

DOOR SCHEDULE					
DOOR NO.	DOOR SIZE	DOOR TYPE	FRAME TYPE	HWY. GRP.	REMARKS
114-A	EXIST. AS OCCURS				1, 2, B
114-B	EXIST. AS OCCURS				1, 2, B
114-A	8'-0" x 7'-0"	A	1864	I	1, 2, B

- 1) EXISTING HARDWARE TO REMAIN AS IS AT EXISTING DOOR LOCATIONS
- 2) ALL EXITS TO BE OPERABLE FROM THE INSIDE WITHOUT THE USE OF KEY OR ANY SPECIAL KNOWLEDGE OR EFFORT.
- 3) LEVER TYPE HANDLE REQ'D
- 4) PAINT DOOR AND FRAME TO MATCH WALL - PT-15
- 5) REFER TO SEPARATE BUILDING SHELL DRAWINGS

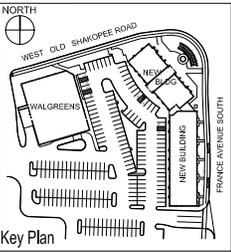


- Hardware Group NO 1:
- 3 Hinges
 - 1 Privacy Function Lockset Function F16. Throw-off lockbolt by lever. Outside lever locked by push action. (Lever handle is freeze-welding in locked position.) Outside lever unlocked by emergency release tool outside by rotating inside lever or by closing door. Inside lever always free. Closing door automatically disengages lock.
 - 1 Clothes Hook - 44-48" A.F.F.
 - 1 O.H. Stop
 - 1 Kick Plate
 - 1 Closer
 - 1 Lockset



ARCHITECTURAL CONSORTIUM L.L.C.

901 North Third Street, Suite 220 Minneapolis, MN 55401 612-436-4030 Fax 612-692-9960



Mark	Revision / Issue	Date
	PERMIT SET	07-18-16

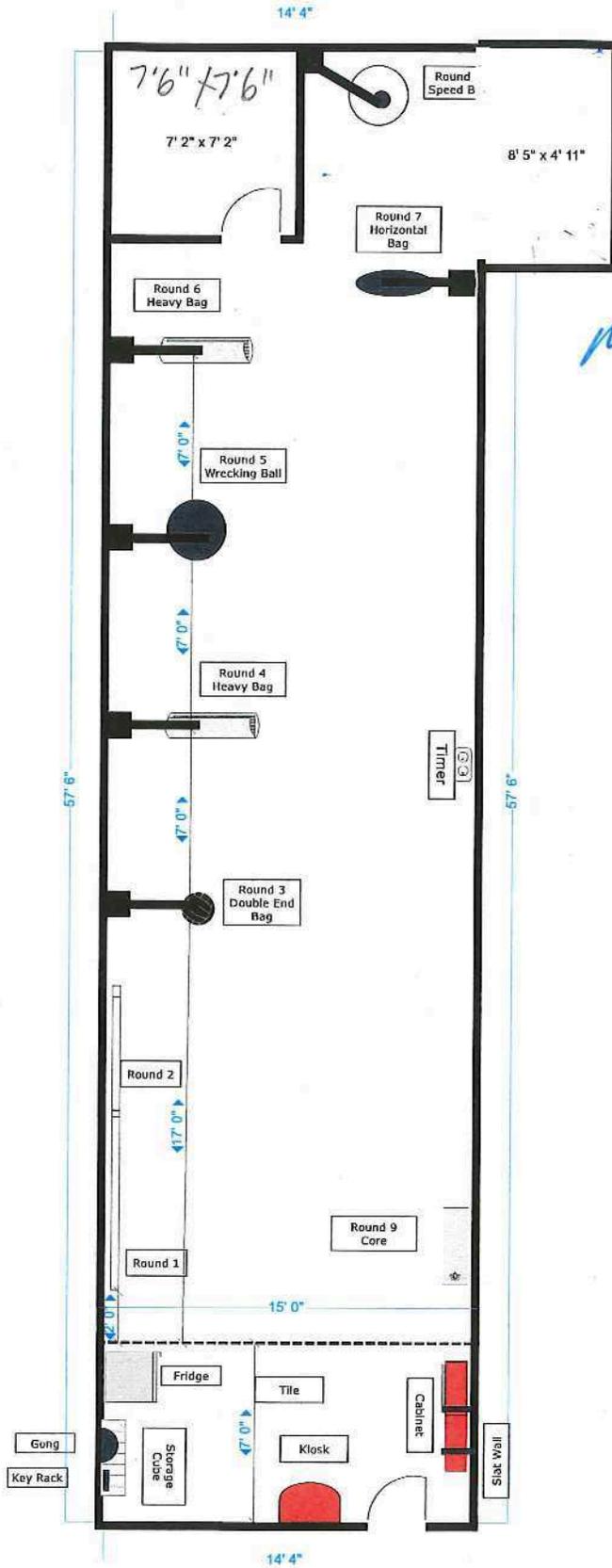
I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision, and that I am a duly Licensed Architect under the laws of the State of Minnesota.
 Printed Name: Kelly L. Anderson
 Signature: [Signature]
 Date: 07-18-16 License #: 22288

KICKBOXING FITNESS TI
 BLOOMINGTON, MN

FLOOR PLAN, MISC. DETAILS, PARTIAL RCP, DOOR AND FINISH SCHEDULES

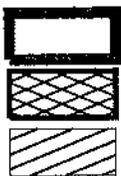
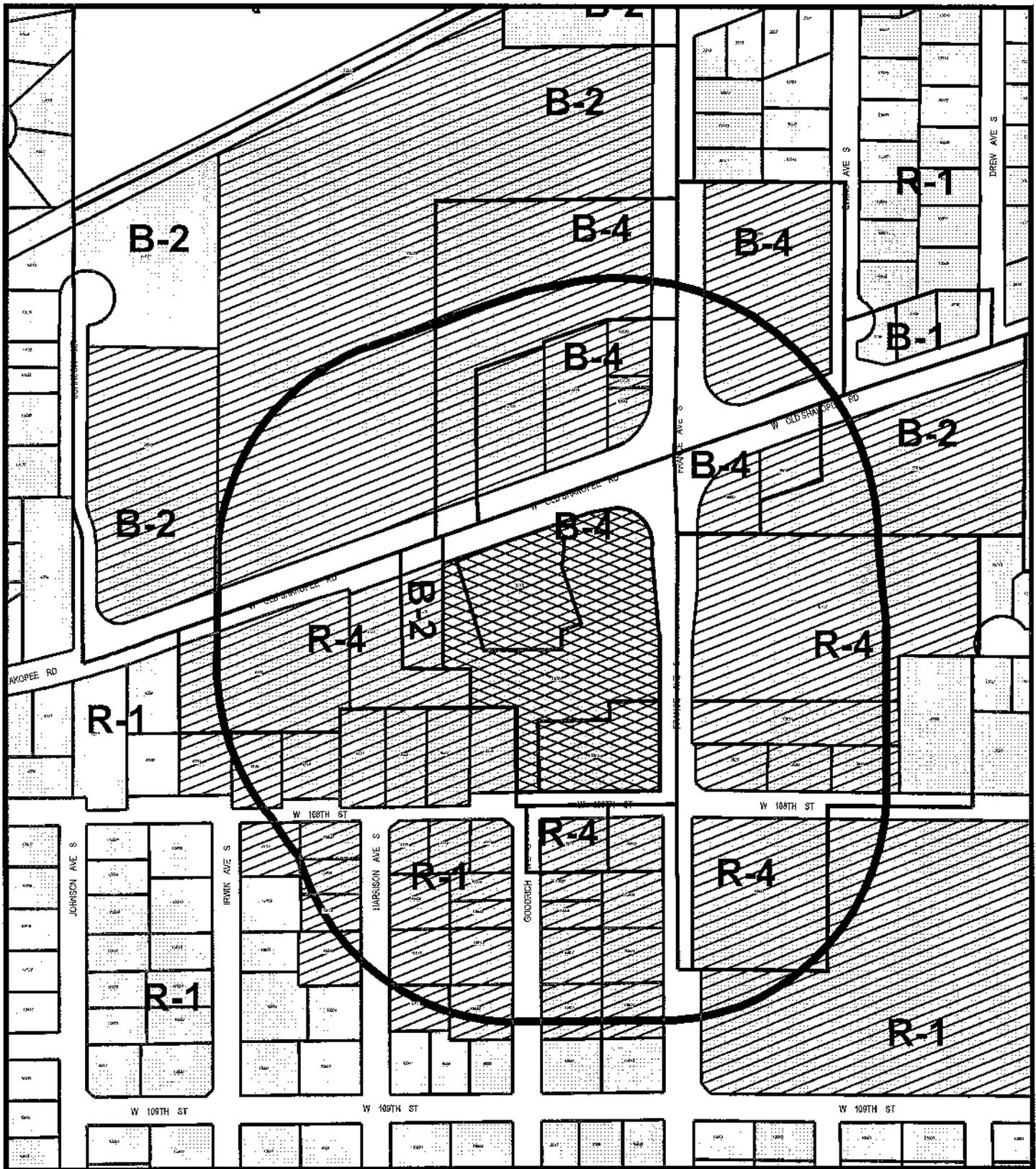
PROJECT NUMBER:	16-1062-01
ISSUED DATE:	07-18-16
DRAWN BY:	GAM
CHECKED BY:	KA

A2.1



Move speed bag

City of Bloomington Notification Map

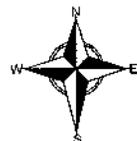
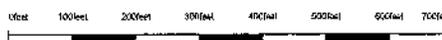


Notification Boundary
 Applicant Property
 Notified Properties

Zoning District Boundary
 (Labels Refer to Zoning District)

PL2016-138

(A notice of this application was sent to the registered owner of these properties)



Scale: 1:3600

Plot time: 08/17/2016 15:31:09

AFFIDAVIT OF PUBLICATION

STATE OF MINNESOTA)
COUNTY OF HENNEPIN) ss

Charlene Vold being duly sworn on an oath, states or affirms that he/she is the Publisher's Designated Agent of the newspaper(s) known as:

SC Bloomington

with the known office of issue being located in the county of:

HENNEPIN

with additional circulation in the counties of:
HENNEPIN

and has full knowledge of the facts stated below:

- (A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper as provided by Minn. Stat. §331A.02.
- (B) This Public Notice was printed and published in said newspaper(s) once each week, for 1 successive week(s); the first insertion being on 09/01/2016 and the last insertion being on 09/01/2016.

MORTGAGE FORECLOSURE NOTICES

Pursuant to Minnesota Stat. §580.033 relating to the publication of mortgage foreclosure notices: The newspaper complies with the conditions described in §580.033, subd. 1, clause (1) or (2). If the newspaper's known office of issue is located in a county adjoining the county where the mortgaged premises or some part of the mortgaged premises described in the notice are located, a substantial portion of the newspaper's circulation is in the latter county.

By: Charlene Vold
Designated Agent

Subscribed and sworn to or affirmed before me on 09/01/2016 by Charlene Vold.

Pauline J. Lee
Notary Public



Rate Information:

(1) Lowest classified rate paid by commercial users for comparable space:

\$34.45 per column inch

Ad ID 588601

CITY OF BLOOMINGTON NOTICE OF PUBLIC HEARING BY THE PLANNING COMMISSION

CASE FILE NUMBER:

PL2016-138

APPLICANT: Smalls Corporation
dba 9Round Kickbox Fitness (user)
Park Place on France LLC (owner)

PROPERTY ADDRESS:

10700 France Avenue

PROPOSAL: Conditional Use
Permit for a health club (kickbox-
ing gym) within the Park Place on
France development

DATE, LOCATION, AND TIME
OF HEARING:

September 15, 2016, 6:00 p.m.

City Council Chambers -

Bloomington City Hall

1800 West Old Shakopee Road

Planning Commission decision
is final subject to appeal.

HOW YOU CAN PARTICIPATE:

(Please include Case File num-
ber above when corresponding)

1. Submit a letter to the address below expressing your views;
2. Attend the hearing and give testimony about the proposal; and/or

3. Contact the Planning Division using the information below.

FURTHER INFORMATION:

A full copy of the Case File is available for public review during regular business hours in the Community Development Department at Bloomington Civic Plaza, 1800 West Old Shakopee Road, Bloomington, MN 55431-3027

OR contact:

Mike Centinario, Planner

1800 West Old Shakopee Road

Bloomington, MN 55431-3027

(952) 563-8921

Email:

mcentinario@BloomingtonMN.gov

Published in the
Bloomington Sun Current
September 1, 2016
588601

Originator
Planning

Item

Amending and reorganizing sections of Chapters 19 and 21 of the Bloomington City Code pertaining to the Flood Hazard Overlay District. The proposed changes update City Code language to be consistent with Federal Emergency Management Agency (FEMA) requirements and move the current Flood Hazard Overlay District section from Chapter 19 to Chapter 21

Date
9/15/2016

Description

Applicant: City of Bloomington

Request: Amend and reorganize sections of Chapters 19 and 21 of the Bloomington City Code pertaining to the Flood Hazard Overlay District to be consistent with Federal Emergency Management Agency (FEMA) requirements and relocate Flood Hazard Overlay District standards from Section 19.38.02 to Section 21.208 of the City Code

Requested Action

Staff recommends the following motion:

In Case PL2016-142, I move to recommend City Council approve an ordinance as attached to the staff report amending sections of Chapters 19 and 21 of the Bloomington City Code pertaining to the Flood Hazard Overlay District.

Attachments:

Staff Report
Draft Ordinance
Project Description
Conditional DNR Approval
Affidavit of Publication

GENERAL INFORMATION

Applicant: City of Bloomington

Request: Amend and reorganize sections of Chapters 19 and 21 of the Bloomington City Code pertaining to the Flood Hazard Overlay District to be consistent with Federal Emergency Management Agency (FEMA) requirements and relocate Flood Hazard Overlay District standards from Section 19.38.02 to Section 21.208 of the City Code

CHRONOLOGY

Planning Commission	09/15/2016	Public hearing scheduled
City Council	10/03/2016	Public hearing scheduled

STAFF CONTACTS

Bryan Gruidl, Senior Water Resources Manager
(952) 563-4557
bgruidl@BloomingtonMN.gov

Mike Centinorio, Planner
(952) 563-8921
mcentinorio@BloomingtonMN.gov

BACKGROUND

On September 2, 2004, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) issued a Flood Insurance Rate Map (FIRM) that identified the Special Flood Hazard Areas (SFHAs), the areas subject to inundation by the base (1-percent-annual-chance) flood, in Hennepin County. Recently, FEMA completed a re-evaluation of flood hazards in Hennepin County.

On May 4, 2016 the City received a letter from FEMA, known as the Letter of Final Determination (LFD), explaining that the FIRMs for Bloomington, as well as the Hennepin County Flood Insurance Study were complete and will become effective on November 4, 2016.

The City of Bloomington currently participates in the National Flood Insurance Program (NFIP) which aims to reduce the impact of flooding on private and public structures by properly managing and enforcing floodplain regulations and providing affordable insurance to property owners. To continue participating in the NFIP the city is required to amend its existing flood hazard ordinance by November 4, 2016. The Minnesota Department of Natural Resources (DNR) is the State Coordinating Agency for the NFIP and has been assisting the city with this change.

The DNR provided a draft ordinance tailored to Bloomington. City staff further tailored the draft ordinance specifically to Bloomington and submitted the draft flood hazard ordinance to the DNR on August 8, 2016 for review. On August 15, 2016 the City received conditional State approval of the draft flood hazard ordinance from the DNR.

FEMA must receive a signed, certified, and in-effect ordinance no later than November 4, 2016. To allow sufficient time for processing and transmittal, the DNR has requested that all materials be provided to the DNR no later than November 1, 2016. If FEMA has not received the documentation by the map effective date, FEMA will suspend the City from the National Flood Insurance Program.

RECOMMENDATION

Staff recommends the following motion:

In Case PL2016-142, I move to recommend City Council approve an ordinance as attached to the staff report amending sections of Chapters 19 and 21 of the Bloomington City Code pertaining to the Flood Hazard Overlay District.

ORDINANCE NO. 2016-

**AN ORDINANCE AMENDING CHAPTERS 19 AND 21 OF THE CITY CODE
PERTAINING TO THE FLOODPLAIN REGULATIONS AND CODES.**

The City Council of the City of Bloomington, Minnesota ordains:

Section 1. That Chapter 19 of the City Code is hereby amended by deleting those words that are contained in brackets [] and adding those words that are underlined, to read as follows:

CHAPTER 19

ZONING

ARTICLE I: GENERAL PROVISIONS

DIVISION B: DEFINITIONS

§ 19.03 DEFINITIONS.

The following words and terms when used in Chapters 19 and 21 shall have the following meanings unless the context clearly indicates otherwise.

~~**[EQUAL DEGREE OF ENCROACHMENT.** A method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flow.]~~

~~**[FLOOD.** A temporary rise in lake level or stream flow or stage that results in inundation of the areas adjacent to the channel.~~

~~**FLOOD FRINGE.** The portion of the floodplain outside of the floodway. Those areas designated as floodway fringe as shown on the flood insurance rate map as adopted in § [19.38.02](#)(b) as being within Zone A, AE, Zone AO or Zone AH but being located outside of the floodway or as determined in § [19.38.02](#)(g)(4) and (g)(5).~~

~~**FLOOD INSURANCE RATE MAP (FIRM).** Flood maps prepared by the Federal Emergency Management Agency which are dated September 2, 2004.~~

~~**FLOOD PROTECTION ELEVATION.** An elevation no lower than one foot above the elevation of the regional flood or the most restrictive high water elevation identified by a public government agency with jurisdiction, plus any increase in flood elevation caused by encroachments on the floodplain which result from the designation of a floodway.~~

~~**FLOODPLAIN or FLOOD HAZARD (FH) OVERLAY DISTRICT.** The areas adjoining a watercourse, wetland, lake or waterbody, which have been or hereafter may be covered by the regional flood and that include the floodway and flood fringe areas which are designated Zone A or Zone AE, Zone AO or Zone AH on the flood insurance rate map adopted in § [19.38.02](#)(b).~~

~~**FLOODWAY.** The bed of a wetland or lake and the channel of the watercourse and those portions of the adjoining floodplains which are reasonably required to carry, store, and discharge the regional flood and are designated as floodway on the flood insurance rate map adopted in § [19.38.02](#)(b) or as determined in §[19.38.02](#)(g)(4) and (g)(5).]~~

~~[**REGIONAL FLOOD.** A flood which is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100 year recurrence interval. **REGIONAL FLOOD** is synonymous with the term “base flood” used in the flood insurance study.~~

~~**REGIONAL FLOOD ELEVATION.** The maximum high water level of the regional flood. In instances in which the regional flood elevation is expressed in part as a fraction of a whole number, the **REGIONAL FLOOD ELEVATION** shall be interpreted as the next highest whole number (e.g., regional flood elevation = 814.25 feet, the regional flood elevation is interpreted as 815 feet).~~

~~**REGULATORY FLOOD PROTECTION ELEVATION.** An elevation no lower than two feet above the elevation of the regional flood or the most restrictive high water elevation identified by a public government agency with jurisdiction, plus any increase in flood elevation caused by encroachments on the floodplain which result from the designation of a floodway.]~~

~~[**SUBSTANTIAL IMPROVEMENT.** Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement was started or before a damaged structure being repaired was damaged.]~~

ARTICLE III: ZONING DISTRICT MAP, ZONING DISTRICTS AND DISTRICT USES

§ 19.38 OVERLAY ZONING DISTRICTS.

- (b) *Establishment of districts.* The following overlay districts are hereby established:
- (1) Planned Development PD;

- (2) Flood Hazard FH ([section moved to §21.208.01](#));
- (3) Bluff Protection BP-1;
- (4) Bluff Development BP-2;
- (5) Airport Runway (AR-17) Overlay District; and
- (6) Airport Runway (AR-22) Overlay District.

(d) *Supplemental definitions.* The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.

~~**[BASEMENT.** Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.]~~

~~**[EQUAL DEGREE OF ENCROACHMENT.** A method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flow.]~~

~~**[FLOOD.** A temporary rise in lake level or stream flow or stage that results in inundation of the areas adjacent to the channel.~~

~~**FLOOD FRINGE.** The portion of the floodplain outside of the floodway. Those areas designated as floodway fringe as shown on the flood insurance rate map as adopted in § [19.38.02](#)(b) as being within Zone AE, Zone AO or Zone AH but being located outside of the floodway or as determined in § [19.38.02](#)(g)(4) and (g)(5).~~

~~**FLOOD INSURANCE RATE MAP (FIRM).** Flood maps prepared by the Federal Emergency Management Agency which are dated September 2, 2004.~~

~~**FLOODPLAIN or FLOOD HAZARD (FH) OVERLAY DISTRICT.** The areas adjoining a watercourse or lake which have been or hereafter may be covered by the regional flood and that includes the floodway and flood fringe and which are designated Zone A or Zones AE, Zone AO or Zone AH on the flood insurance rate map adopted in § [19.38.02](#)(b).~~

~~**FLOODWAY.** The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplains which are reasonably required to carry, store and discharge the regional flood and are designated as floodway on the flood insurance rate map adopted in § [19.38.02](#)(b) or as determined in § [19.38.02](#)(g)(4) and (g)(5).~~

~~**LOWEST FLOOR.** The lowest floor of the lowest enclosed area (including basement).~~

~~MANUFACTURED HOME.~~ A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term **~~MANUFACTURED HOME~~** does not include the term recreational vehicle.]

~~RECREATIONAL VEHICLE.~~ For purposes of meeting § [19.38.02](#), a **~~RECREATIONAL VEHICLE~~** shall be that which is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use. For the purposes of this section, the term **~~RECREATIONAL VEHICLE~~** shall be synonymous with the term travel trailer/travel vehicle.

~~REGIONAL FLOOD.~~ A flood which is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1% annual chance (100-year flood) interval regional flood is synonymous with the term “base flood” used in the flood insurance study.

~~REGIONAL FLOOD ELEVATION.~~ The maximum high water level of the regional flood. In instances in which the **~~REGIONAL FLOOD ELEVATION~~** is expressed in part as a fraction of a whole number, the **~~REGIONAL FLOOD ELEVATION~~** shall be interpreted as the next highest whole number (e.g., regional flood elevation + 814.25 feet, the regional flood elevation is interpreted as 815 feet).

~~REGULATORY FLOOD PROTECTION ELEVATION.~~ An elevation no lower than one foot above the elevation of the regional flood or the most restrictive high water elevation identified by a public government agency with jurisdiction, plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.]

~~SUBSTANTIAL DAMAGE.~~ Damage of any origin sustained by a structure within the (FH) Overlay District, where the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

~~SUBSTANTIAL IMPROVEMENT.~~ Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition or other improvement of a structure within the (FH) Overlay District, the cost of which equals or exceeds 50% of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have

incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

(1) ~~Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or~~

(2) ~~Any alteration of an “historic structure,” provided that the alteration will not preclude the structure’s continued designation as an “historic structure.” For the purpose of this section, **HISTORIC STRUCTURE** shall be as defined in C.F.R. part 59.1.]~~

§ 19.38.02 [FLOOD HAZARD (FH) OVERLAY DISTRICTS]RESERVED.

~~[(a) *Intent.* The Flood Hazard Overlay District is established to protect the public health, safety and general welfare; to minimize the extent of floods and flood losses; to assure the appropriate use of land; to regulate uses which are dangerous to health, safety and property in time of flooding or which cause excessive increases in flood heights and velocities; and to provide an overlay zoning district within any of the primary zoning districts. National Flood Insurance Program compliance: this section is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 C.F.R. parts 59 through 78, as amended, so as to maintain the community’s eligibility in the National Flood Insurance Program.~~

~~[(b) *Applicability.* This section shall apply to all lands within the jurisdiction of the city shown on the official zoning map and/or the attachments thereto as being located within the boundaries of the (FH) Overlay, including those areas within the floodway, flood fringe or floodplain as delineated on the *Flood Insurance Study, Volume 1 of 2 and Volume 2 of 2, Hennepin County, Minnesota, and all Jurisdictions* and the flood insurance rate map panels numbered 27053C0432 E, 27053C0434 E, 27053C0442 E, 27053C0451 E, 27053C0452 E, 27053C0453 E, 27053C0454 E, 27053C0456 E, 27053C0457 E, 27053C0458 E, 27053C0459 E, 27053C0461 E, 27053C0462 E, 27053C0466 E, 27053C0467 E, 27053C0476 E, 27053C0477 E, 27053C0478 E and 27053C0479 E for the city dated September 2, 2004, as developed by the Federal Emergency Management Agency “FEMA.”~~

~~[(c) *Permitted uses.* Within the Flood Hazard Overlay District, only the following uses having a low flood damage potential and not obstructing flood flows shall be permitted to the extent that the use is not prohibited by a provision of the primary zoning district and provided that the use does not require structures, fill or storage of materials or equipment:~~

~~(1) Agriculture, limited;~~

~~(2) Public governmental uses not involving principal or accessory structures;~~

- ~~(3) Parks, playgrounds, golf courses and tennis courts not involving principal or accessory structures; and~~
- ~~(4) Public utility installations, but not buildings or electric substations.~~

~~(d) *Conditional uses.* Within the Flood Hazard Overlay District, only the following conditional uses having a low flood damage potential may be granted to the extent that the use is not prohibited by any provision of the primary zoning district:~~

- ~~(1) Uses having principal structures located in the flood fringe;~~
- ~~(2) Uses having structures accessory to open space;~~
- ~~(3) Uses having structures accessory to public government uses and public utility installations, and located in the flood fringe;~~
- ~~(4) Uses requiring placement of fill;~~
- ~~(5) Extraction of sand, gravel and other materials, including dredging;~~
- ~~(6) Marinas, storage of boats, boat rentals, docks, piers, wharves and water-control structures;~~
- ~~(7) Railroads, streets, bridges, utility transmission lines and pipelines;~~
- ~~(8) Reserved; and~~
- ~~(9) Flood-control uses such as dams, levees, dikes and flood walls.~~

~~(e) *Interim uses.*~~

- ~~(1) Storage of equipment, machinery or materials related to on-site construction activities.~~

~~(f) *Prohibited uses.* All uses not listed as permitted uses or conditional uses in the Flood Hazard Overlay District, and specifically manufactured home parks, or RV parks are prohibited.~~

~~(g) *Procedures.* The following rules and procedures for the determination of flood characteristics, record keeping, notification of governmental agencies, granting of conditional uses and variances and amendment of these provisions shall be observed.~~

- ~~(1) The State Department of Natural Resources shall be notified by the city at least ten days in advance of any public hearing for a conditional use within the floodplain or variance to floodplain requirements and shall be notified within ten days of any official action taken under the provisions of this section. Additionally, no amendments to the floodplain regulations shall be made without written approval of the State Department of Natural Resources.~~
- ~~(2) The issuance of a variance or conditional use permit for any use shall not allow for a lower degree of flood protection than that established within the floodplain regulations.~~
- ~~(3) The issuing authority shall maintain a record of the elevation of the first floor, including basements, and the elevation to which the structure is floodproofed of all new structures or additions to structures in the Flood Hazard (FH) Overlay District.~~
- ~~(4) In determining the regulatory flood protection elevation, and floodway and flood fringe boundaries of a proposed use for a conditional use permit in the Flood Hazard (FH) Overlay District, the issuing authority may require the~~

- applicant to submit the following information and any additional information as deemed necessary to make a decision:
- (A) ~~Five copies of a typical valley cross section showing the channel, cross-sectional areas to be occupied by the proposed development and high water information;~~
 - (B) ~~Five copies of plan views showing elevations or contours of surface features; fill or storage elevations; size, location and spatial arrangement of all existing and proposed structures; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type;~~
 - (C) ~~Five copies of profiles showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development; and~~
 - (D) ~~Five copies of an approved administrative plat or standard plat showing the limits of the floodplain, floodway and the regional flood elevation height.~~
- (5) ~~One copy of the above information shall be transmitted to the appropriate watershed district or designated expert for review and recommendation regarding determination of the flood protection elevation and the extent of the floodway at the site. Procedures consistent with Minnesota Regulations NR-86-87 shall be followed in making this determination. When determined necessary, the watershed district or designated expert shall estimate the peak discharge of the regional flood, calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and over bank area, and compute the floodway necessary to convey the regional flood without increasing flood stages more than one-half foot. An equal degree of encroachment on both sides of the stream within the reach shall be assumed. Utilizing the recommendation of the appropriate watershed district or designated expert, the issuing authority shall determine the extent of the floodway and the flood protection elevation. A lesser stage increase than one-half foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.~~
- (6) ~~Notifications for watercourse alterations: the Public Works Department shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the city authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to M.S. Chapter 103G, as it may be amended from time to time, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).~~
- (7) ~~Notification to FEMA when physical changes increase or decrease the 100-year flood elevation: as soon as is practicable, but not later than six months after the date such supporting information becomes available, the Community~~

- Development Department shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.
- (8) ~~Variance procedures: in addition to the variance procedures allowed pursuant to § [2.98.01](#), the following additional variance criteria of the Federal Emergency Management Agency must be satisfied:~~
- (A) ~~Variations shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result;~~
 - (B) ~~Variations shall only be issued by a community upon: (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.~~
 - (C) ~~Variations shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.~~
- (9) ~~Flood insurance notice and record keeping. The Community Development Department shall notify the applicant for a variance that: 1) the issuance of a variance to construct a structure below the regulatory flood protection elevation may result in increased premium rates for flood insurance; and 2) such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. The Department of Community Development shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.~~
- (10) ~~Conditional use permit applications within all floodplain districts.~~
- (A) ~~Require the applicant to furnish the following information and additional information as deemed necessary by the Department of Community Development for determining the suitability of the particular site for the proposed use:~~
 - (i) ~~Plans in triplicate drawn to scale showing the nature, location, dimensions and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures and the relationship of the above to the location of the stream channel; and~~
 - (ii) ~~Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.~~
 - (B) ~~Transmit one copy of the information described in subsection (g)(10)(A) above to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the~~

seriousness of flood damage to the use, the adequacy of the plans for protection and other technical matters.

- (C) ~~Based upon the technical evaluation of the designated engineer or expert, the Department of Community Development shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.~~
- (D) ~~In addition to the standard conditional use permit findings in [§21.501.04](#)(e), the City Council must also make the following findings prior to issuing a conditional use permit in a Flood Hazard Overlay District:
 - (i) ~~No encroachment, including temporary or permanent structures; fill, deposit or obstruction; new construction or substantial improvement; storage of equipment or materials; or other uses acting alone or in combination with existing or reasonably anticipated future uses will adversely affect the capacity of the floodway or floodplain, or increased flood heights within the floodway or floodplain as shown on the flood insurance rate map as designated in subsection (b) above or as designated by a public governmental agency with jurisdiction;~~
 - (ii) ~~No danger to life and property due to increased flood elevations or velocities caused by encroachments will occur; that no materials may be swept onto other lands or downstream to the injury of others; and that safe access, no lower than two feet below the flood protection elevation, to the property for emergency and ordinary vehicles exists in times of flooding;~~
 - (iii) ~~The establishment, erection or construction of the use and operation of the use will minimally affect the natural ecological balance of the immediate floodplain vicinity and will not cause turbidity, siltation or pollution of a waterway;~~
 - (iv) ~~Public utilities and facilities will be constructed to minimize flood damage and flood infiltration into utility lines and that the proposed water supply and sanitation systems will prevent disease, contamination and unsanitary conditions;~~
 - (v) ~~Any new use or alteration, substantial improvement or repair of any existing use will be protected from flood damage through adequate and practicable methods;~~
 - (vi) ~~The use is consistent with the purposes of the Zoning Code as they are listed in [§ 19.01](#) of this code and the purposes of the zoning district in which the applicant intends to locate the proposed use and that the proposed use is not in conflict with the development plan of the city;~~
 - (vii) ~~The proposal has been reviewed and approved by the appropriate watershed district and that all applicable state and federal permits have been obtained; and~~~~

~~(viii) The proposed facility will benefit from a waterfront site and that available alternative sites not subject to flooding have been given consideration.~~

~~(h) *Special Flood Hazard Overlay District requirements.*~~

~~(1) *Fill.* Fill from dredging or sand and gravel extraction shall not be deposited in the floodway unless it can be accomplished in accordance with subsection (h)(1)(B) below. All fill or graded areas shall be protected from erosion by vegetative cover, permanent paved surfaces or erosion control devices approved by the appropriate watershed district and city.~~

~~(A) Fill, dredge spoil and all other similar materials deposited or stored in the floodplain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.~~

~~(B) As an alternative, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the Community Development Department has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the office of the County Recorder, or Registers of Title.~~

~~(2) *Principal structures and accessory structures to non open space-uses.* Principal structures and accessory structures to non open space uses within the floodplain shall be located so that no part of the building is within any area designated as floodway on the flood insurance rate maps dated September 2, 2004 or determined to be within the floodway through the procedures of subsection (g) above. The lowest floor (including basements) elevation of any principal structure shall be at least one foot above the regulatory flood protection elevation, and the finished fill which supports a principal structure shall be no lower than the flood protection elevation and shall extend a minimum of 15 feet beyond the limits of the principal structure, except for cuts for ramps necessary for handicapped access.~~

~~(3) *Accessory structures.* Accessory structures located within the floodplain shall not be designed for human habitation; shall have a low flood damage potential and shall be located, designed and constructed to minimally effect the flow of floodwaters in the floodway.~~

~~(4) *Location.* Whenever possible, principal and accessory structures shall be located with the longitudinal axis parallel to the direction of flow of floodwaters and, so far as possible, placed on the same flood flow lines of nearby structures located in the floodplain. Accessory structures shall be elevated on fill or be structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size at~~

- its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards:
- (A) ~~The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;~~
 - (B) ~~Any mechanical and utility equipment in a structure must be elevated at least no lower than the regulatory flood protection elevation or properly flood proofed; and~~
 - (C) ~~To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.~~
- (5) ~~*Storage of materials and equipment.* Except for the storage of boats, which shall be removed from the floodplain after flood warning, the storage of materials and equipment which are buoyant, flammable or explosive or which are potentially injurious to human, animal and plant life in time of flooding is prohibited. Storage of other material and equipment is permitted provided it is not located within the floodway as designated on the flood insurance rate maps or as determined through the procedures of subsection (g) above and provided that the material and equipment can be readily removed after flood warning, or is elevated on fill to the regulatory flood protection elevation.~~
- (6) ~~*Plans.* Plans for any new construction or improvement shall be certified as being in compliance with the provisions of the Flood Hazard Overlay District by a registered professional engineer or architect; and prior to issuance of a certificate of occupancy, certification by a registered professional engineer, architect or land surveyor shall be made indicating that the finished new construction or improvements are in compliance with the provisions of the Flood Hazard Overlay District.~~
- (7) ~~*Mechanical and utility equipment in a principal or accessory structure.* All mechanical and utility equipment in a principal or accessory structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed.~~
- (8) ~~*Commercial accessory land uses.* Commercial accessory land uses, such as yards, railroad tracks and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the~~

product number exceeds four feet per second upon occurrence of the regional flood.

~~(9) Standards for all flood fringe uses.~~

~~(A) New principal structures. All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the City Council must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.~~

~~(B) Manufacturing and industrial uses. Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in subsection (h)(8) above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.~~

~~(C) Fill. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.~~

~~(D) Floodplain developments. Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the official zoning map.~~

~~(E) Manufactured homes. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.~~

~~(10) Public transportation facilities. Railroad tracks, roads and bridges to be located within the floodplain shall comply with this section. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.~~

~~(11) *Recreational vehicles.* Recreational vehicles that do not meet the exemption criteria specified in subsection (h)(11)(A) below shall be subject to the provisions of this section and as specifically spelled out in subsection (h)(11)(C) below.~~

~~(A) *Exemption.* Recreational vehicles are exempt from the provisions of this section if they are placed in any of the areas listed in subsection (h)(11)(B) below and if they meet the following criteria:~~

~~(1) Have current licenses required for highway use;~~

~~(2) Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it; and~~

~~(3) The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.~~

~~(B) *Areas exempted for placement of recreational vehicles.*~~

~~(1) Individual lots or parcels of record;~~

~~(2) Existing commercial recreational vehicle parks or campgrounds; and~~

~~(3) Existing condominium type associations.~~

~~(C) *Recreational vehicles exempted in this section.* Recreational vehicles exempted in this section lose this exemption when development occurs on the parcel exceeding \$500 for a structural addition to the recreational vehicle or exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in subsection (h)(2) above. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.~~

~~(i) *Boundaries.*~~

~~(1) The boundaries of the Flood Hazard (FH) Overlay District shall be determined by scaling distances on the official zoning map. Where interpretation is needed as to the exact location of the boundaries of the overlay as shown on the official zoning map as provided for in subsection (g)(4) and (g)(5) above, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Public Works Department, the City Council shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the community adopted its initial floodplain ordinance, and other available technical data. Persons contesting the location of the district~~

~~boundaries shall be given a reasonable opportunity to present their case to the City Council and to submit technical evidence.~~

- ~~(2) Upon the presentation of technical data by the applicant which is in conflict with the boundary or identified flood elevation as shown on the zoning district map of the city, the issuing authority shall make a determination of the correct boundary and shall request the State Department of Natural Resources and the Federal Emergency Management Agency to review and approve boundary adjustments based on additional technical data.~~
- ~~(3) Where there are changes as a result of natural or other causes, where the deposit of fill approved under the provisions of this section raises land above the flood protection elevation, or where changes could be validated by further detailed floodplain studies, the boundaries of the Flood Hazard Overlay District may be revised and modified by the City Council, pursuant to review and approval by the Federal Emergency Management Agency and the State Department of Natural Resources.~~

~~(j) *Permit required.* A permit issued by the Community Development Department in conformity with the provisions of this section shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair) or alteration of any building, structure or portion thereof; prior to the use or change of use of a building, structure or land; prior to the construction of a dam, fence or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado or any other source; and prior to the placement of fill, excavation of materials or the storage of materials or equipment within the floodplain.~~

~~(k) *Floodplain nonconformities.* A structure or the use of a structure or premises which was lawful before the passage or amendment of this section but which is not in conformity with the provisions of this section may be continued subject to the conditions below.~~

- ~~(1) No such use shall be expanded, changed, enlarged or altered in a way that increases its nonconformity.~~
- ~~(2) Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 through FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in subsections (k)(3) and (k)(6) below.~~
- ~~(3) The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50% of the market value of the structure unless the conditions of this section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the community's initial floodplain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all~~

~~previous and proposed alterations and additions exceeds 50% of the current market value of the structure, then the structure must meet the standards for new structures as provided in this section.~~

- ~~(4) If any nonconforming use or structure is substantially damaged, as defined in § 19.38(d) of this code, it shall not be reconstructed except in conformity with the provisions of this section. The applicable provisions for establishing new uses or new structures in this section will apply.~~
- ~~(5) If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this section. The Assessor shall notify the Department of Community Development in writing in instances of nonconforming uses that have been discontinued for a period of 12 months.~~
- ~~(6) If a substantial improvement occurs, as defined in § 19.38(d), from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of this section for new structures.~~
- ~~(7) Additional requirements for nonconformities are set forth in § 21.504 of this code.]~~

Section 2. That Chapter 21 of the City Code is hereby amended by deleting those words that are contained in brackets [] and adding those words that are underlined, to read as follows:

CHAPTER 21

ZONING AND LAND DEVELOPMENT

ARTICLE II: DISTRICTS AND USES

DIVISION G: [RESERVED]OVERLAY ZONING DISTRICTS

§ 21.208 OVERLAY ZONING DISTRICTS.

- (a) Purpose. Overlay zoning districts provide use limitations and standards to those in primary zoning districts to further the public interest.
- (b) Establishment of districts. The following overlay districts are hereby established:
 - (1) Flood Hazard (FH)

- (c) Conflicts. In the case of a conflict between the provisions of a primary zoning district, the provisions of the more restrictive standard will take precedence and govern.

§ 21.208.01 FLOOD HAZARD (FH) OVERLAY DISTRICT.

- (a) Statutory Authorization. The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of the City of Bloomington, Minnesota, does ordain as follows.

- (1) This ordinance regulates development in the flood hazard areas of the City of Bloomington. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.
- (2) National Flood Insurance Program Compliance. This ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.
- (3) This ordinance is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

- (b) How to Use This Ordinance. This ordinance adopts the floodplain maps applicable to the City of Bloomington and includes two floodplain subareas: Floodway and Flood Fringe.

- (1) Where Floodway and Flood Fringe areas are delineated on the floodplain maps, the standards in §21.208.01(m-t) will apply, depending on the location of a property.

- (c) Lands to Which Ordinance Applies. This ordinance applies to all lands within the jurisdiction of the City of Bloomington shown on the Official Zoning Map and/or the attachments to the map as being located within the boundaries of the Flood Hazard Overlay District, which encompasses the Floodway and Flood Fringe areas.

- (1) The Flood Hazard District is an overlay district that is superimposed over primary zoning districts. The standards imposed in the overlay district are in addition to any other requirements in this ordinance. In case of a conflict, the more restrictive standards will apply.

(d) *Incorporation of Maps by Reference.* The following maps together with all attached material are hereby adopted by reference and declared to be a part of the Official Zoning Map and this ordinance. The attached material includes the Flood Insurance Study for Hennepin County, Minnesota, and Incorporated Areas, dated November 4, 2016 and the Flood Insurance Rate Map panels enumerated below, dated November 4, 2016, all prepared by the Federal Emergency Management Agency. These materials are on file in the Bloomington Public Works Department.

Effective Flood Insurance Rate Map panels:

27053C0432F
27053C0434F
27053C0442F
27053C0451F
27053C0452F
27053C0453F
27053C0454F
27053C0456F
27053C0457F
27053C0458F
27053C0459F
27053C0461F
27053C0462F
27053C0466F
27053C0467F
27053C0476F
27053C0477F
27053C0478F
27053C0479F

(e) *Interpretation.* The boundaries of the zoning districts and areas are determined by scaling distances on the Flood Insurance Rate Map.

(1) Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations shall be the governing factor. The Planning Manager or designee must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.

(2) Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Planning Commission and to submit technical evidence.

(f) *Abrogation and Greater Restrictions.* It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this ordinance imposes greater restrictions, the

provisions of this ordinance prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

- (g) *Warning and Disclaimer of Liability.* This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This ordinance does not create liability on the part of the City of Bloomington or its officers or employees for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
- (h) *Severability.* If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.
- (i) *Definitions.* Unless specifically defined below, words or phrases used in this ordinance must be interpreted according to common usage and so as to give this ordinance its most reasonable application.

ACCESSORY USE OR STRUCTURE. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

BASE FLOOD ELEVATION. The elevation of the “**REGIONAL FLOOD.**” The term “**BASE FLOOD ELEVATION**” is used in the flood insurance survey.

BASEMENT. Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

DEVELOPMENT. Any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

EQUAL DEGREE OF ENCROACHMENT. A method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

FLOOD. A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

FLOOD FREQUENCY. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

FLOOD FRINGE. The portion of the Special Flood Hazard Area (one percent annual chance flood) located outside of the floodway. **FLOOD FRINGE** is synonymous with the term “floodway fringe” used in the Flood Insurance Study for Hennepin County, Minnesota.

FLOOD INSURANCE RATE MAP (FIRM). An official map on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

FLOOD PRONE AREA. Any land susceptible to being inundated by water from any source (see "**FLOOD**").

FLOODPLAIN. The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

FLOODPROOFING. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

FLOODWAY. The bed of a wetland, lake, or the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 Code of Federal Regulations, Part 60.3.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "**MANUFACTURED HOME**" does not include the term "**RECREATIONAL VEHICLE.**"

NEW CONSTRUCTION. Structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of this ordinance.

OBSTRUCTION. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, guywire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

ONE HUNDRED YEAR FLOODPLAIN. Lands inundated by the **REGIONAL FLOOD** (see definition).

REACH. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

RECREATIONAL VEHICLE. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this ordinance, the term **RECREATIONAL VEHICLE** is synonymous with the term “travel trailer/travel vehicle.”

REGIONAL FLOOD. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1% chance or 100-year recurrence interval. Regional flood is synonymous with the term "**BASE FLOOD**" used in a flood insurance study.

REGISTERED PROFESSIONAL ENGINEER.

REGULATORY FLOOD PROTECTION ELEVATION (RFPE). An elevation not less than two feet above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

REPETITIVE LOSS. Flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.

SPECIAL FLOOD HAZARD AREA. A term used for flood insurance purposes synonymous with "**ONE HUNDRED YEAR FLOODPLAIN.**"

START OF CONSTRUCTION. Includes substantial improvement, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before the permit's expiration date. The actual start is either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means

the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in §21.208.01(aa)(2) of this ordinance and other similar items.

SUBSTANTIAL DAMAGE. Means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- (b) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” For the purpose of this ordinance, “historic structure” is as defined in 44 Code of Federal Regulations, Part 59.1.

(j) *Annexations.* The Flood Insurance Rate Map panels adopted by reference into §21.208.01(d) above may include floodplain areas that lie outside of the corporate boundaries of the City of Bloomington at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the City of Bloomington after the date of adoption of this ordinance, the newly annexed floodplain lands will be subject to the provisions of this ordinance immediately upon the date of annexation.

(k) *Establishment of Zoning Subareas.*

- (1) Floodway Area. The Floodway Area includes areas within Zones AE that have a floodway delineated as shown on the Flood Insurance Rate Map adopted in §21.208.01(d). For lakes, wetlands and other basins within Zones A and AE that do not have a floodway delineated, the Floodway Area also includes those areas that are at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.
- (2) Flood Fringe Area. The Flood Fringe Area includes areas within Zones AE that have a floodway delineated on the Flood Insurance Rate Map adopted in §21.208.01(d), but are located outside of the floodway. For lakes, wetlands

and other basins within Zones A and AE that do not have a floodway delineated, the Flood Fringe Area also includes those areas below the 1% annual chance (100-year) flood elevation but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.

- (l) Applicability. Within the floodplain areas established in this ordinance, the use, size, type and location of development must comply with the terms of this ordinance and other applicable regulations. In no cases shall floodplain development adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributaries to the main stream, drainage ditches, or any other drainage facilities or systems. All uses not listed as permitted uses or conditional uses in §21.208.01(m-t) are prohibited.
- (m) Floodway Area (FW) Permitted Uses. The following uses, subject to the standards set forth in §21.208.01(n), are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:
- (1) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
 - (2) Industrial-commercial loading areas, parking areas, and airport landing strips.
 - (3) Open space uses, including but not limited to private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails.
 - (4) Residential lawns, gardens, parking areas, and play areas.
 - (5) Railroads, streets, bridges, utility transmission lines, culverts, and pipelines, provided that the Department of Natural Resources' Area Hydrologist is notified at least ten days prior to issuance of any permit.
- (n) Standards for Floodway Permitted Uses.
- (1) The use must have a low flood damage potential.
 - (2) The use must not obstruct flood flows or cause any increase in flood elevations and must not involve structures, obstructions, or storage of materials or equipment.
 - (3) Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.
- (o) Floodway Area Conditional Uses. The following uses may be allowed as conditional uses following the standards and procedures set forth in §21.208.01(ee) of this ordinance and further subject to the standards set forth in §21.208.01(p), if otherwise allowed in the underlying zoning district or any applicable overlay district.
- (1) Structures accessory to the uses listed in §21.208.01(m)(1-3) above and the uses listed in §21.208.01(o)(2-3) below.

- (2) Extraction and storage of sand, gravel, and other materials.
- (3) Marinas, boat rentals, docks, piers, wharves, and water control structures.
- (4) Storage yards for equipment, machinery, or materials.
- (5) Travel-ready recreational vehicles meeting the exception standards in §21.208.01(aa)(2).
- (6) Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

(p) Standards for Floodway Conditional Uses.

- (1) All Uses. A conditional use must not cause any increase in the stage of the 1% chance or regional flood or cause an increase in flood damages in the reach or reaches affected.
- (2) Fill; Storage of Materials and Equipment:
 - (A) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
 - (B) Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.
 - (C) Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% percent chance or regional flood may only be allowed if the City of Bloomington has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.
- (3) Accessory Structures. Accessory structures, as identified in §21.208.01(o)(1), may be permitted, provided that:
 - (A) structures are not intended for human habitation;
 - (B) structures will have a low flood damage potential;
 - (C) structures will be constructed and placed so as to offer a minimal obstruction to the flow of flood waters;
 - (D) Service utilities, such as electrical and heating equipment, within these structures must be elevated to or above the regulatory flood protection elevation or properly floodproofed;
 - (E) Structures must be elevated on fill or structurally dry floodproofed in accordance with the FP1 or FP2 floodproofing classifications in the State Building Code. All floodproofed structures must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls.
 - (F) As an alternative, an accessory structure may be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment and does not exceed 576 square feet in size. Designs for meeting this requirement must either be certified by a registered

professional engineer in the State of Minnesota and meet or exceed the following criteria:

- (i) To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - (ii) There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
- (4) Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of Minnesota Statutes, Section 103G.245.
 - (5) A levee, dike or floodwall constructed in the floodway must not cause an increase to the 1% chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.
 - (6) Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.
- (q) *Flood Fringe Area (FF) Permitted Uses.* Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in §21.208.01(r). If no pre-existing, underlying zoning districts exist, then any residential or nonresidential structure or use of a structure or land is a permitted use provided it does not constitute a public nuisance.
- (r) *Standards for Flood Fringe Permitted Uses.*
- (1) All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than regional flood elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure.
 - (2) Accessory Structures. As an alternative to the fill requirements of §21.208.01(r)(1), structures accessory to the uses identified in §21.208.01(q) may be permitted to be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided that:
 - (A) the accessory structure constitutes a minimal investment, does not exceed 576 square feet in size, and is only used for parking and storage.
 - (B) All portions of floodproofed accessory structures below the Regulatory Flood Protection Elevation must be: (i) adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls, (ii) be constructed with materials resistant to flood damage, and (iii) must have all service utilities be water-tight or elevated to above the regulatory flood protection elevation.

- (C) Designs for meeting this requirement must either be certified by a registered professional engineer in the State of Minnesota and meet or exceed the following criteria:
- (i) To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - (ii) There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
- (3) The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with §21.208.01(r)(1) of this ordinance, or if allowed as a conditional use under §21.208.01(s)(3) below.
 - (4) The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.
 - (5) All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.
 - (6) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
 - (7) All fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.
 - (8) All new principal structures must have vehicular access at or above the regional flood elevation, or must have a flood warning /emergency evacuation plan acceptable to the City of Bloomington.
 - (9) Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.
 - (10) Interference with normal manufacturing/industrial plant operations must be minimized, especially along streams having protracted flood durations. In considering permit applications, due consideration must be given to the needs of industries with operations that require a floodplain location.
 - (11) Manufactured homes and recreational vehicles must meet the standards of §21.208.01(z-aa) of this ordinance.
- (s) *Flood Fringe Area Conditional Uses.* The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning district(s) or any applicable overlay district, following the procedures in §21.208.01(ee) of this ordinance.

- (1) Any structure that is not elevated on fill or floodproofed in accordance with §21.208.01(r)(1-2) of this ordinance.
- (2) Storage of any material or equipment below the regulatory flood protection elevation.
- (3) The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with §21.208.01(r)(1) of this ordinance.
- (4) The use of methods to elevate structures above the regulatory flood protection elevation, including stilts, pilings, parallel walls, or above-grade, enclosed areas such as crawl spaces or tuck under garages, shall meet the standards in §21.208.01(t)(6).

(t) Standards for Flood Fringe Conditional Uses.

- (1) The standards listed in §21.208.01(r)(4-10) apply to all conditional uses.
- (2) Basements, as defined by this ordinance, are subject to the following:
 - (A) Residential basement construction is not allowed below the regulatory flood protection elevation.
 - (B) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with §21.208.01(t)(3) of this ordinance.
- (3) All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code. Structurally dry floodproofing must meet the FP1 or FP2 floodproofing classification in the State Building Code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (4) The placement of more than 50 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.
 - (A) The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.
 - (B) The plan must be prepared and certified by a registered professional engineer in the State of Minnesota.
 - (C) The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
- (5) Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.
- (6) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area

is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

(A) Design and Certification - The structure's design and as-built condition must be certified by a registered professional engineer in the State of Minnesota as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

(B) Specific Standards for Above-grade, Enclosed Areas - Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

(ii) The minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect in the State of Minnesota certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and

(ii) That the enclosed area will be designed of flood resistant materials in accordance with the FP3 or FP4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

(u) Subdivisions. No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this ordinance.

(1) All lots within the floodplain areas must be able to contain a building site outside of the Floodway Area at or above the regulatory flood protection elevation.

(2) All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the City of Bloomington. The plan must be prepared by a registered engineer in the State of Minnesota or other qualified individual.

- and must demonstrate that adequate time and personnel exist to carry out the evacuation.
- (3) For all subdivisions in the floodplain, the Floodway and Flood Fringe Area boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.
- (5) If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal must be reviewed to assure that:
- (A) All such proposals are consistent with the need to minimize flood damage within the flood prone area.
- (B) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
- (C) Adequate drainage is provided to reduce exposure of flood hazard.
- (v) *Building Sites.* If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:
- (1) Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) Constructed with materials and utility equipment resistant to flood damage;
- (3) Constructed by methods and practices that minimize flood damage; and
- (4) Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (w) *Public Utilities.* All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.
- (x) *Public Transportation Facilities.* Railroad tracks, roads, and bridges to be located within the floodplain must comply with §21.208.01(m-t) of this ordinance. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
- (y) *On-site Water Supply and Sewage Treatment Systems.* Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and are subject to the provisions in Minnesota Rules Chapter 4725.4350, as amended; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or

eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minnesota Rules Chapter 7080.2270, as amended.

- (z) *Manufactured Homes.* New manufactured home parks and expansions to existing manufactured home parks are prohibited in any floodplain area. For existing manufactured home parks or lots of record, the following requirements apply:
- (1) Placement or replacement of manufactured home units is prohibited in the Floodway Area.
 - (2) If allowed in the Flood Fringe Area, placement or replacement of manufactured home units is subject to the requirements of §21.208.01(q-t) of this ordinance and the following standards.
 - (A) New and replacement manufactured homes must be elevated in compliance with §21.208.01(q-t) of this ordinance and must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
 - (B) New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in §21.208.01(u)(2).
- (aa) *Recreational Vehicles.* New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain area. Placement of recreational vehicles in existing recreational vehicle parks or campgrounds in the floodplain must meet the exemption criteria below or be treated as new structures meeting the requirements of this ordinance.
- (1) Recreational vehicles are exempt from the provisions of this ordinance if they are placed in any of the following areas and meet the criteria listed in §21.208.01(aa)(2):
 - (A) Individual lots or parcels of record.
 - (B) Existing commercial recreational vehicle parks or campgrounds.
 - (C) Existing condominium-type associations.
 - (2) Criteria for Exempt Recreational Vehicles:
 - (A) The vehicle must have a current license required for highway use.
 - (B) The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.
 - (C) No permanent structural type additions may be attached to the vehicle.
 - (D) The vehicle and associated use must be permissible in any pre-existing, underlying zoning district.
 - (3) Recreational vehicles that are exempt in §21.208.01(aa)(2) lose this exemption when development occurs on the site that exceeds a minimal investment for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as

new structures subject to the elevation and floodproofing requirements of §21.208.01(q-t) of this ordinance. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle should flooding occur.

(bb) Zoning Administrator. The Planning Manager or designee must administer and enforce this ordinance.

(cc) Floodplain Permit Requirements.

(1) Permit Required. A floodplain permit must be obtained from the Planning Manager or designee prior to conducting the following activities in the Flood Hazard Overlay District:

(A) The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this ordinance.

(B) The use or change of use of a building, structure, or land.

(C) The construction of a dam, fence, or on-site septic system.

(D) The change or extension of a nonconforming use.

(E) The repair of a structure that has been damaged by flood, fire, tornado, or any other source.

(F) The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.

(G) Relocation or alteration of a watercourse (including new or replacement culverts and bridges), unless a public waters work permit has been applied for.

(H) Any other type of "development" as defined in this ordinance.

(2) Application for Floodplain Permit. Floodplain permit applications must be submitted to the Planning Manager or designee on forms provided by the Planning Manager or designee. The floodplain permit application must include the following as applicable:

(A) A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.

(B) Location of fill or storage of materials in relation to the stream channel.

(C) Copies of any required municipal, county, state or federal permits or approvals.

(D) Other relevant information requested by the Planning Manager or designee as necessary to properly evaluate the floodplain permit application.

(3) Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. No building, land or structure in the Flood Hazard Overlay District may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Planning Manager or designee stating that the use of the building or land conforms to the requirements of this ordinance.

- (4) Certification. The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. Floodproofing measures must be certified by a registered professional engineer or registered architect.
- (5) Record of First Floor Elevation. The Planning Manager or designee must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.
- (6) Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the Planning Manager or designee must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- (7) Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Planning Manager or designee must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

(dd) Variances.

- (1) Variance Applications. An application for a variance to the provisions of this ordinance will be processed and reviewed in accordance with applicable state statutes and §2.98.01 of the zoning ordinance/code.
- (2) Adherence to State Floodplain Management Standards. A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.
- (3) Additional Variance Criteria. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
 - (A) Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - (B) Variances may only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (C) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

- (4) Flood Insurance Notice. The Planning Manager or designee must notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and 2) Such construction below the base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.
- (5) General Considerations. The community may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:
 - (A) The potential danger to life and property due to increased flood heights or velocities caused by encroachments;
 - (B) The danger that materials may be swept onto other lands or downstream to the injury of others;
 - (C) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;
 - (D) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
 - (E) The importance of the services to be provided by the proposed use to the community;
 - (F) The requirements of the facility for a waterfront location;
 - (G) The availability of viable alternative locations for the proposed use that are not subject to flooding;
 - (H) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
 - (I) The relationship of the proposed use to the Comprehensive Land Use Plan and flood plain management program for the area;
 - (J) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (K) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
- (6) Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Planning Manager or designee must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- (7) Submittal of Final Decisions to the DNR. A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- (8) Record-Keeping. The Planning Manager or designee must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

(ee) Conditional Uses.

- (1) Review. An application for a conditional use permit under the provisions of this ordinance will be processed and reviewed in accordance with §21.501.04 of the zoning ordinance/code.
- (2) Factors Used in Decision-Making. In acting upon conditional use applications, the Bloomington City Council or Planning Commission must consider all relevant factors specified in other sections of this ordinance, and those factors identified in §21.208.01(dd)(5) of this ordinance.
- (3) Conditions Attached to Conditional Use Permits. The Bloomington City Council may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:
 - (A) Modification of waste treatment and water supply facilities.
 - (B) Limitations on period of use, occupancy, and operation.
 - (C) Imposition of operational controls, sureties, and deed restrictions.
 - (D) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
 - (E) Floodproofing measures, in accordance with the State Building Code and this ordinance. The applicant must submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.
- (4) Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Planning Manager or designee must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- (5) Submittal of Final Decisions to the DNR. A copy of all decisions granting conditional uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(ff) Continuance of Nonconformities. A use, structure, or occupancy of land which was lawful before the passage or amendment of this ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions. Historic structures, as defined in this ordinance, are subject to the provisions of §21.208.01(ff)(1-6) of this ordinance.

- (1) A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows except as provided in §21.208.01(ff)(2) below. Expansion or enlargement of uses, structures or occupancies within the Floodway Area is prohibited.
- (2) Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP1 thru FP4

- floodproofing classifications) allowable in the State Building Code, except as further restricted in §21.208.01(ff)(3-7) below.
- (3) If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of any nonconforming structure, that shall be considered substantial improvement, and the entire structure must meet the standards of §21.208.01(m-t) of this ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe Area, respectively. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor.
 - (4) If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this ordinance. The Assessor must notify the Planning Manager or designee in writing of instances of nonconformities that have been discontinued for a period of more than one year.
 - (5) If any nonconformity is substantially damaged, as defined in this ordinance, it may not be reconstructed except in conformity with the provisions of this ordinance. The applicable provisions for establishing new uses or new structures in §21.208.01(m-t) will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.
 - (6) If any nonconforming use or structure experiences a repetitive loss, as defined in this ordinance, it must not be reconstructed except in conformity with the provisions of this ordinance.
 - (7) Any substantial improvement, as defined in this ordinance, to a nonconforming structure requires that the existing structure and any additions must meet the requirements of §21.208.01(m-t) of this ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe Area.

(gg) Penalties and Enforcement.

- (1) Violation Constitutes a Misdemeanor: Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will be punishable as defined by law.
- (2) Other Lawful Action: Nothing in this ordinance restricts the City of Bloomington from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Planning Manager or designee within the specified period of time, each additional day that lapses will constitute an additional violation of this ordinance and will be prosecuted accordingly.
- (3) Enforcement: Violations of the provisions of this ordinance will be investigated and resolved in accordance with the provisions of Section 19.21 of the City Code. In responding to a suspected ordinance violation, the Planning Manager or designee and the Bloomington City Council may utilize the full array of enforcement actions available to it including but not limited to

prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City of Bloomington must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

(hh) Amendments.

- (1) Floodplain Designation – Restrictions on Removal: The floodplain designation on the Official Zoning Map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of the Department of Natural Resources (DNR) if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.
- (2) Amendments Require DNR Approval: All amendments to this ordinance must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner must approve the amendment prior to community approval.
- (3) Map Revisions Require Ordinance Amendments. The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in §21.208.01(d) of this ordinance.

EFFECTIVE DATE: This ordinance shall be in full force and effect from and after its passage and approval and publication, as required by law and/or charter.

ARTICLE V: ADMINISTRATION AND NONCONFORMITY

DIVISION B: OVERLAY ZONING DISTRICTS

§ 21.502.01 APPLICATION PROCESSES AND FEES

(c) Application processes and fees.

<i>Application Process</i>	<i>Review and Decision Making Authority</i>					<i>Notice</i>		<i>Fee</i>
	<i>DRC</i>	<i>ST</i>	<i>HE</i>	<i>PC</i>	<i>CC</i>	<i>N</i>	<i>Mail</i>	

Miscellaneous								
Floodplain Permit		DM						\$130

Certification of Floodplain Zoning Compliance		DM						\$95
---	--	----	--	--	--	--	--	------

Section 3. That Chapter 21.301.08 of the City Code is hereby amended by deleting those words that are contained in brackets [] and adding those words that are underlined, to read as follows:

§ 21.301.08 FENCES.

(j) Permit. Fence installations, alterations or repairs do not require a permit, with the following exceptions.

- (1) A fence greater than seven feet in height, where permitted by this code, requires a building permit from the City Building and Inspection Division prior to installation.
- (2) The installation of a fence within a floodplain as specified in § [~~19.38.02~~] 21.208.01 requires the approval of the Planning Manager prior to installation.

Passed and adopted this _____ day of _____ 2016.

Mayor

ATTEST:

Secretary to the Council

APPROVED:

City Attorney



DATE: July 1, 2016

TO: Amy Schmidt
Karl Keel
Larry Lee

FROM: Bryan Gruidl
Jen Desrude

RE: Updates to Flood Hazard Overlay Districts

The Federal Emergency Management Agency (FEMA) has updated the Flood Insurance Rate Maps (FIRMs) for the City of Bloomington. These updated maps will become effective on November 4, 2016. As a condition of continued eligibility in the National Flood Insurance Program (NFIP) the City is required to amend our floodplain management ordinance or adopt a new floodplain management ordinance to incorporate the new maps and several updates to the DNR's sample ordinance.

The DNR has provided the attached model ordinance. Engineering will tailor this model specifically to Bloomington, distribute it to the group for review, and bring to Council. Please know that it has changed significantly since the last time this process was undertaken.

The City is required to amend the existing floodplain ordinance, or adopt a new ordinance, by November 4, 2016 in order to continue participating in the National Flood Insurance Program.

These code changes will impact Planning, so staff members should be included in the work group, as well as staff from the Legal Department. The preliminary schedule is as follows:

Preliminary draft sent to work group for review:	July 15, 2016
Preliminary review comments due back:	July 29, 2016
Potential work group meetings:	August 1-3, 2016
Submit draft ordinance to MnDNR	August 4, 2016
Final draft sent to work group for review:	Week of August 22
Final review comments due back:	Week of August 29
Planning Commission meeting	September 15, 2016
City Council	October 10, 2016

Please let us know if this schedule works for your Department and which staff members will be part of the work group.

cc: Glen Markegard, Mike Centinario, Shelly Pederson, Anna Sullivan

\\COB-CV-PROD\ProdRepository\Planning_CV Planning InBox\Ch19-ScheduleUpdateMemo.docx



MINNESOTA DEPARTMENT OF NATURAL RESOURCES
CENTRAL OFFICE
500 LAFAYETTE ROAD, BOX 25
SAINT PAUL, MN 55155
651-296-6157
888-646-6367

August 15, 2016

The Honorable Gene Winstead
Mayor, City of Bloomington
1800 West Old Shakopee Road
Bloomington, MN 55431

CONDITIONAL STATE APPROVAL OF FLOODPLAIN ORDINANCE & REQUIRED NEXT STEPS

Dear Honorable Mayor Winstead,

The Department of Natural Resources (DNR) received via email on August 8, 2016, a draft floodplain management ordinance for the City of Bloomington from Development Coordinator, Jen Desrude. This ordinance is being adopted in order to incorporate the *Flood Insurance Study, Hennepin County, Minnesota and Incorporated Areas* and the accompanying Flood Insurance Rate Map panels with an effective date of November 4, 2016.

The city should consider a couple of amendments to better comply with state and FEMA standards:

- After taking a closer look at the flood zones in the community, the only flood zones in the community that don't have floodway and flood fringe delineated are basins. Therefore, the city may eliminate the "General Floodplain Area" zone from the ordinance entirely, by revising §21.208.01(k, u, & v) as presented in the enclosed document.
- Please update §21.208.01(cc)(2)(E) to reference §21.208.01(bb)(2)(A). This was incorrectly referenced in the model originally sent to the city, and have updated it accordingly.

These suggested changes are noted in the relevant pages of the enclosed draft.

Apart from the above items, the draft floodplain management ordinance is in compliance with the state floodplain management rules (MR 6120.5000 to 6120.6200) and, to the best of my knowledge, with the floodplain management standards of the Federal Emergency Management Agency. Therefore, in accordance with Minnesota Statutes, Chapter 103F, I hereby give conditional state approval of the draft floodplain management ordinance, provided the above - mentioned revisions are made.

This approval is valid upon adoption of the draft ordinance by the city and receipt by this office of **one (1) copy each of the adopted ordinance (signed and stamped with the community seal), the affidavit of publication, and the completed "Ordinance Certification Checklist"** that I have enclosed. Please forward these documents to Ceil Strauss, the DNR's State NFIP Coordinator in St.



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mndnr.gov

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Paul at the address above in the header. Upon receipt and verification, Ms. Strauss will transmit one copy of these materials to Mr. John Devine at FEMA's Chicago Regional Office.

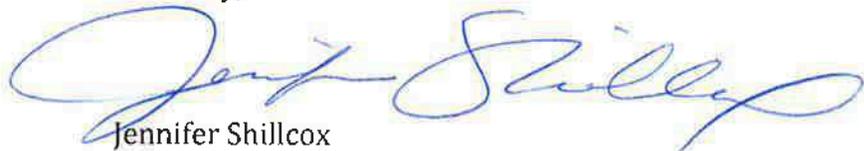
Please remember, FEMA must receive a signed, certified, and in-effect ordinance no later than November 4, 2016. To allow sufficient time for processing and transmittal, we request that you submit the requested materials to the DNR no later than November 1, 2016. ***If FEMA has not received the documentation by the map effective date, FEMA will suspend the City from the National Flood Insurance Program.***

Please be advised that any future amendments of this ordinance or change in the designation of flood prone areas require prior approval of the Commissioner. In addition, you are required to send copies of hearing notices and final decisions pertaining to variance, conditional uses, and ordinance amendments to this agency. Please send those to State NFIP Coordinator Ceil Strauss at the above address. Should you have any questions on this ordinance or related matters, please contact Ms. Strauss at (651) 259-5713 or ceil.strauss@state.mn.us.

While our office in St. Paul will continue to be the main contact for the ordinance update, your DNR Area Hydrologist will continue to be your main contact for day to day assistance with administering your floodplain management ordinance and questions about other DNR water-related programs and permits. Your Area Hydrologist is Kate Drewry, who can be contacted at 651-259-5753 or kate.drewry@state.mn.us.

The DNR greatly appreciates your community's cooperation and initiative in providing for the reduction of flood damages through the adoption and administration of this ordinance.

Sincerely,



Jennifer Shillcox
Land Use Section Supervisor

Enclosures: Ordinance Certification Checklist
Draft Ordinance with suggested revisions

ec: Jen Desrude, Development Coordinator -- City of Bloomington
Bryan Gruidl, Water Resources Manager -- City of Bloomington
Shelly Hanson, Engineer -- City of Bloomington
Michael Centinario, Planner -- City of Bloomington
Terri Yearwood, DNR Eco-Waters' Regional Manager
Jeanne Daniels, DNR Eco-Waters' District Manager
Kate Drewry, Area Hydrologist

AFFIDAVIT OF PUBLICATION

STATE OF MINNESOTA) ss
COUNTY OF HENNEPIN

Charlene Vold being duly sworn on an oath, states or affirms that he/she is the Publisher's Designated Agent of the newspaper(s) known as:

SC Bloomington

with the known office of issue being located in the county of:

HENNEPIN

with additional circulation in the counties of:

HENNEPIN

and has full knowledge of the facts stated below:

(A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper as provided by Minn. Stat. §331A.02.

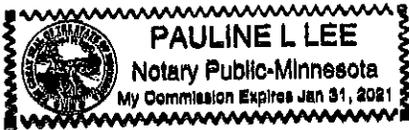
(B) This Public Notice was printed and published in said newspaper(s) once each week, for 1 successive week(s); the first insertion being on 09/01/2016 and the last insertion being on 09/01/2016.

MORTGAGE FORECLOSURE NOTICES
Pursuant to Minnesota Stat. §580.033 relating to the publication of mortgage foreclosure notices: The newspaper complies with the conditions described in §580.033, subd. 1, clause (1) or (2). If the newspaper's known office of issue is located in a county adjoining the county where the mortgaged premises or some part of the mortgaged premises described in the notice are located, a substantial portion of the newspaper's circulation is in the latter county.

By: Charlene Vold
Designated Agent

Subscribed and sworn to or affirmed before me on 09/01/2016 by Charlene Vold.

Pauline L. Lee
Notary Public



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(1) Lowest classified rate paid by commercial users for comparable space:
\$34.45 per column inch

Ad ID 588239

CITY OF BLOOMINGTON NOTICE OF PUBLIC HEARING BY THE PLANNING COMMISSION AND CITY COUNCIL

APPLICANT: City of Bloomington

PURPOSE: 1) An ordinance amending and reorganizing sections of Chapters 19 and 21 of the Bloomington City Code pertaining to the Flood Hazard Overlay District. The proposed changes update City Code language to be consistent with Federal Emergency Management Agency (FEMA) requirements and move the current Flood Hazard Overlay District section from Chapter 19 to Chapter 21.

2) A rezoning ordinance modifying the boundaries of the Flood Hazard (FH) Overlay District to match the updated Flood Insurance Rate Maps (FIRMs).

DATE AND TIME OF HEARINGS:
Planning Commission - Thursday, September 15, 2016 at 6:00 p.m.

City Council - Monday, October 3, 2016 at 7:00 p.m.

PLACE OF HEARINGS:
City Council Chambers
Bloomington Civic Plaza
1800 West Old Shakopee Road

- HOW TO PARTICIPATE:**
1. Review the proposed ordinance and flood hazard boundary changes online at www.blm.mn/FHOverlay; and/or
 2. Submit a letter or email to the address below expressing your views; and/or
 3. Attend the hearings and give testimony about the proposal.

FURTHER INFORMATION:
Engineering Division
Bloomington Public Works
1700 W. 98th St
Bloomington, MN 55431
(952) 563-4870
Email: Engineering@BloomingtonMN.gov

Published in the
Bloomington Sun Current
September 1, 2016
588239

Originator
Planning

Item
A Zoning Map amendment modifying the boundaries of the Flood Hazard (FH) Overlay District to match the updated Flood Insurance Rate Maps (FIRMs)

Date
9/15/2016

Description

Applicant: City of Bloomington

Request: Rezoning to modify the boundaries of the Flood Hazard (FH) Overlay District to be consistent with the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRMs)

Requested Action

Staff recommends the following motion:

In Case PL2016-144, I move to recommend City Council approve a rezoning ordinance modifying the boundaries of the Flood Hazard (FH) Overlay District to be consistent with updated Flood Insurance Rate Maps (FIRMs) prepared by the Federal Emergency Management Agency.

Attachments:

Staff Report
Rezoning Map Exhibit
Project Description
Conditional DNR Approval
Affidavit of Publication

GENERAL INFORMATION

Applicant: City of Bloomington

Request: Rezoning to modify the boundaries of the Flood Hazard (FH) Overlay District to be consistent with the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRMs)

CHRONOLOGY

Planning Commission	09/15/2016	Public hearing scheduled
Council	10/03/2016	Public hearing scheduled

STAFF CONTACTS

Bryan Gruidl, Senior Water Resources Manager
(952) 563-4557
bgruidl@BloomingtonMN.gov

Mike Centinario, Planner
(952) 563-8921
mcentinario@BloomingtonMN.gov

BACKGROUND

On September 2, 2004, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) issued a Flood Insurance Rate Map (FIRM) that identified the Special Flood Hazard Areas (SFHAs), the areas subject to inundation by the base (1-percent-annual-chance) flood, in Hennepin County. Recently, FEMA completed a re-evaluation of flood hazards in Hennepin County.

On May 4, 2016 the City received a letter from FEMA, known as the Letter of Final Determination (LFD), explaining that the FIRMs for Bloomington, as well as the Hennepin County Flood Insurance Study were complete and will become effective on November 4, 2016.

The City of Bloomington currently participates in the National Flood Insurance Program (NFIP) which aims to reduce the impact of flooding on private and public structures by properly managing and enforcing floodplain regulations and providing affordable insurance to property owners. To continue participating in the NFIP the city is required to amend its existing flood Report to the Planning Commission
Planning Division/Engineering Division

09/15/2016

hazard ordinance by November 4, 2016. The Minnesota Department of Natural Resources (DNR) is the State Coordinating Agency for the NFIP and has been assisting the city with this change.

As part of Bloomington's flood hazard ordinance the zoning map is also being updated to match FEMA's flood hazard areas. In much of Bloomington the new map is simply a "digital capture" of the flood hazard area that was on the 2004 FEMA map. However Nine Mile Creek and the Minnesota River had updated modeling/data incorporated to further refine the flood hazard area. We expect it will be several years before FEMA updates the maps with more accurate supporting data.

The Flood Hazard (FH) Overlay Zoning District applies to 644 parcels in Bloomington before the rezoning and 583 parcels in Bloomington after the rezoning (see enclosed map). The boundaries are changing slightly on almost all of these parcels. In some cases the flood hazard area is shrinking and in other cases it is expanding. In most cases, the changes do not impact structures. All impacted parcels have received direct mail notice as did all parcels within 500 feet of the rezoning. In total 3,337 public hearing notices were sent out. The City has made available a website (www.BloomingtonMN.gov keyword "flood hazard") discussed in the notice where the public can zoom in and examine the proposed boundary changes in detail.

There are a total of 22 private parcels in Bloomington with principal structures that appear to be located in the flood hazard area. The city has sent letters notifying the owners of the parcels that they appear to have principal structures located in the updated flood hazard area. Eleven of the 22 parcels are new to the flood hazard area as a result of the updated FEMA maps. These property owners were advised of their need to purchase flood insurance unless they can show they are at an elevation higher than the flood elevation and get a Letter of Map Amendment (LOMA) from FEMA. If the principle structure on a parcel is indeed lower than the flood elevation, owners can take action soon to greatly reduce what they pay for flood insurance. They can get an extra year of highly discounted flood insurance if they purchase the "Preferred Risk Policy" (PRP) more than 30 days before the new maps are effective on 11/4/2016.

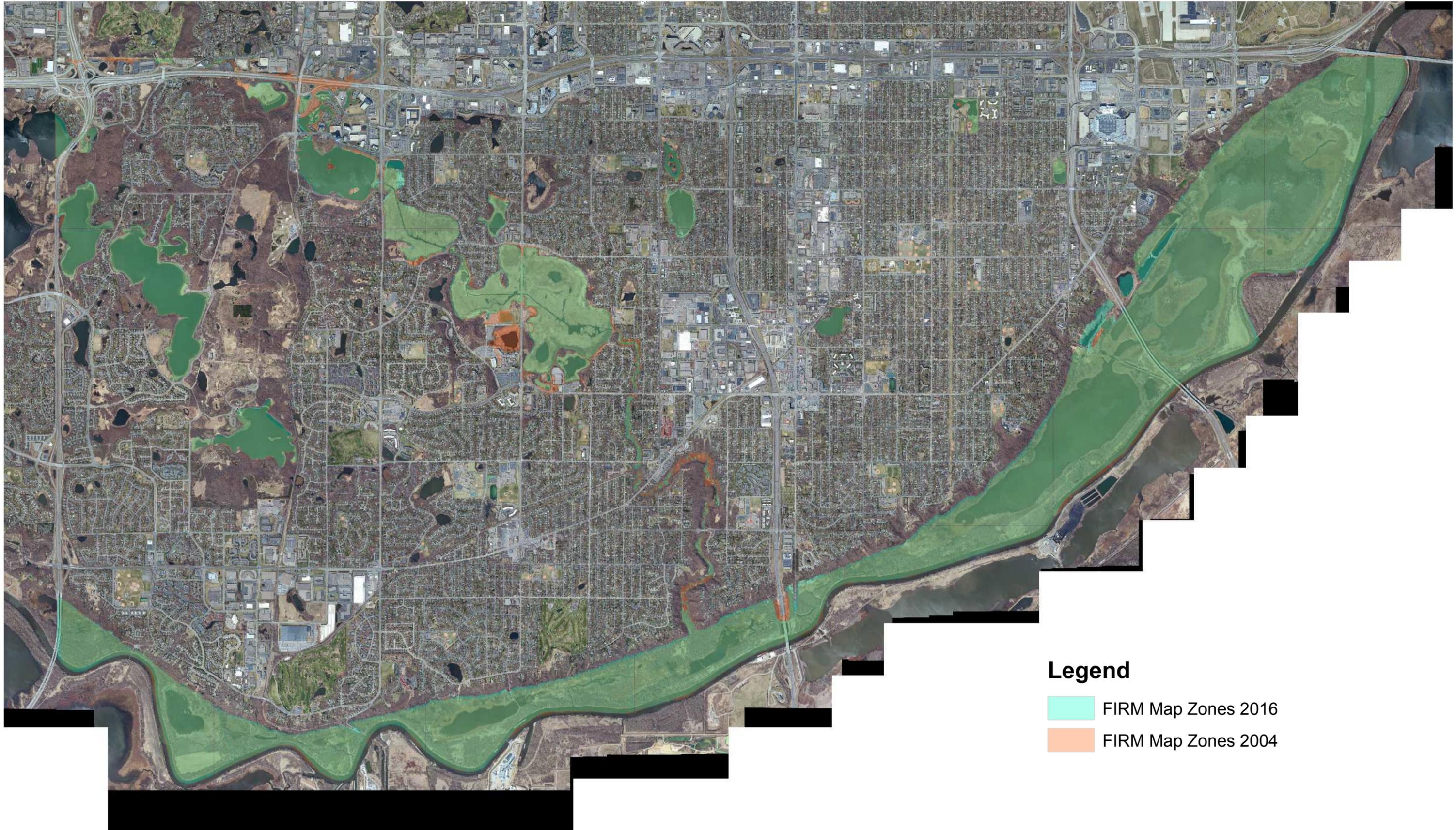
FEMA must receive a signed, certified, and in-effect ordinance no later than November 4, 2016. To allow sufficient time for processing and transmittal, the DNR has requested that all materials be provided to the DNR no later than November 1, 2016. If FEMA has not received the documentation by the map effective date, FEMA will suspend the City from the National Flood Insurance Program.

RECOMMENDATION

Staff recommends the following motion:

In Case PL2016-144, I move to recommend City Council approve a rezoning ordinance as attached to the staff report modifying the boundaries of the Flood Hazard (FH) Overlay District

to be consistent with updated Flood Insurance Rate Maps (FIRMs) prepared by the Federal Emergency Management Agency.



Legend

-  FIRM Map Zones 2016
-  FIRM Map Zones 2004



DATE: July 1, 2016

TO: Amy Schmidt
Karl Keel
Larry Lee

FROM: Bryan Gruidl
Jen Desrude

RE: Updates to Flood Hazard Overlay Districts

The Federal Emergency Management Agency (FEMA) has updated the Flood Insurance Rate Maps (FIRMs) for the City of Bloomington. These updated maps will become effective on November 4, 2016. As a condition of continued eligibility in the National Flood Insurance Program (NFIP) the City is required to amend our floodplain management ordinance or adopt a new floodplain management ordinance to incorporate the new maps and several updates to the DNR's sample ordinance.

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Please let us know if this schedule works for your Department and which staff members will be part of the work group.

cc: Glen Markegard, Mike Centinario, Shelly Pederson, Anna Sullivan

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MINNESOTA DEPARTMENT OF NATURAL RESOURCES
CENTRAL OFFICE
500 LAFAYETTE ROAD, BOX 25
SAINT PAUL, MN 55155
651-296-6157
888-646-6367

August 15, 2016

The Honorable Gene Winstead
Mayor, City of Bloomington
1800 West Old Shakopee Road
Bloomington, MN 55431

CONDITIONAL STATE APPROVAL OF FLOODPLAIN ORDINANCE & REQUIRED NEXT STEPS

Dear Honorable Mayor Winstead,

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This approval is valid upon adoption of the draft ordinance by the city and receipt by this office of **one (1) copy each of the adopted ordinance (signed and stamped with the community seal), the affidavit of publication, and the completed "Ordinance Certification Checklist"** that I have enclosed. Please forward these documents to Ceil Strauss, the DNR's State NFIP Coordinator in St.



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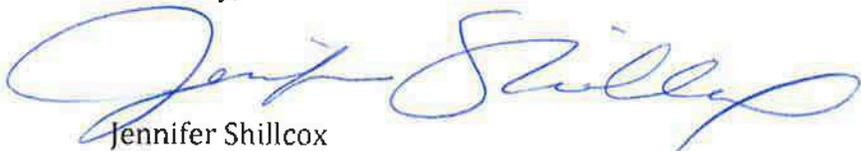
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The DNR greatly appreciates your community's cooperation and initiative in providing for the reduction of flood damages through the adoption and administration of this ordinance.

Sincerely,



Jennifer Shillcox
Land Use Section Supervisor

Enclosures: Ordinance Certification Checklist
Draft Ordinance with suggested revisions

ec: Jen Desrude, Development Coordinator -- City of Bloomington
Bryan Gruidl, Water Resources Manager -- City of Bloomington
Shelly Hanson, Engineer -- City of Bloomington
Michael Centinario, Planner -- City of Bloomington
Terri Yearwood, DNR Eco-Waters' Regional Manager
Jeanne Daniels, DNR Eco-Waters' District Manager
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AFFIDAVIT OF PUBLICATION

STATE OF MINNESOTA)
COUNTY OF HENNEPIN) ss

Charlene Vold being duly sworn on an oath, states or affirms that he/she is the Publisher's Designated Agent of the newspaper(s) known as:

SC Bloomington

with the known office of issue being located in the county of:

HENNEPIN

with additional circulation in the counties of:

HENNEPIN

and has full knowledge of the facts stated below:

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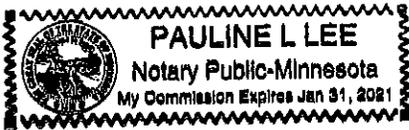
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By: Charlene Vold
Designated Agent

Subscribed and sworn to or affirmed before me on 09/01/2016 by Charlene Vold.

Pauline L. Lee
Notary Public



Rate Information:
(1) Lowest classified rate paid by commercial users for comparable space:
\$34.45 per column inch

Ad ID 588239

CITY OF BLOOMINGTON NOTICE OF PUBLIC HEARING BY THE PLANNING COMMISSION AND CITY COUNCIL

APPLICANT: City of Bloomington

PURPOSE: 1) An ordinance amending and reorganizing sections of Chapters 19 and 21 of the Bloomington City Code pertaining to the Flood Hazard Overlay District. The proposed changes update City Code language to be consistent with Federal Emergency Management Agency (FEMA) requirements and move the current Flood Hazard Overlay District section from Chapter 19 to Chapter 21.

2) A rezoning ordinance modifying the boundaries of the Flood Hazard (FH) Overlay District to match the updated Flood Insurance Rate Maps (FIRMs).

DATE AND TIME OF HEARINGS:
Planning Commission - Thursday, September 15, 2016 at 6:00 p.m.

City Council - Monday, October 3, 2016 at 7:00 p.m.

PLACE OF HEARINGS:
City Council Chambers
Bloomington Civic Plaza
1800 West Old Shakopee Road

HOW TO PARTICIPATE:
1. Review the proposed ordinance and flood hazard boundary changes online at www.blm.mn/FHOverlay; and/or
2. Submit a letter or email to the address below expressing your views; and/or
3. Attend the hearings and give testimony about the proposal.

FURTHER INFORMATION:
Engineering Division
Bloomington Public Works
1700 W. 98th St
Bloomington, MN 55431
(952) 563-4870
Email: Engineering@BloomingtonMN.gov

Published in the
Bloomington Sun Current
September 1, 2016
588239

Originator
Planning

Item
Industrial Districts and Standards - Discuss Update

Date
9/15/2016

Description

GENERAL INFORMATION

Applicant: City of Bloomington

Request: Discuss Update of Industrial Zoning Districts and Standards

BACKGROUND

As part of a multi-year project, the City is comprehensively updating the Bloomington Zoning Code. Many of the existing base zoning districts and overlay zoning districts were drafted in the 1950s and no longer support City objectives.

Recently adopted amendments include new commercial and mixed use zoning districts, updates to the existing residential zoning districts, and the creation of and updates to various zoning standards.

As part of the Planning Commission's 2016 work plan for the Zoning Ordinance Update project, the City Council requested staff work on an industrial obsolescence study and update the industrial zoning districts.

Existing Industrial Districts

Bloomington has six industrial zoning districts (see attached industrial zoning code):

- *Special Industrial Park (I-1), Limited Industry (I-2), General Industry (I-3)* – districts preserve zones primarily for industrial use and allow business uses in them only when necessary to complementary to the industrial neighborhood. Majority of these districts are located along Lyndale Avenue and north of Civic Plaza, except for three I-1 properties in the western industrial park.
- *Industrial Park (IP)* – district provides an area for low intensity office, warehousing, wholesaling, manufacturing and other industrial uses. Uses are limited to exclude the more intensive industrial uses – those which require significant outside storage. The IP districts are located in the western industrial park.
- *Freeway Development 1 (FD-1), Freeway Development 2 (FD-2)* – districts provide for a limited mixture of land uses with controls and high standards, to encourage and accommodate industry in freeway locations. The FD districts are located along I-494, east of I-35W.

Industrial Obsolescence Review

Staff prepared seven data maps (attached) to examine factors that contribute to industrial obsolescence. The maps depict zoning, existing land use, clear height, total assessed value per square foot, site size, floor area ratio, and effective age.

Draft Zoning Strategies

Using the information from the data maps and staff analysis, staff prepared a draft zoning strategies map (attached). Three draft zoning strategies were identified for discussion:

- *Protected industrial area* – properties within this area should remain industrial. Rezoning to non-industrial districts should be avoided.
- *Proactive rezone* – properties within this area are targeted for rezoning to:
 - Commercial Zoning Districts
 - New industrial/live work zoning district or
 - New industrial/retail zoning district.
- *Transitional area – market driven* – properties within this area would remain zoned and guided industrial; however, the City would be open to a market driven guide plan and zoning change, dependent on the proposed land use and relationship to the surrounding land uses.

Industrial Code Update

The industrial zoning code update includes:

- Review of uses and standards within the existing industrial districts
- Consolidation of the Freeway Development Districts
- Review of the industrial exterior storage and landscaping/screening standards (attached)
- Research and creation of a new industrial live/work zoning district
- Research and creation of a new hybrid (industrial/retail) zoning district

Outreach

As part of the industrial community outreach, staff proposes an industrial focus group with representation from industrial property owners, the Chamber of Commerce, a leasing professional, and NAIOP (Commercial Real Estate Development Association). The focus group would meet multiple times to discuss and provide feedback on the industrial zoning update.

Staff also plans an informational meeting for all industrial owners prior to the public hearings.

Questions

- Thoughts on the draft zoning strategies.
 - Are there any parcels or areas that should have a different strategy?
 - Any additional factors you would like staff to evaluate?
- Any specific research Planning Commission would like staff to review as part of the industrial zoning update?
 - Any specific uses that should or should not be part of the industrial districts?
 - Any specific industrial standards that need to be reviewed?

Creator: Jason Schmidt, Planner

Presenters: Glen Markegard, Planning Manager and Jason Schmidt, Planner

Provide input on the industrial zoning update.

Attachments:

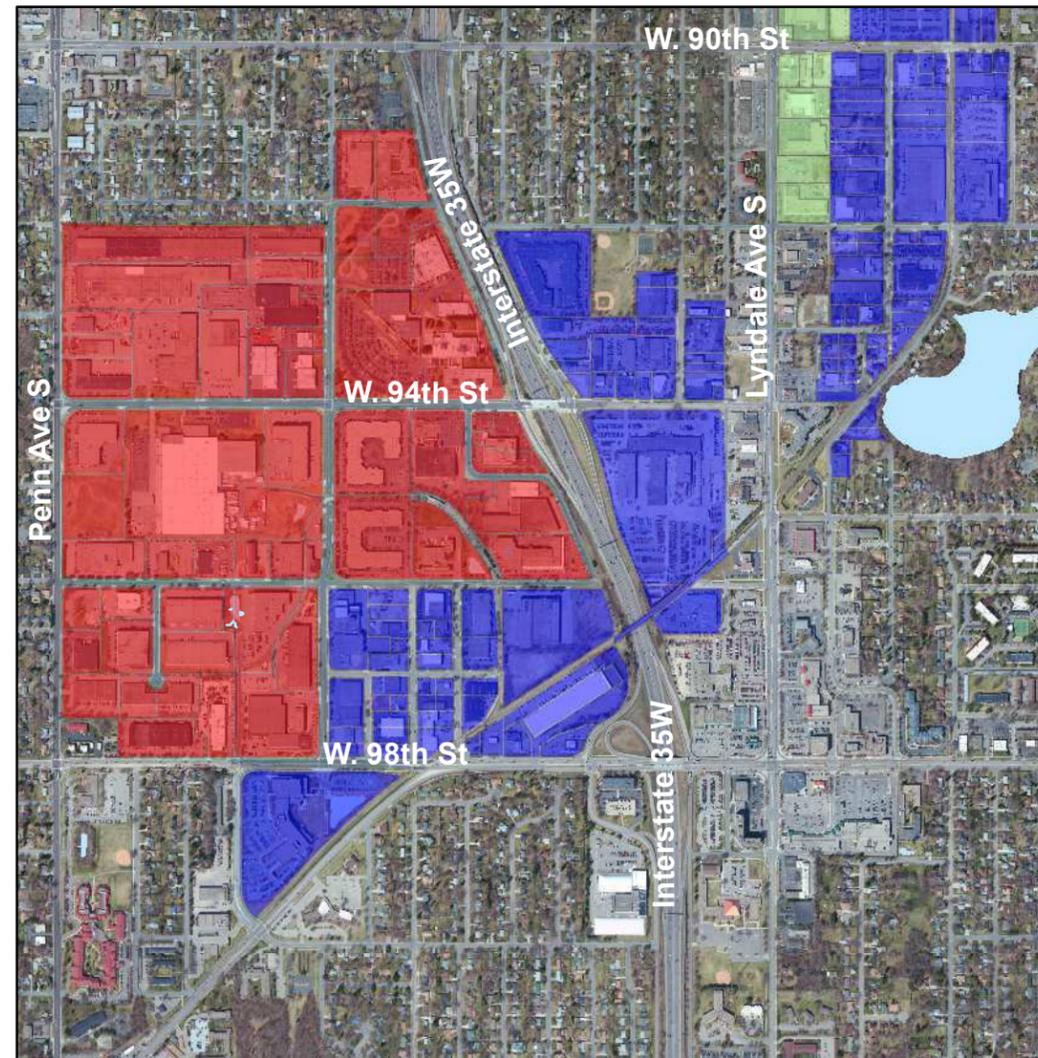
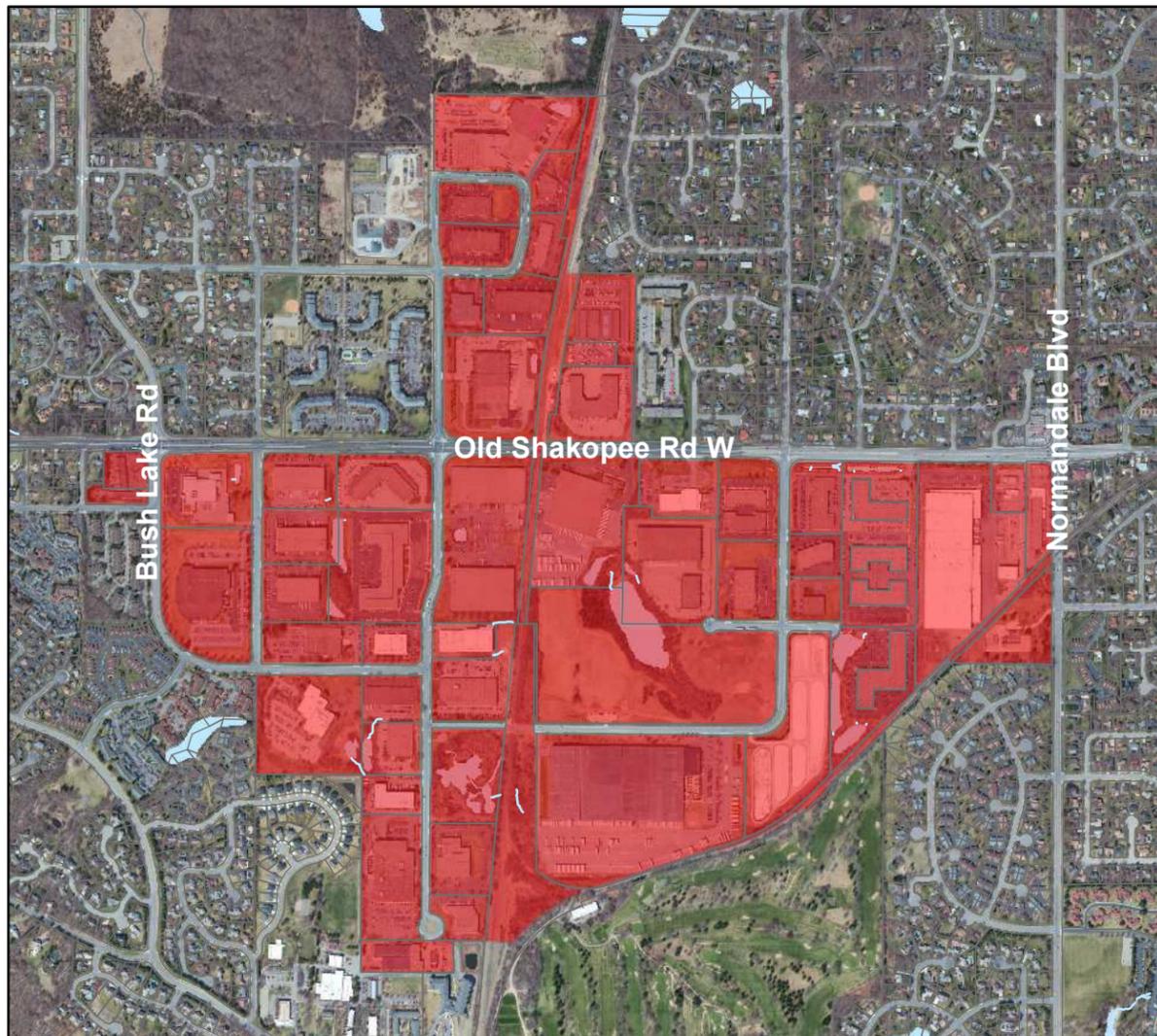
Zoning Strategies Map - Draft

Data Maps - Industrial Zoned Parcels

Industrial Zoning Code

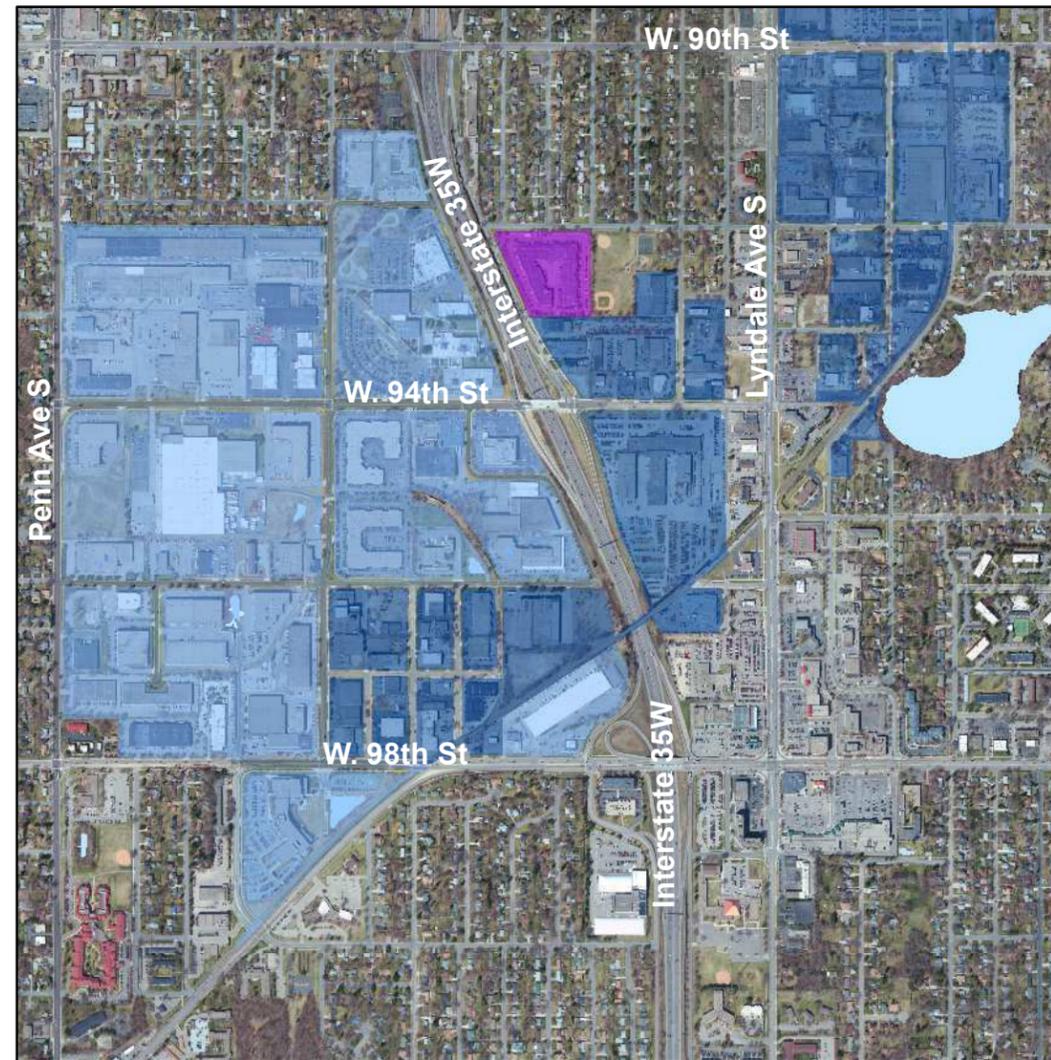
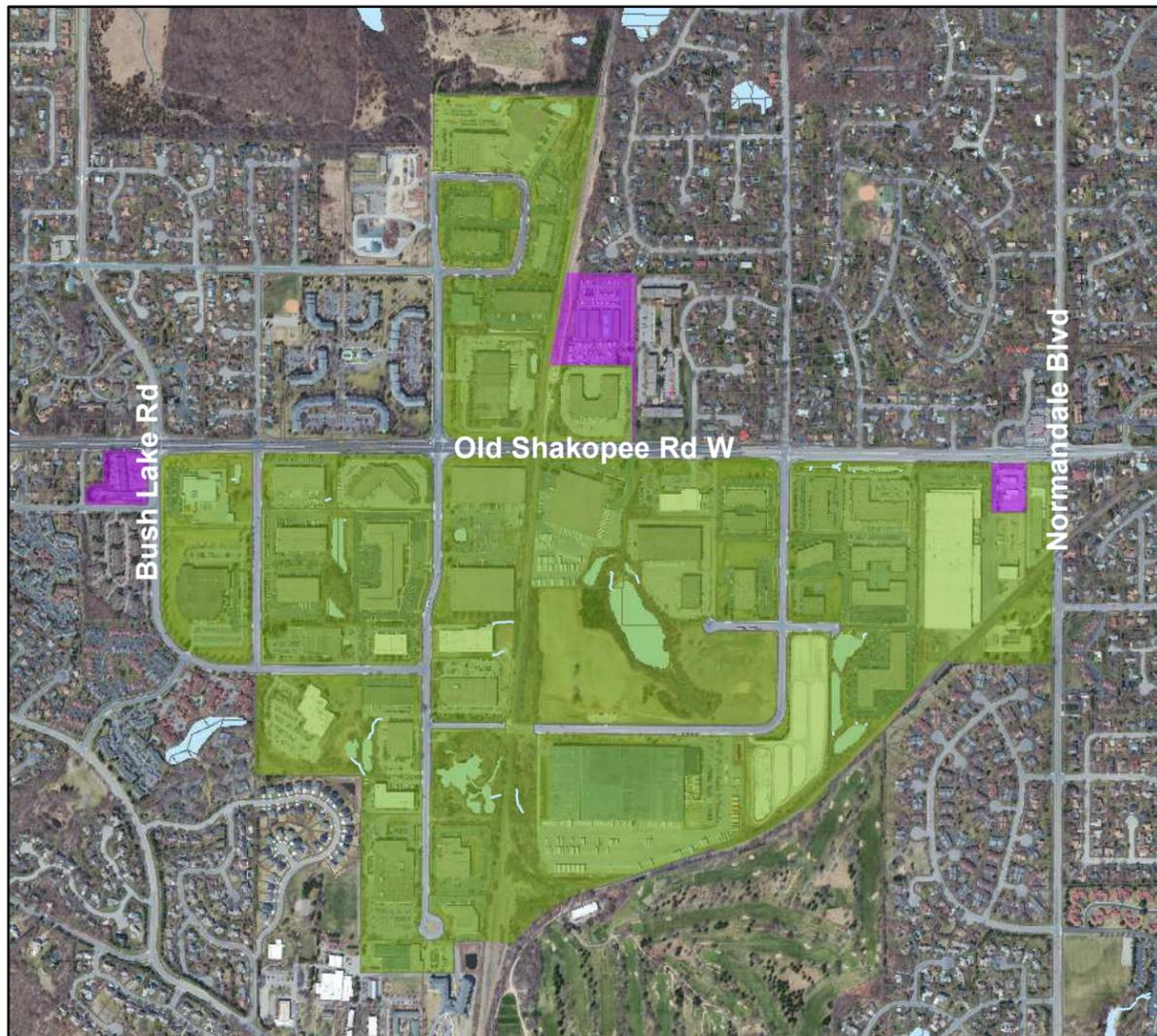
Exterior Storage and Landscaping/Screening Standards

Industrial Obsolescence Study Draft Zoning Strategies



- Protected industrial area
- Proactive rezone
- Transitional area - market driven

Industrial Obsolescence Study Zoning Map

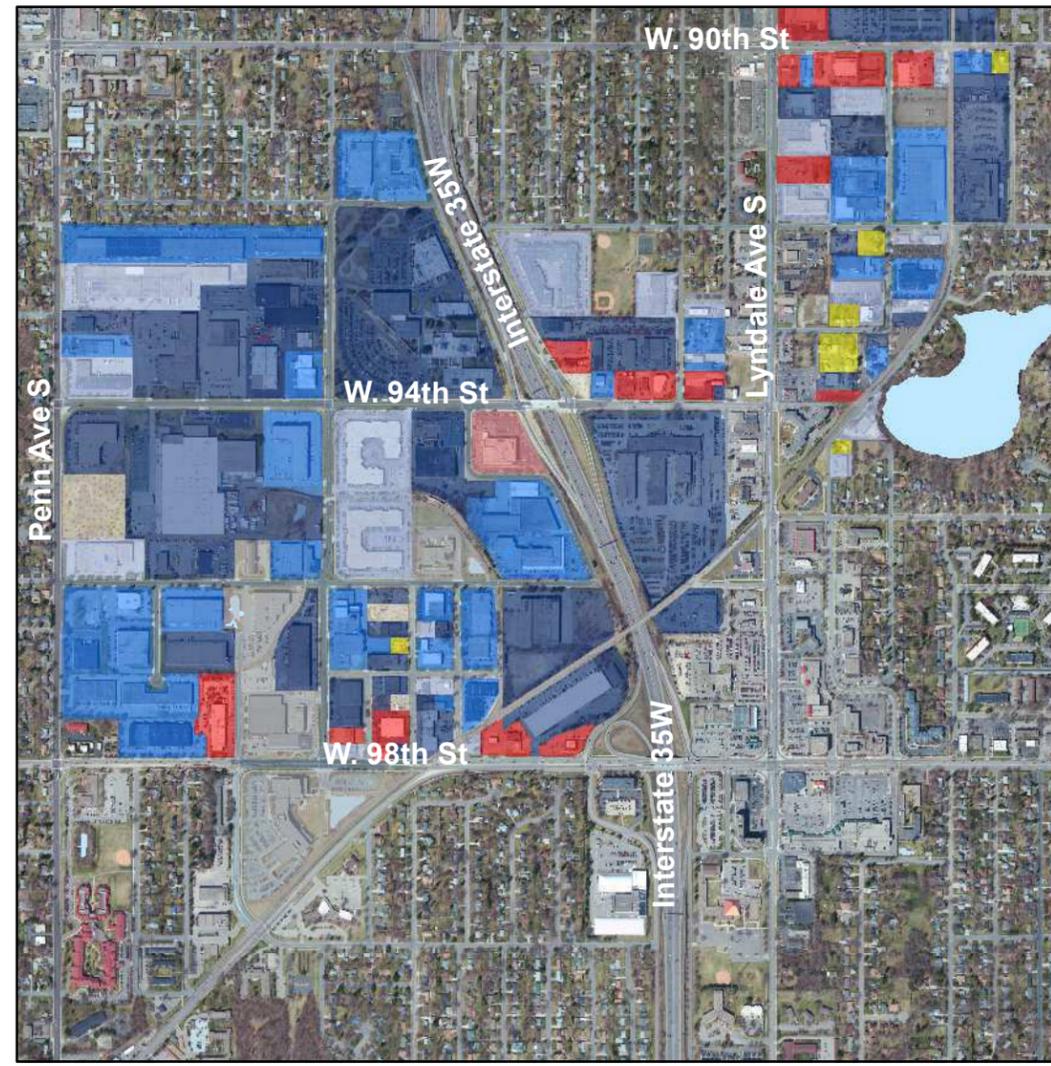


- FD-1 Freeway Development
- FD-2 Freeway Development
- I-1 Special Industrial Park
- I-2 Limited Industrial
- I-3 General Industrial
- IP Industrial Park



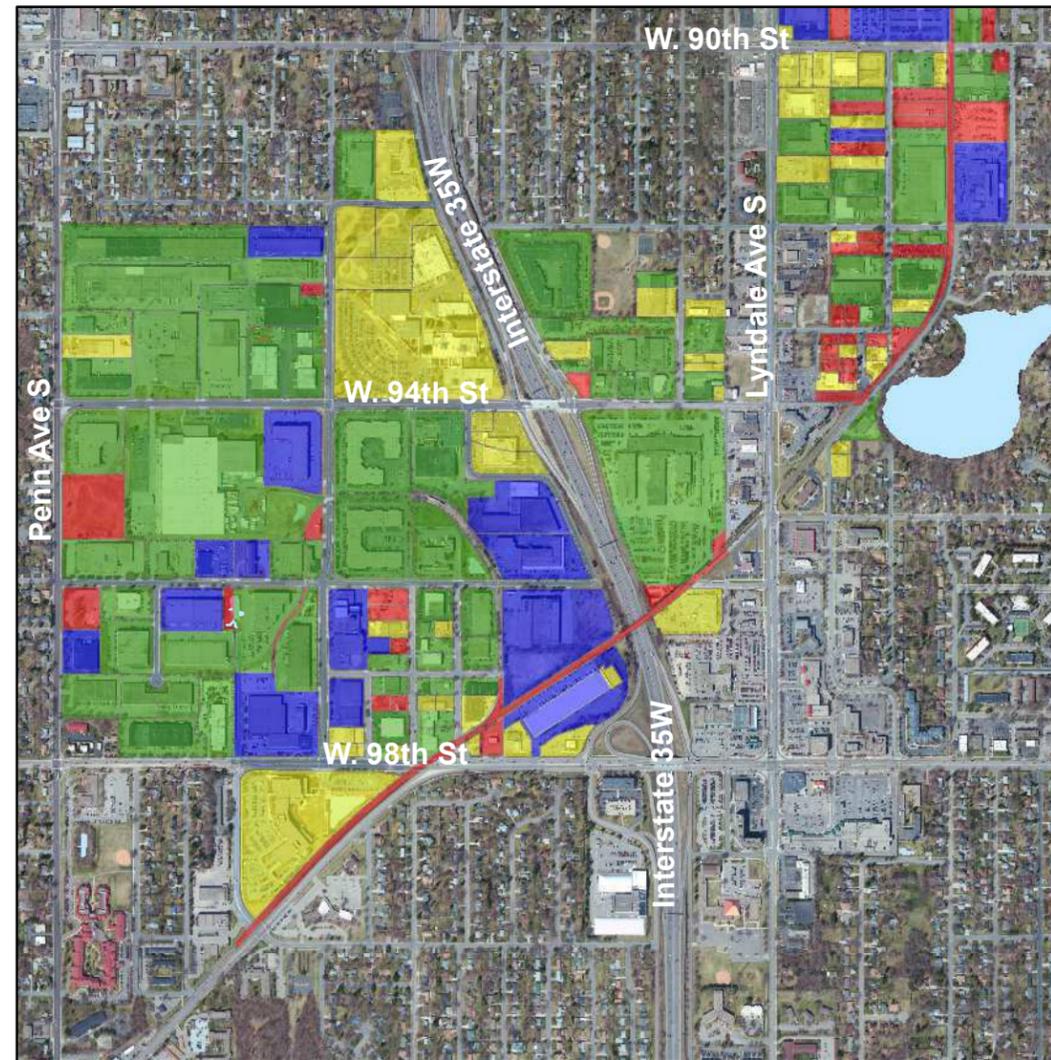
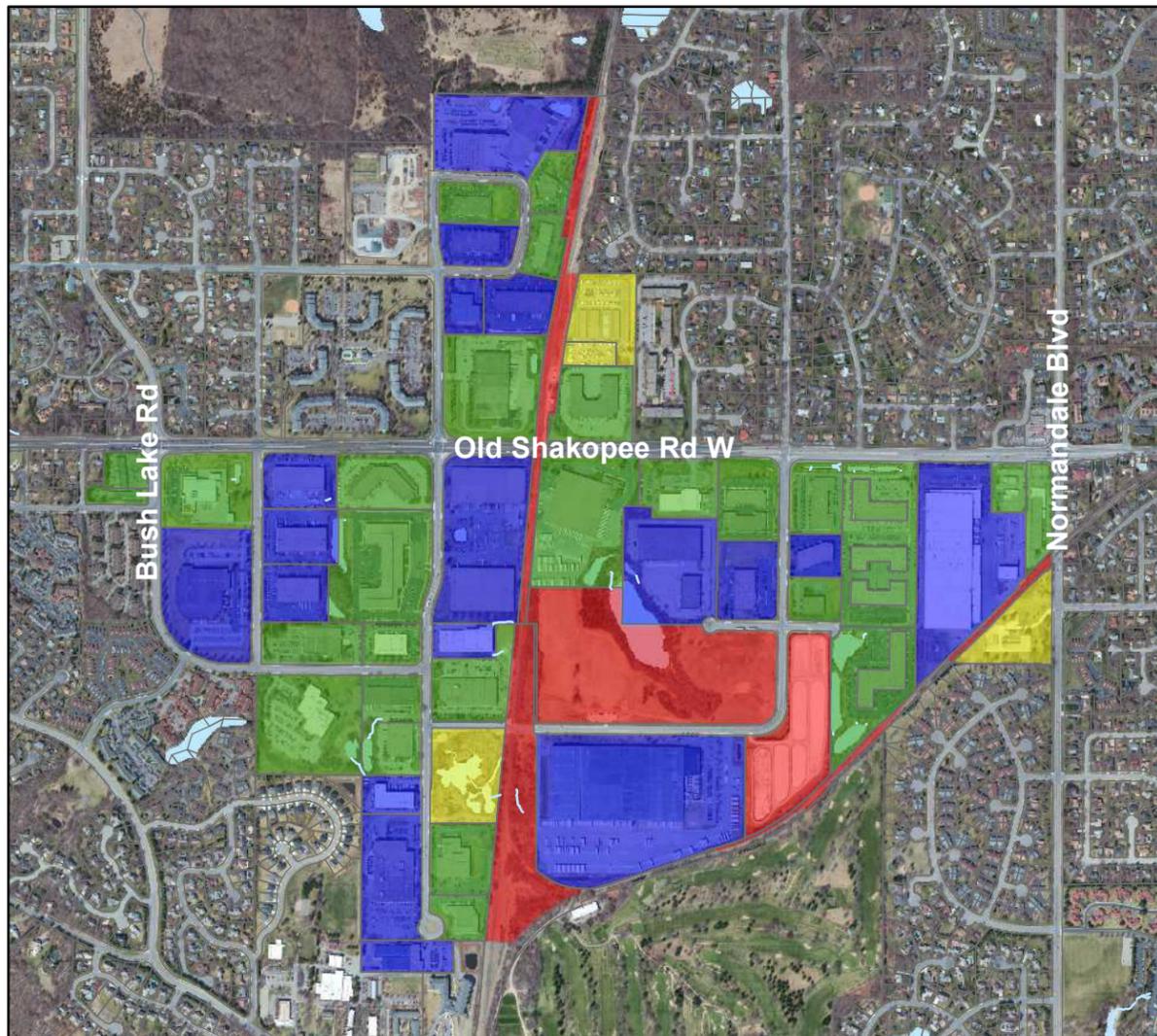
Industrial Obsolescence Study

Existing Land Use



Industrial Obsolescence Study

Clear Height

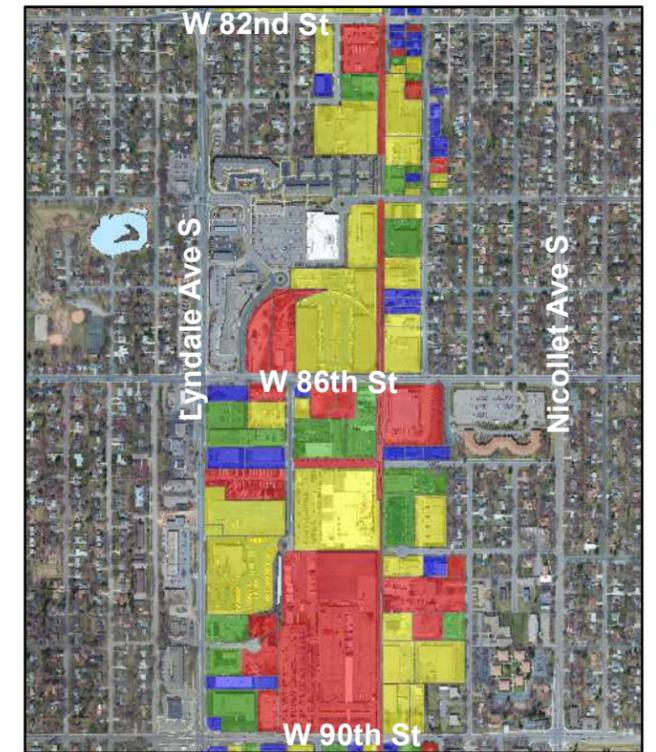
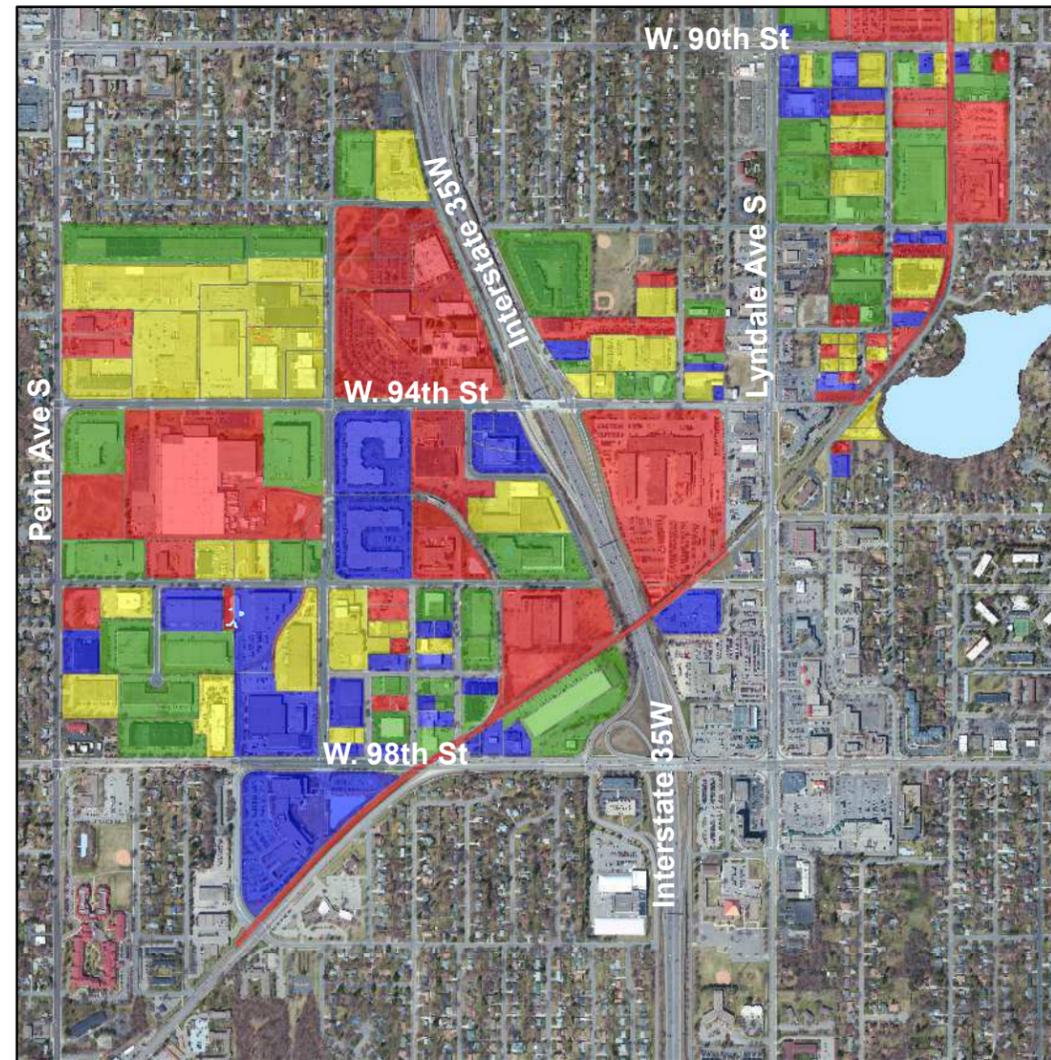
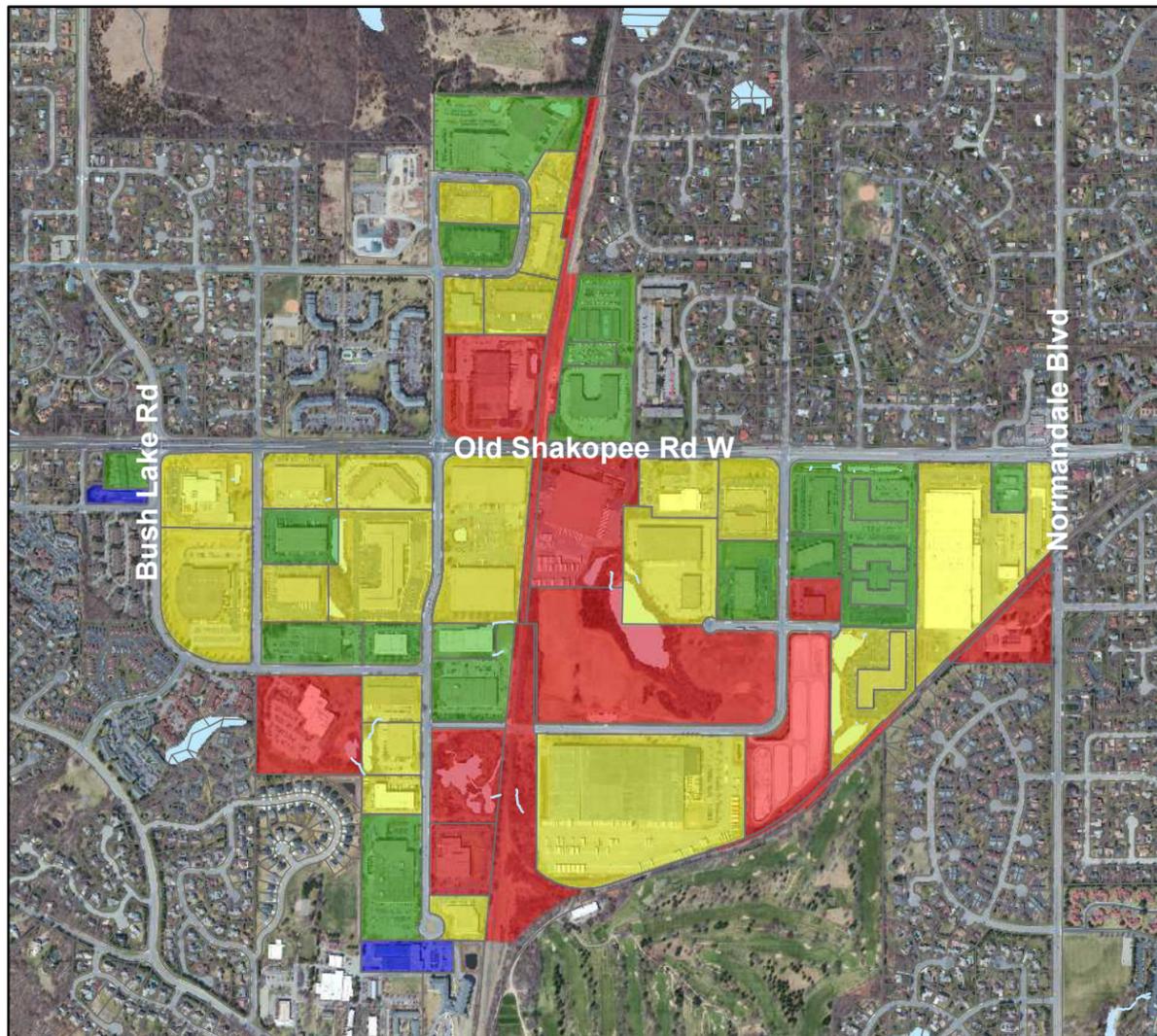


- Vacant or Residential
- Under 13 feet
- 13 - 20 feet
- Over 20 feet

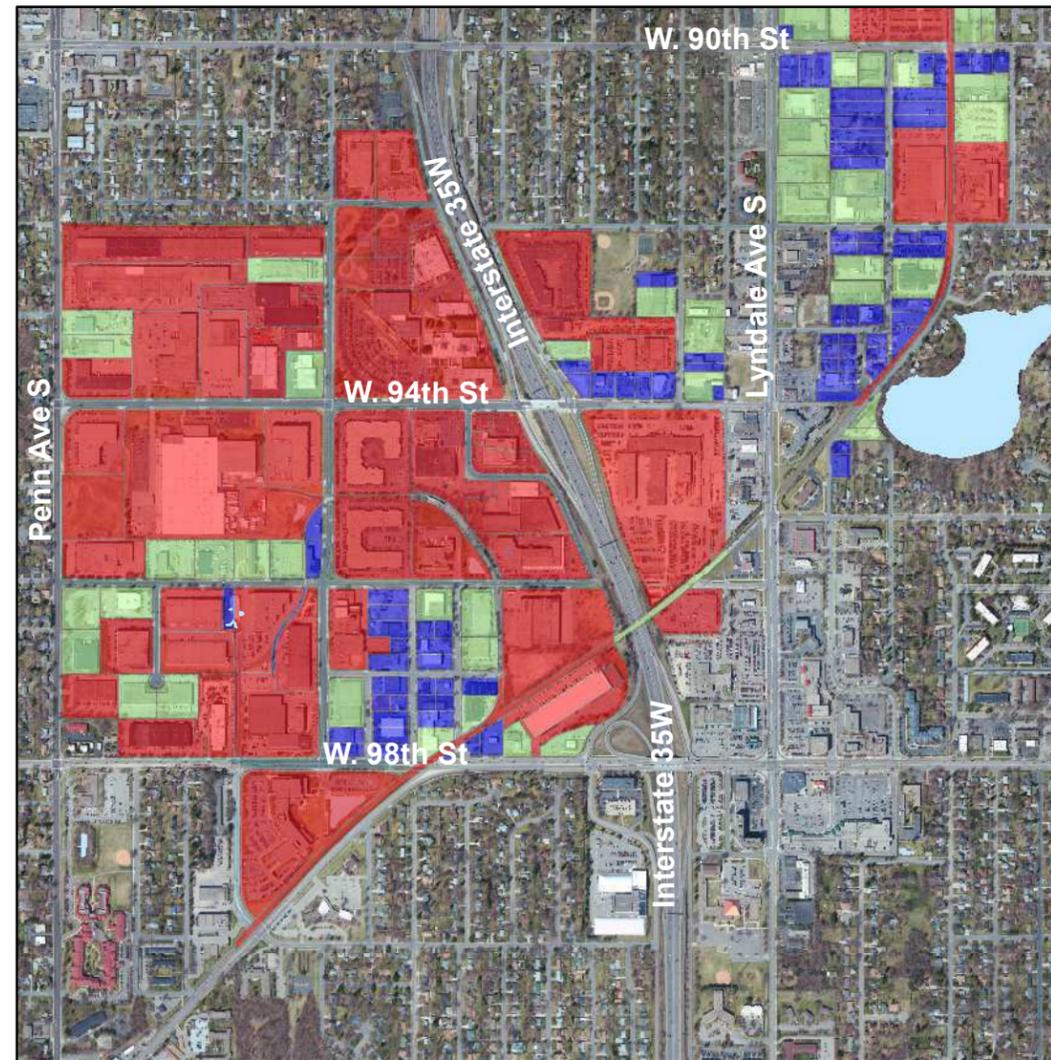
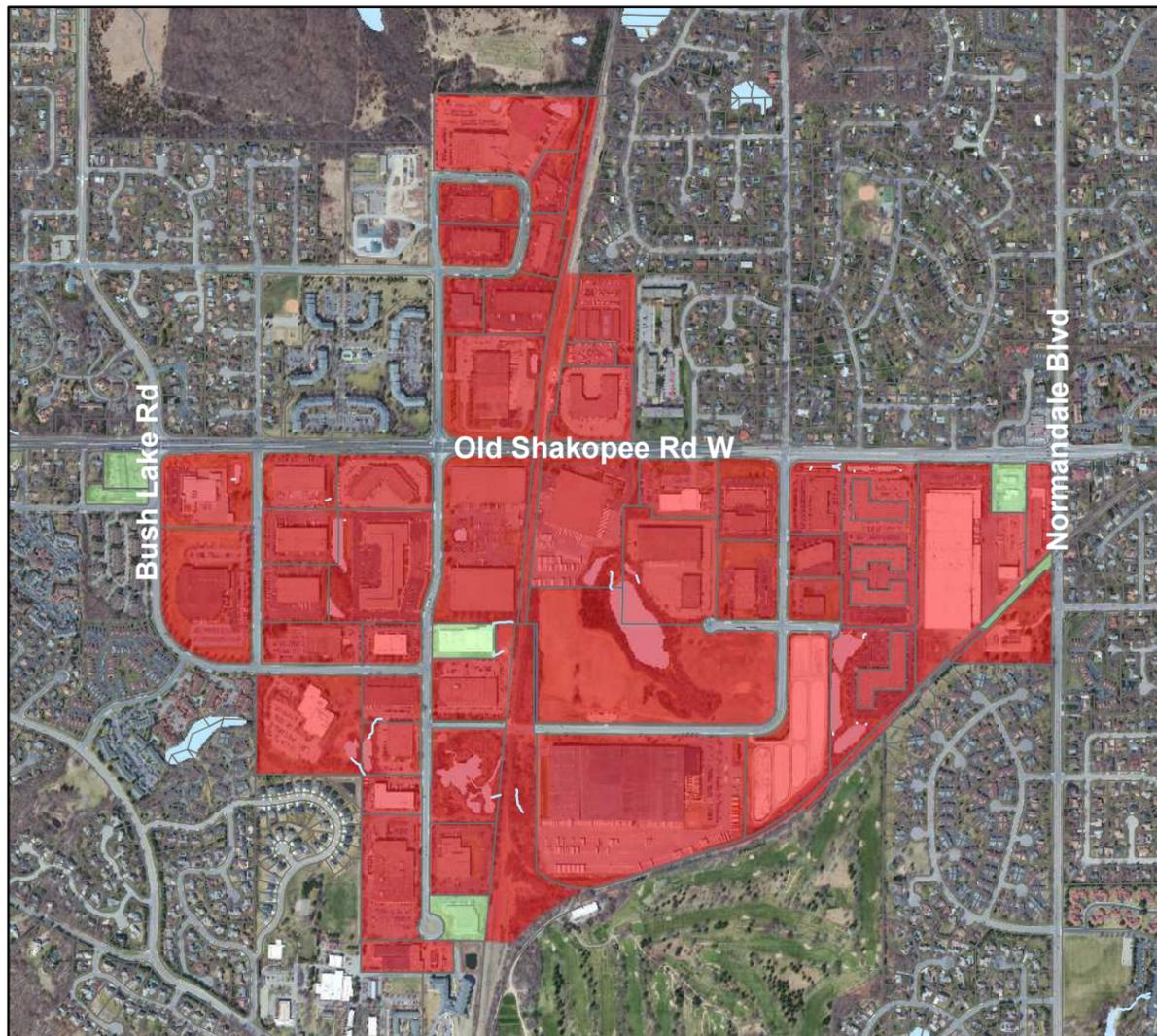


Industrial Obsolescence Study

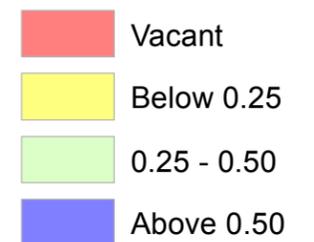
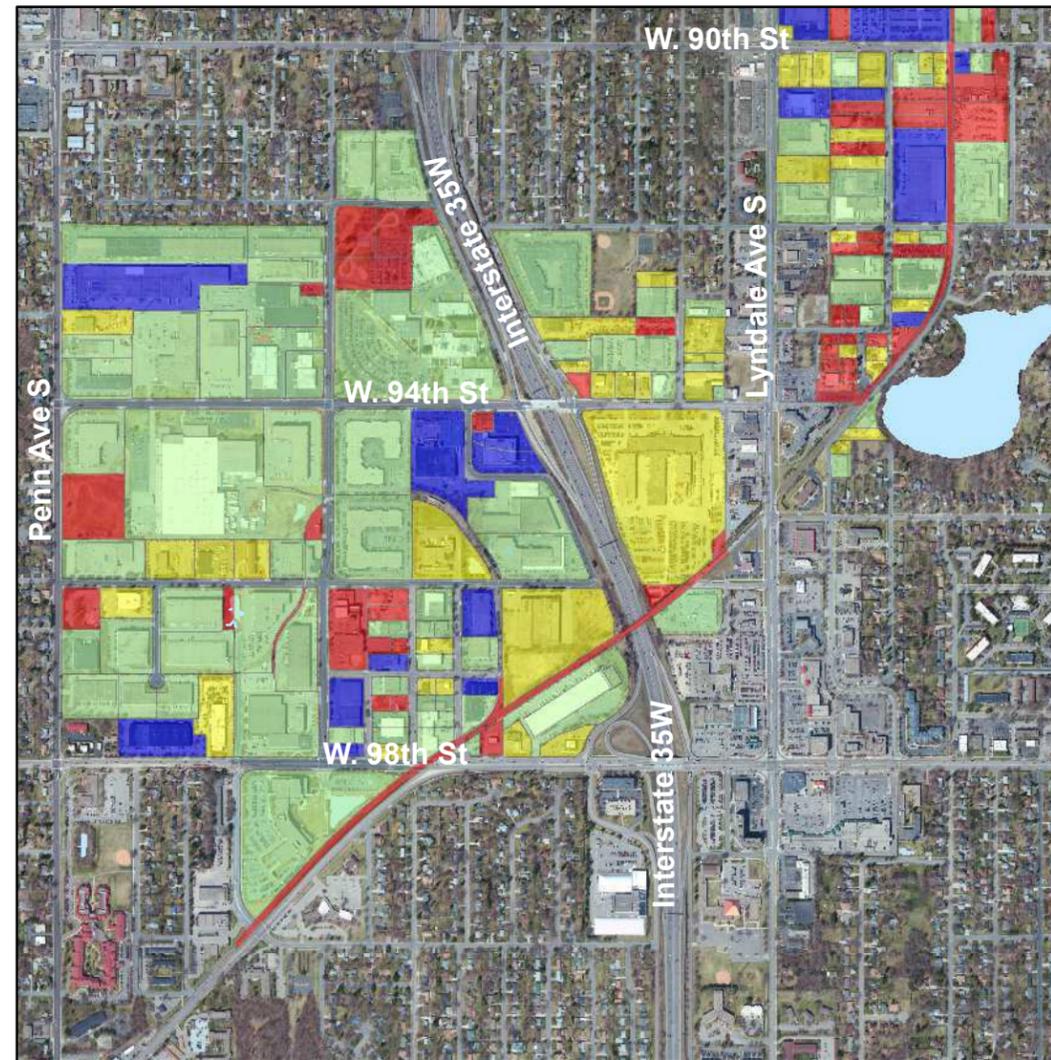
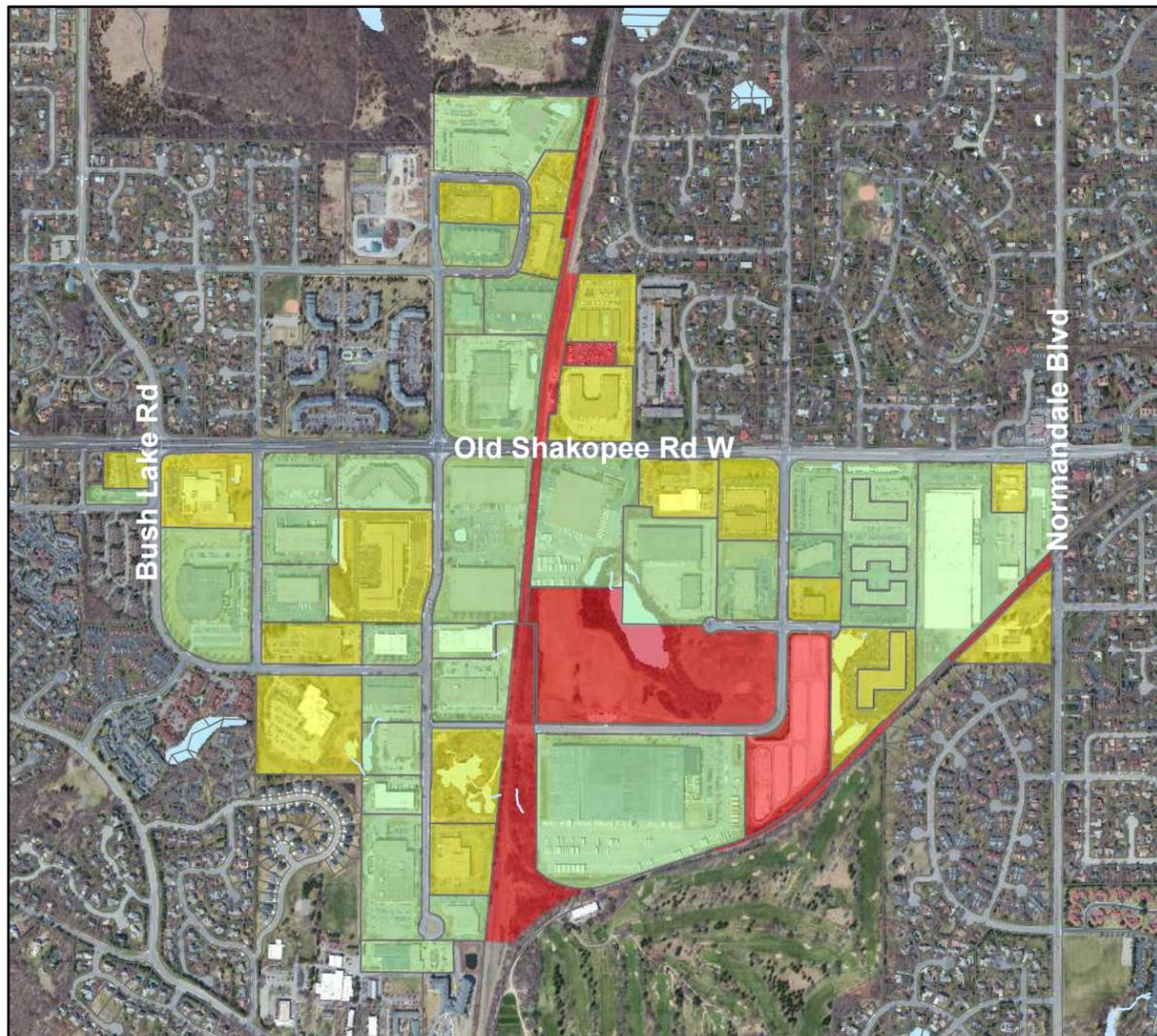
Total Assessed Value per Square Foot of Land Area



Industrial Obsolescence Study Site Size

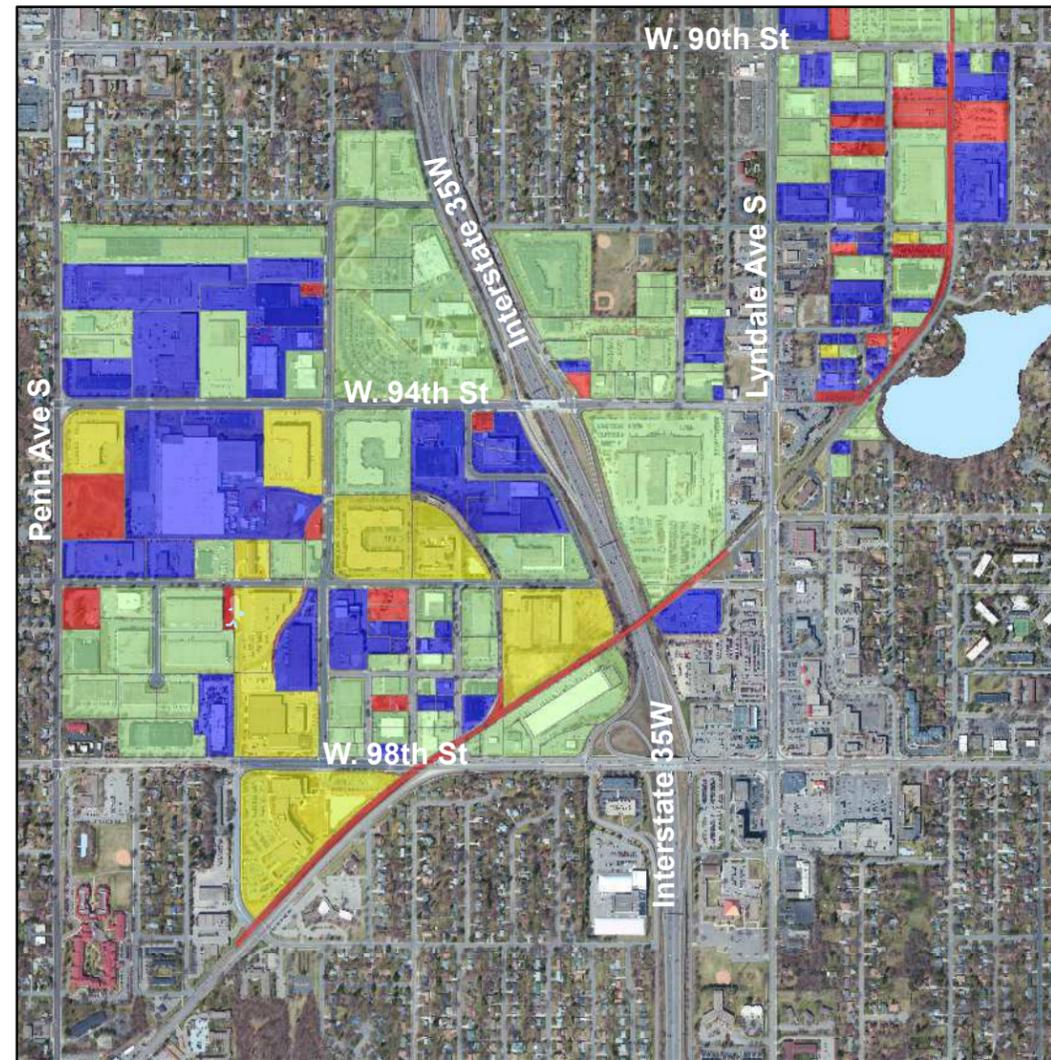
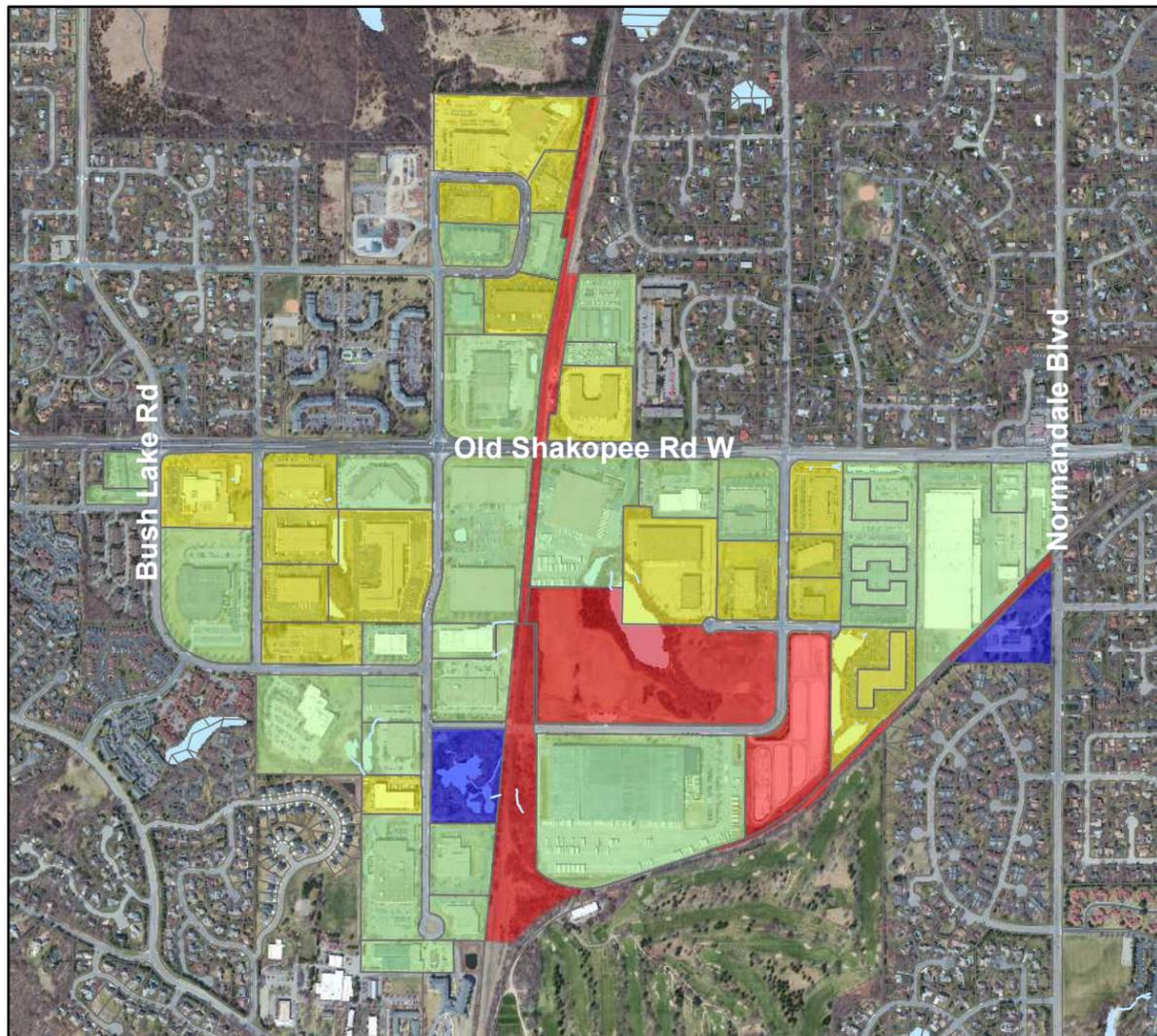


Industrial Obsolescence Study Floor Area Ratio



Industrial Obsolescence Study

Effective Age



§ 19.33 INDUSTRIAL (I-1, I-2 AND I-3) DISTRICTS.

- (a) *Purpose.* To preserve zones primarily for industrial use and to allow business uses in them only when necessary to or complementary to the industrial neighborhood and when it will not interfere with further industrial development.
- (b) *Permitted uses.*
 - (1) Reserved;
 - (2) Manufacturing uses (manufacturing, compounding, processing, packaging, treatment or assembly of products and materials);
 - (3) Offices and office buildings;
 - (4) Public and public utility uses;
 - (5) Research laboratories;
 - (6) Wholesale businesses;
 - (7) Warehousing;
 - (8) Repairing, rebuilding and painting of vehicles, machinery and equipment in General Industry (I-3) Districts;
 - (9) Dry cleaning and laundry processing in General Industrial (I-3) Districts;
 - (10) Reserved;
 - (11) Sexually-oriented businesses, subject to Article VIII of this code; and
 - (12) Entertainment and recreation special events.
- (c) *Permitted accessory uses.*
 - (1) Reserved;
 - (2) Off-street parking and off-street loading;
 - (3) Dwelling for watchman (but not for family);
 - (4) Retail sales, incidental to manufacturing of products manufactured on the premises;
 - (5) The following in buildings primarily occupied by medical and dental services:
 - (A) Retail sales of drugs, prescription items, patent medicines, sickroom supplies, prosthetic devices or items related to any of the aforementioned; and
 - (B) Coffee shops and cafeterias.
 - (6) The following in buildings primarily occupied by offices, business and professional, and within the principal building of hotels or motels, provided that there shall be no exterior signage:
 - (A) Barber and beauty shops;
 - (B) Floral shops;
 - (C) Camera and optical goods shops;
 - (D) Men's apparel;
 - (E) Women's apparel;
 - (F) Branch post office;
 - (G) Financial institutions;
 - (H) Jewelry shops;
 - (I) Boutiques;
 - (J) Shops which include and are limited to the sale of tobacco, candy, books, magazines, newspapers, gifts, cards, stationery, and office supplies;
 - (K) Pharmacy and sundry items;
 - (L) Utility collection;
 - (M) Travel bureaus;
 - (N) Coffee shops and cafeterias; and
 - (O) Licensed therapeutic massage enterprises.
 - (7) Car rental accessory to motels provided the cars are stored in the regular motel-site, off-street parking area without occupying space otherwise required by this code for motel parking.
 - (8) Day care facilities which have been approved by the city in buildings primarily occupied by

- business and professional offices and manufacturing uses, provided that no exterior signage for such day care facilities shall be permitted;
- (9) Class II motor vehicle sales accessory to Class I motor vehicle sales;
 - (10) Transient merchant sales in hotel interiors only;
 - (11) Beekeeping; and
 - (12) Hotel manager dwelling unit.
- (d) *Conditional uses.*
- (1) Hotel airport parking;
 - (2) Motels;
 - (3) Restaurants;
 - (4) Service stations;
 - (5) Open storage as primary use (except in I-1 Industrial Park District, but not including junk yards or junk car disposal businesses);
 - (6) Vehicle rental accessory to Class I motor vehicle sales subject to the regulations set forth in § 19.63.07(e);
 - (7) Planned developments (industrial);
 - (8) Reserved;
 - (9) Reserved;
 - (10) Pet services facility in General Industry (I-3) Districts;
 - (11) In Limited Industry (I-2) and General Industry (I-3) Zoning Districts, retail sales of heavy equipment, including industrial, manufacturing and construction machinery and equipment; and, in said districts, other retail sales which are a part of warehousing or wholesale business;
 - (12) Junk car disposal businesses in General Industry (I-3) Districts, provided the business including all storage and dismantling or wrecking and display of parts for sale is conducted within a fire resistant building, provided that the entire premises is enclosed by screen fencing and provided the premises abut railroad trackage;
 - (13) Clubs and lodges, nonprofit;
 - (14) Truck and/or trailer rental in the I-3 District;
 - (15) Railroad lines;
 - (16) Repairing, rebuilding and painting vehicles, machinery, and equipment when the use is within a completely enclosed building and when accessory to a permitted principal use in the I-1 and I-2 Districts;
 - (17) Vocational and industrial training schools;
 - (18) Physical exercise facilities as uses not to exceed 10% of the total square footage of the building;
 - (19) Sports training facilities which may be available for public use;
 - (20) Solid waste transfer stations in the I-2 and I-3 Zoning Districts in accordance with the performance standards of § 19.63.04 of this code;
 - (21) Reserved;
 - (22) Self-storage facilities in the Limited Industry I-2 and the General Industrial I-3 Districts, and only in the Industrial Park I-1 District when approved as part of a planned development pursuant to § 19.38.01 of this code;
 - (23) Places of assembly uses;
 - (24) Car care centers. Under a planned development in the Industrial Park (I-1) Zoning District; including auto body repair and painting only when conducted within a multi-tenant building and not exceeding 25% of the gross building floor area of the car care center;
 - (25) Reserved;
 - (26) Household hazardous waste and recycling collection facilities in the I-2 and I-3 Zoning Districts in accordance with the performance standards of § 19.63.04(e) of this code;
 - (27) Class I, Class II and Class III motor vehicle sales in the I-3 District;
 - (28) Towers. For related provisions see §§ 15.14, 19.63.05 and 21.301.10 of this code;

- (29) In the I-3 General Industry District, automobile rental agencies with an on-site inventory more than ten but no more than 35 rental vehicles, subject to performance standards set forth in § 19.63.07;
 - (30) In Limited Industry (I-2) and General Industry (I-3) Zoning Districts, retail sales of marine equipment; and
 - (31) In the I-3 General Industrial District, health clubs not exceeding one-half of the building floor area on a site, and when adjacent to an arterial or collector street.
- (e) *Interim uses.*
- (1) Excavation and removal of sand, gravel, black dirt and other types of soil and mineral products, gravel crushing and screening operations and bituminous treatment plants not to exceed two years in duration;
 - (2) Solid waste weigh stations;
 - (3) Open storage (excluding junk yards and junk car disposal businesses) as a primary use in the I-2 and I-3 Zoning Districts; and
 - (4) Reserved.
- (f) *Special Industrial Park (I-1) District requirements.*
- (1) Building coverage shall not exceed 30% of the site, plus for industrial uses 1% for each acre of site over ten acres up to a maximum of 40% coverage. However, a parking structure or the portion of any structure used for parking shall not be counted as building floor area or structure coverage for the purpose of calculating building floor area and percentage of site coverage by structures.
 - (2) No loading docks may be on any street frontage. Provision for handling all freight, either by railroad or truck, shall be on those sides of any buildings which do not face on any street or proposed streets.
 - (3) No screening shall be permitted to extend beyond the building setback lines.
 - (4) Exterior materials: the exterior materials and finish of all buildings erected on lands within Industrial Park I-1 Zoning Districts shall be in conformance with the applicable requirements of § 19.63.08 of this code.
 - (5) Along any street bordering on a residential zone, there may be no driveway access from such street into adjacent industrial sites unless access is otherwise impracticable. All access to industrial sites shall be from streets within the industrial park where practicable.
 - (6) Outside storage shall be limited to an area not larger than 50% of the ground coverage of the principal building and shall be located to the rear or side not abutting a public street.
 - (7) Reserved.
 - (8) Structure height shall be regulated pursuant to § 21.301.10 of this code.
 - (9) Notwithstanding any provision of this code to the contrary, the following shall be prohibited as permitted or conditional uses within the I-1 Zoning Districts which lie within that area of the city bounded by I-494 on the north, Trunk Highway 77 on the west and the Minnesota River on the south and east:
 - (A) Warehouses;
 - (B) Office warehouses; and
 - (C) Restaurants when not included within a hotel or motel.
- (g) *Special Limited Industry (I-2) District requirements.*
- (1) Exterior materials: the exterior materials and finish of all buildings erected on lands within Limited Industry I-2 Zoning Districts shall be in conformance with the applicable requirements of § 19.63.08 of this code.
 - (2) Reserved.
 - (3) Structure height shall be regulated pursuant to § 21.301.10 of this code.
- (h) *Special General Industry (I-3) District requirements.*
- (1) Exterior materials: the exterior materials and finish of all buildings erected on lands within General Industry I-3 Zoning Districts shall be in conformance with the applicable requirements

- of § 19.63.08 of this code.
- (2) Reserved.
- (3) Structure height shall be regulated pursuant to § 21.301.10 of this code.
- (i) *Sign regulations.* Refer to Article X of this chapter.

§ 19.33.01 INDUSTRIAL PARK (IP) DISTRICT.

- (a) *Intent.* The Industrial Park IP District is intended to provide area within the city for low intensity office, warehousing, wholesaling, manufacturing and other industrial uses. The uses allowed in the Industrial Park District are limited to exclude the more intensive industrial uses, those industrial uses which require significant outside storage and those business uses which are not necessary to or complementary to the intent of this district. The performance standards for this district reflect the intended development character.
- (b) *Permitted principal uses.*
 - (1) Offices and office buildings;
 - (2) Manufacturing;
 - (3) Research laboratories;
 - (4) Warehousing;
 - (5) Wholesale businesses;
 - (6) Public uses;
 - (7) Public utility uses;
 - (8) Sexually-oriented businesses, subject to Article VIII of this code; and
 - (9) Entertainment and recreation special events.
- (c) *Provisional uses.* The following uses shall be permitted in the IP Zoning District when they meet the following stated criteria.
 - (1) The following accessory uses when customarily incidental to and clearly subordinate to the permitted principal use:
 - (j) Retail sales of products manufactured on the premises where the retail floor area does not exceed the lesser figure of either 2,000 square feet or 10% of the gross floor area of the building in which the sales area is located;
 - (a) (ii) Coffee shops and cafeterias;
 - (b) (iii) Open outside storage shall be limited to an area not larger than 50% of the ground coverage of the principal building and shall be located to the rear or side of the building which does not abut a public street;
 - (c) (iv) Licensed day care facilities which have been approved by the city in buildings primarily occupied by business and professional offices and manufacturing uses. No exterior signage shall be allowed; and
 - (d) (v) Beekeeping.
 - (2) Reserved.
 - (3) Railroad spurs when serving an individual industrial property.
- (d) *Conditional uses.*
 - (1) Parking as a principal use;
 - (2) Agricultural uses less than 80,000 square feet in area or on a parcel or lot less than 80,000 square feet in area;
 - (3) Reserved;
 - (4) Railroad lines;
 - (5) Motor freight terminals;
 - (6) Athletic training facilities and dance studios, but not including commercial recreation, and

athletic and social clubs;

(7) Reserved;

(8) Towers. For related provisions see §§ 15.14, 19.63.05 and 21.301.10 of this code; and

(9) Instructional center.

(e) *Interim uses.*

(1) Solid waste weigh stations;

(2) Golf driving ranges provided that each permit shall be limited to no more than a two-year period, any building(s) shall be temporary and portable in nature and shall be on-site only during the golf season, retail sales shall be limited to those minor items intended for on-site use and on-site parking shall be provided at the rate of two spaces for each tee position; and

(3) Short term retail sales: retail sales within a completely enclosed building, limited to one event of not more than four days on any individual property in any calendar year.

(f) *Maximum floor area ratio.* The maximum floor area ratio within the IP District shall be one-half square foot of floor area for each one square foot of lot area.

(g) *Dimension requirements.*

(e) Minimum lot area	(f) 120,000 square feet
(g) Minimum lot width	(h) 200 feet
(i) Minimum setback, front	(j) 60 feet
(k) Minimum setback, side	(l) 60 feet
(m) Minimum setback, rear	(n) 25 feet
(o) Minimum setback, side or rear adjoining a public right-of-way	(p) 60 feet
(q) Minimum floor area principal building	(r) 20,000 square feet
(s) Maximum structure height (excluding towers)	(t) As regulated by § 21.301.10 of this code
(u) Maximum structure lot coverage	(v) 30%
(w) Maximum structure floor area ratio	(x) 0.5 FAR

(h) Reserved.

(i) *Off-street parking.* Off-street parking for the IP District must be provided in accordance with the requirements of §§ 21.301.06 and 19.52 of this code and with the following additional design standards.

(1) A 40-foot deep landscaped yard shall be provided between all off-street parking areas and any property line abutting a public right-of-way.

(2) Reserved.

(3) Off-street parking areas shall have minimum setbacks of five feet from all internal side and rear property lines notwithstanding other applicable sections of the code except where common parking and driveways are approved by the issuing authority and such agreements are filed for public record.

(4) The number of on-site parking spaces required either to meet the minimum parking requirements of this code or as required by the issuing authority shall not be reduced by on-site snow storage.

(j) *Special provisions.*

(1) Reserved.

- (2) Extraordinary setbacks from residential zoning districts are required as follows.
 - (i) When an IP District faces a residential district across a street or is adjacent to a residential district along a side or rear lot line, the setback from that residential district shall be no less than 100 feet from the intervening property line(s).
 - (ii) When a residential district boundary line parallel to a street divides a lot which is in an IP District, as an alternative to subsection (j)(2)(i) above, the building permitted in the IP District may be located at either the district boundary or 100 feet from the lot line of the adjacent parcel, whichever provides the larger setback.
- (3) Structure lot coverage may be increased to a maximum of 40% of lot area on the basis of a 1% increase in lot coverage for each 40,000 square feet of lot area in excess of 400,000 square feet.
- (4) A parking structure or the portion of a structure used for off-street parking shall not be counted as building floor area or structure coverage for the purpose of calculating minimum building floor area, building floor area ratio or percentage of lot coverage by structure.
- (5) Loading docks and freight handling areas shall not be on a street frontage or in a front yard. All freight handling facilities, whether by railroad or truck, shall be on those sides of buildings which do not face onto any street or proposed street. Such facilities shall be screened from public view from street rights-of-way and adjacent residential uses by solid screening as may be required by the issuing authority, up to 15 feet in height. Spur railroad lines and rail freight handling facilities shall not be required to be screened from adjacent residential uses. Building wing walls used as required screening shall not extend into the required building setbacks.
- (6) Exterior materials: the exterior materials and finish of all buildings erected on lands within Industrial Park IP Zoning Districts shall be in conformance with the applicable requirements of § 19.63.08 of this code.
- (7) Along any street bordering on a residential zone, there may be no driveway access from such street into adjacent industrial sites unless access is otherwise impracticable. All access to industrial sites shall be from streets within the industrial park where practicable.
- (8) Accessory antennas in any form may exceed 60 feet in height above grade providing the requirements of § 15.14 of this code are met.
- (9) Public utility uses may be exempted from the performance standards of subsection (g) above.
- (k) *Sign regulations.* Refer to Article X of this chapter.

§ 19.34 FREEWAY DEVELOPMENT (FD-1 AND FD-2) DISTRICTS.

- (a) *Purpose.* To provide for a limited mixture of land uses made mutually compatible with controls and high standards; to encourage and accommodate industry in freeway locations convenient to the metropolitan area; to provide for integrated roadside business areas designed to offer a group of essential services to the motoring public in compact and convenient locations; to accommodate certain uses large in area and with a metropolitan clientele; and so far as may be possible, to protect the freeways from congestion by proper location of heavy traffic generators and exclusion of most retail businesses.
- (b) *Permitted uses.*
- (1) Reserved;
 - (2) Manufacturing uses: manufacturing, compounding, processing, packaging, treatment or assembly of products and materials;
 - (3) Office and office buildings;
 - (4) Public and public utility uses;
 - (5) Research laboratories;
 - (6) Warehousing;
 - (7) Wholesale businesses;
 - (8) Financial institutions; and
 - (9) Entertainment and recreation special events.
- (c) *Permitted accessory uses.*
- (1) Reserved;
 - (2) Off-street parking and off-street loading;
 - (3) Dwelling for watchman (but not for family);
 - (4) Car rental accessory to motels provided the cars are stored in the regular motel site off-street parking area without occupying space otherwise required by ordinance for motel parking;
 - (5) Retail sales, incidental to manufacturing, of products manufactured on the premises;
 - (6) The following in buildings primarily occupied by medical and dental services:
 - (A) Retail sales of drugs, prescription items, patent medicines, sickroom supplies, prosthetic devices or items related to any of the aforementioned; and
 - (B) Coffee shops and cafeterias.
 - (7) The following in buildings primarily occupied by offices, business and professional, and within the principal building of hotels or motels, provided that there shall be no exterior signage:
 - (A) Barber and beauty shops;
 - (B) Floral shops;
 - (C) Camera and optical goods shops;
 - (D) Men's apparel;
 - (E) Women's apparel;
 - (F) Branch post office;
 - (G) Jewelry shops;
 - (H) Boutiques;
 - (I) Shops which include and are limited to the sale of tobacco, candy, books, magazines, newspapers, gifts, cards, stationery, and office supplies;
 - (J) Pharmacy and sundry items;
 - (K) Utility collection;
 - (L) Travel bureaus;
 - (M) Coffee shops and cafeterias; and
 - (N) Licensed therapeutic massage enterprises.
 - (8) Open-air motor vehicle parking lots where there already exists an off-street parking lot required by ordinance;
 - (9) Day care facilities which have been approved by the city in buildings primarily occupied by business and professional offices and manufacturing uses;

- (10) Class II motor vehicle sales accessory to Class I motor vehicle sales;
- (11) Repair of motor vehicles accessory to Class I motor vehicle sales;
- (12) Type I home businesses pursuant to standards as set forth in § 21.302.13;
- (13) Tanning salons as accessory uses in office buildings;
- (14) Transient merchant sales in hotel interiors only;
- (15) Beekeeping; and
- (16) Hotel manager dwelling unit.

(d) *Conditional uses.*

- (1) Motor freight terminals;
- (2) Residential uses;
- (3) The following retail business uses:
 - (A) Reserved;
 - (B) Outdoor newspaper and magazine stands;
 - (C) Collection stations for charitable organizations.
 - (D) Pet services facility;
 - (E) Reserved; and
 - (F) Repair of household equipment (not including motor vehicles).
- (4) Multiple-family dwellings;
- (5) Hotel airport parking;
- (6) Restaurants;
- (7) Vehicle rental accessory to Class I motor vehicle sales subject to the regulations set forth in § 19.63.07(e);
- (8) Pet services facilities in Freeway Development (FD-2) Districts;
- (9) Motels and hotels;
- (10) Service stations when included within a planned development pursuant to § 19.38.01 of this code;
- (11) Athletic and social clubs;
- (12) Reserved;
- (13) Class I motor vehicle sales when part of a planned development pursuant to § 19.38.01 of this code;
- (14) Railroad lines;
- (15) Reserved;
- (16) Reserved;
- (17) Reserved;
- (18) Reserved;
- (19) Reserved;
- (20) Reserved;
- (21) Places of assembly;
- (22) Freestanding day care facilities;
- (23) Reserved;
- (24) Post-secondary educational institutions;
- (25) Towers. For related provisions see §§ 15.14, 19.63.05 and 21.301.10 of this code;
- (26) Type II home businesses pursuant to standards as set forth in § 21.302.13; and
- (27) Manufactured home parks pursuant to standards as set forth in § 21.302.10.

(e) *Interim uses.*

- (1) Outdoor seasonal sales;
- (2) Commercial recreation facilities in the Freeway Development (FD-2) District;
- (3) Newspaper distribution stations when not located within a principal building or when using an accessory building ;
- (4) Solid waste weigh stations;
- (5) Reserved;

- (6) Retail sales as interim uses in structures primarily devoted to office, warehouse, wholesale and manufacturing uses, subject to the following.
 - (A) The floor area used for retail sales in the building or complex of buildings shall not occupy more than 10% of the gross leasable area.
 - (B) Adequate parking for all uses within the building or complex of buildings shall be provided in conformance with the requirements of § 21.301.06 of this code.
 - (C) The property owner, if not the applicant for the proposed use, shall be a co-applicant and shall be responsible for adhering to all conditions of approval if the interim use permit is approved.
 - (D) At the time of application, the property owner shall provide a current listing of all tenants within the building or complex of buildings, including mailing name, mailing address, nature of business and amount of square footage of each tenant devoted to office, manufacturing, warehousing, storage, retail and other uses. The property owner shall provide one set of mailing labels containing tenant names and mailing addresses.
 - (E) The city shall notify each tenant in the building or complex of buildings of the initial Planning Commission hearing on the proposed use.
 - (F) All retail sales shall be conducted within a permanent building.
 - (G) The initial interim use permit shall be issued for not more than one year, with subsequent permits limited to maximum three year periods.
- (f) *Freeway Development (FD-1) District requirements.*
 - (1) Building coverage shall not exceed 30% of the site, plus for industrial use 1% for each acre of site over ten acres up to a maximum of 40% coverage. However, a parking structure or the portion of any structure used for parking shall not be counted as building floor area or structure coverage for the purpose of calculating building floor area and percentage of site coverage by structures.
 - (2) No loading docks may be on any street frontage. Provision for handling all freight, either by railroad or truck, shall be on those sides of any buildings which do not face on any street or proposed street.
 - (3) No screening shall be permitted to extend beyond the building setback line.
 - (4) Exterior materials: the exterior materials and finish of all buildings erected on lands within Freeway Development FD-1 Zoning Districts shall be in conformance with the applicable requirements of § 19.63.08 of this code.
 - (5) Reserved.
 - (6) Structure height shall be regulated pursuant to § 21.301.10 of this code.
- (g) *Freeway Development (FD-2) District requirements.*
 - (1) Exterior materials: the exterior materials and finish of all buildings erected on lands within Freeway Development FD-2 Zoning Districts shall be in conformance with the applicable requirements of § 19.63.08 of this code.
 - (2) Reserved.
 - (3) Structure height shall be regulated pursuant to § 21.301.10 of this code.
- (h) *Sign regulations.* Refer to Article X of this chapter.

§ 19.41 TABLE OF MINIMUM DISTRICT REQUIREMENTS.

- (a) *Reserved.*
- (b) *Reserved.*
- (c) *Nonresidential development.*

	General Industry (I-3)	Freeway Dvlpmt (FD-2)	Limited Industry (I-2)	Ind. Park (I-1), Frwy. Dev. (FD-1)	SC District
Lot width	100 feet	—	—	—	100 feet
Lot area	—	1 acre	2 acres	3 acres	—
Floor area of principal building (sq. ft.)	—	10,000	10,000	20,000	—
Front yard setback	35 feet	35 feet	35 feet	60 feet	50 feet
Side yard setback	10 feet	25 feet	25 feet	60 feet	20 feet*
Rear yard setback	25 feet	25 feet	25 feet	25 feet	30 feet
Side or rear-yard adjoining street	35 feet	35 feet	35 feet	60 feet	50 feet
* The side-yard in no event may be less than the height of the structure.					

- (d) *Reserved.*
- (e) *Reserved.*
- (f) *Reserved.*

(g) *Applicability.* The provisions of this section do not apply to residential uses in the B-4, C-2, C-3, C-4 and C-5 Commercial Zoning Districts. See § 21.302.02 for applicable standards for residential uses in the B-4, C-2, C-3, C-4 and C-5 Commercial Zoning Districts.

§ 19.50 EXTERIOR STORAGE.

(a) *In R (Residential) Districts.*

- (1) All materials, machinery and equipment shall be stored within a building or fully screened so as not to be visible from adjoining or adjacent lands, except for the following: laundry drying and recreational equipment; construction materials, machinery and equipment currently being used on the premises; landscaping and agricultural equipment and machinery currently being used or intended for use on the premises; off-street parking of passenger automobiles and pick-up trucks; trash and garbage receptacles.
- (2) Reserved.
- (3) Where a rear yard or a side yard in a residential zoning district abuts a public street, trash burners and garbage receptacles are prohibited in the setback area of such rear or side yard and, if located or placed in such rear or side yard, shall be screened from view from such street.
- (4) No exception listed herein shall be construed to avoid the restrictions of §§ 19.51 or 19.52 of this chapter, or of any conditions imposed on any conditional use permit.
- (5) Before the erection of any screening required by this section, the plans for such screening shall be approved by the Manager of the Building and Inspection Division. All such screening shall consist of a solid fence or wall, or equivalent as approved by the Manager of the Building and Inspection Division and shall be constructed in a workmanlike manner, including method of construction and materials.

(b) *All other districts.* In all other districts no material or equipment may be stored outside except those directly related to the principal use or those being used for construction on the premises. Under no circumstances shall motor vehicles be stored in the off-street parking spaces required for the use in § 21.301.06 of this code. At gasoline service stations, it is unlawful to store vehicles or other equipment outside a building except that at service stations in operation on May 1, 1964, where storage within a building is not practicable, tow trucks and snow plowing equipment may be stored outside but not within the setback area.

(c) *Business districts.* In business districts, displays of merchandise extended more than five feet into the setback area or more than five feet in front of the existing building, if such building abuts against or extends into the required setback area, shall be construed to be an encroachment on the setback requirements and it is unlawful for the owner or occupant to permit such encroachments except: merchandise may be displayed on service station pump islands and where motor vehicles, new or used, are lawfully sold on the premises, they may be stored or displayed in off-street parking areas. Displays of merchandise shall not reduce the off-street parking area required by this chapter.

§ 19.52 LANDSCAPING AND SCREENING.

(a) *Purpose and intent.* The city recognizes the health, safety, aesthetic, ecological and economic value of landscaping and screening. The provisions of this section are intended to:

- (1) Add visual interest to open spaces and blank facades;
- (2) Soften dominant building mass;
- (3) Provide definition for public walkways and open space areas;
- (4) Ensure significant tree canopy shading to reduce glare and heat build-up;
- (5) Improve the visual quality and continuity within and between developments;
- (6) Provide screening and mitigation of potential conflicts between activity areas and more passive areas;
- (7) Protect and improve property values;
- (8) Improve air quality and provide a buffer from air and noise pollution;
- (9) Ensure safe and aesthetic treatment of ponding areas;
- (10) Enhance the overall aesthetic conditions within the city;
- (11) Limit sight line obstructions and drainage conflicts;
- (12) Reduce the potential for criminal and illegal activities; and
- (13) Prevent conflicts with utilities.

(b) *Landscape plans.*

- (1) Except for single family uses, a landscape plan must be submitted:
 - (A) With any application for new development;
 - (B) With any application for additions or modifications to existing development that physically impacts existing landscaping or screening; or
 - (C) When changes are made to an existing landscaping or screening plan on file with the city.
- (2) Landscape plans must be reviewed and approved by the Planning Manager or designee.
- (3) Landscape plans must include information on existing and proposed landscaping and screening in accordance with the Planning Manager's *Landscaping and Screening Policies and Procedures* and landscape designers are encouraged to review and follow the policy recommendations therein.

(c) *Landscaping standards.*

- (1) *Soil surface stabilization.* All disturbed areas outside of designated planting beds must be permanently stabilized with an established plant or xeriscaping soil cover. Unstabilized soil surfaces (bare ground, dirt piles and the like) are allowed only when required by a construction project operating under a valid permit if a permit is required. Soil surface stabilization must be completed in conjunction with the construction project within the timeline specified in § 15.201 of this code.
- (2) *Minimum number of trees and shrubs.* Excluding exceptions specified below in subsection (c)(2)(E) below, development must at a minimum provide the following numbers of trees and shrubs:
 - (A) One tree per 2,500 square feet of developable landscaping area; and
 - (B) One shrub per 1,000 square feet of developable landscaping area.
 - (i) Up to 50% of the required shrubs may be perennial plants.
 - (iii) Four perennial plants equal one shrub.
 - (C) **DEVELOPABLE LANDSCAPING AREA** is defined as the total area of a development site or phase minus the portion of that area within:
 - (i) A natural water body;
 - (ii) A protected wetland;
 - (iii) A permanent significant natural wooded area; and/or
 - (iv) A scenic easement.
 - (D) Existing healthy deciduous trees greater than four caliper inches or existing healthy evergreen trees greater than six feet in height that are located within the developable landscaping area and are not identified on the city's prohibited plant species list (see § 18.03) may be credited toward the minimum required trees on a site.
 - (E) Exceptions:
 - (i) Single- and two-family dwellings;
 - (ii) In mixed use districts (B-4, C-5, LX) the number of trees and shrubs required in this section may be reduced by up to 25 percent; and
 - (iii) Fee in lieu of planting. If landscape planting at required levels results in overcrowding of vegetation due to site constraints, the property owner may reduce the number of proposed trees and/or shrubs on the site at the sole discretion of the City Council; provided a cash fee is deposited into a city designated fund that matches the cost differential between the planting required by this provision and the vegetation actually planted on the site as specified in the *Landscaping and Screening Policies and Procedures* document.
- (3) *Minimum tree size.* Required trees must meet the following minimum size standards:
 - (A) Overstory trees must be at least two and one-half caliper inches at planting;
 - (B) Single stem ornamental trees must be at least one and one-half caliper inches at

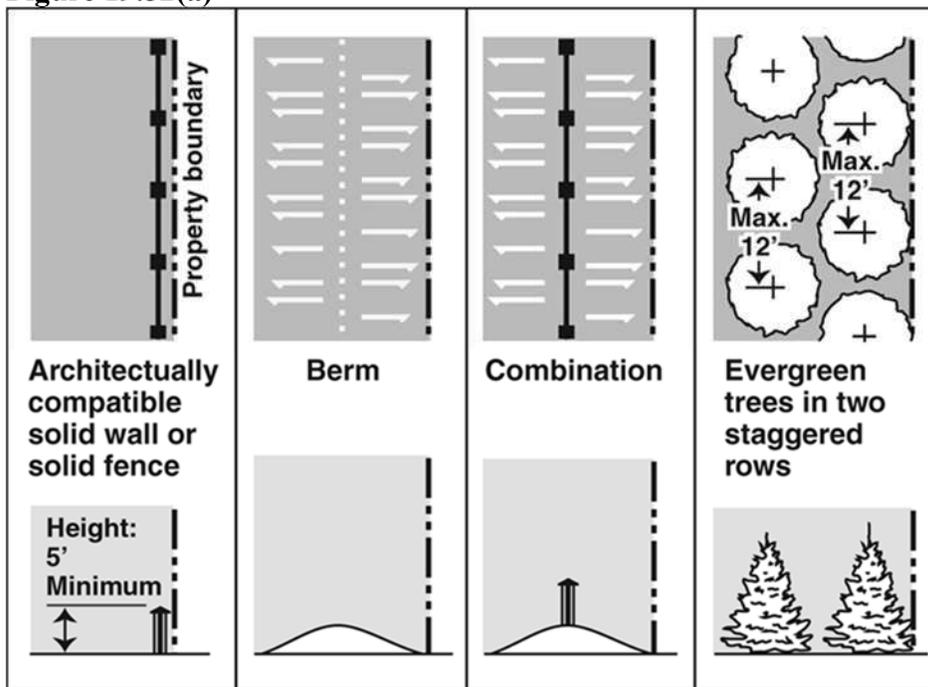
- planting; and
 - (C) Evergreen trees and multi-stem ornamental trees must be at least six feet in height at planting.
- (4) *Minimum landscape yard.* An area for landscaping, kept free of parking, storage or storm water ponds, must be provided around the perimeter of a site.
- (A) *Standards.* Unless otherwise specified in the city code, the landscape yard must be a minimum of 20 feet deep when adjacent to public or private streets and a minimum of five feet deep when not adjacent to streets with the following exceptions:
 - (i) In the mixed use districts (B-4, C-5, LX) the landscape yard may be reduced to a minimum of five feet provided the screening standards in subsection (d)(4) below are met; and
 - (ii) Outside the B-4, C-5 and LX Zoning Districts, buildings may be located within the landscape yard when otherwise allowed by the city code.
 - (B) Elements permitted in landscape yard:
 - (i) Rain gardens included in an approved landscape plan;
 - (ii) Sidewalks, bus shelters and entrance drives; and
 - (iii) Buildings when otherwise allowed by the city code.
- (5) *Streetscape.* In areas where a district or street specific streetscape plan has been adopted by the City Council, development must provide streetscape plantings as set forth in the district or street specific streetscape plan. Streetscape plantings located within the property lines of the site may be credited toward the required number of trees and shrubs. Streetscape plantings in the public right-of-way shall not be credited toward the required number of trees and shrubs. Landscaping placed or removed in the public right-of-way must receive city approvals for right-of-way plantings (see § 18.07) and must conform with city right-of-way planting policies.
- (6) *Parking island trees.* A minimum of one deciduous tree must be provided per parking lot island, with the following exceptions:
- (A) No trees are required in parking islands used for storm water management purposes;
 - (B) No trees are required in parking islands within structured parking facilities; and
 - (C) No trees are required in parking lots with 50 or fewer spaces.
- (d) *Screening standards.*
- (1) *Perimeter screening designed to buffer incompatible uses.* Perimeter screening designed to buffer incompatible uses is required:
 - (A) Along any off-street parking area containing over six parking spaces that lies within 30 feet of an abutting site that is residentially used and either residentially zoned or guided;
 - (B) Along any driveway to an off-street parking area containing over six parking spaces when the driveway is within 15 feet of an abutting site that is residentially used and either residentially zoned or guided;
 - (C) On industrial sites, along any property line that directly abuts a site that is residentially used and either residentially zoned or guided and along any side or rear property line that faces across a street a site that is residentially used and either residentially zoned or guided;
 - (D) Around outdoor merchandise, materials and equipment stored, kept or displayed with the following exceptions:
 - (i) In the General Industry (I-3) Zoning District, no perimeter screening is required around outdoor merchandise, materials and equipment except when required through a condition of approval or abutting or across the street from a site that is residentially used and either residentially zoned or guided;
 - (ii) In the Limited Industry (I-2) Zoning District, no perimeter screening is required around outdoor merchandise, materials and equipment when open storage has been approved as a principal use except when required through a

- (iii) No perimeter screening is required around materials and equipment being used for construction occurring on the site;
- (iv) No perimeter screening is required around merchandise displayed for sale on service station pump islands; and
- (v) No perimeter screening is required around merchandise displayed for sale when otherwise allowed by the city code and located in an area approved for such use on the site plan.
- (E) Where required by the City Council through a condition of approval; and
- (F) On institutional use sites, along any property line that directly abuts a site that is used for single-family residential uses and either zoned or guided for single-family residential use.

(2) *Perimeter screening standards.*

- (A) Perimeter screening must be a minimum of five feet in height above grade.
- (B) Perimeter screening (see Figure 19.52(a) below) must consist of:
 - (i) An architecturally compatible opaque wall or opaque fence;
 - (ii) A berm;
 - (iii) Two staggered rows of evergreen trees with trees in each row spaced at a maximum of 12 feet; or
 - (iv) A combination of the above.

(a) **Figure 19.52(a)**



(b)

(3) *Parking lot screening.* Parking lot screening designed to reduce the visual impact of surface parking lots; mitigate glare from headlights; improve the aesthetic quality of the area for users of the site, adjacent sites, roadways and sidewalks; and define the perimeter of the parking lot is required:

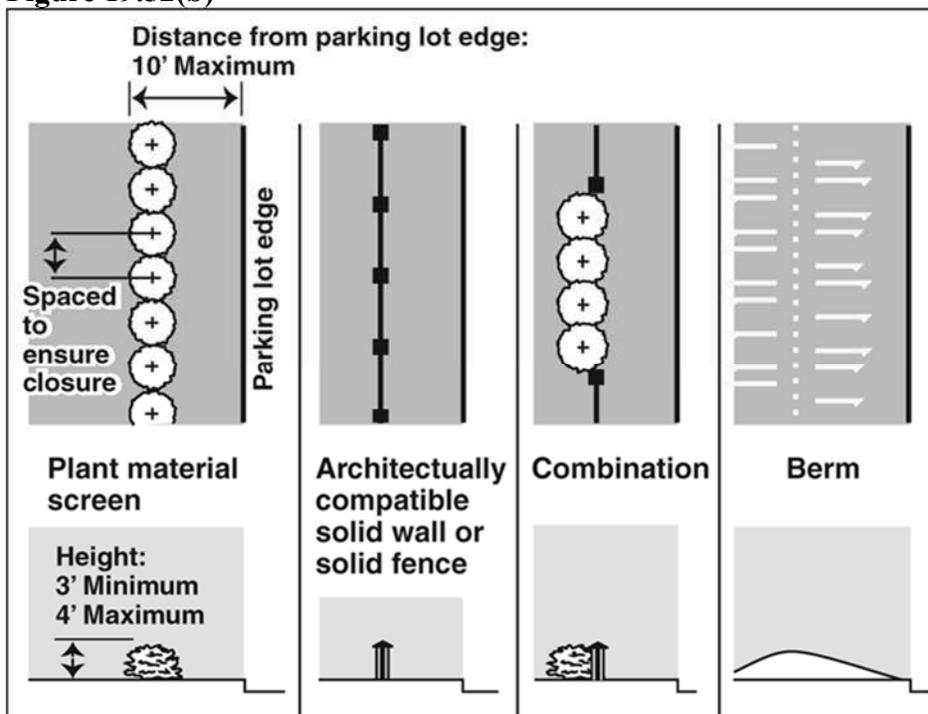
- (A) Between those portions of an off-street parking area containing five or more parking spaces and a public street where the separation between the parking area and public street is 40 feet or less; and
- (B) Where required by the City Council through a condition of approval.
- (C) Parking lot screening requirements may be waived in circumstances where perimeter screening is provided or where the elevation of the parking area relative to the elevation of the street and sidewalk would make the screening ineffectual as

determined by the Planning Manager.

(4) *Parking lot screening standards.*

- (A) Parking lot screening must be placed where it will most effectively screen the perimeter of the parking lot to be screened.
- (B) Parking lot screening must be a minimum of three feet and a maximum of four feet in height as measured from the adjacent finished surface of the parking area. When shrubs are used to provide the screen, such shrubs must be at least two feet tall at planting and anticipated to grow to at least three feet tall at maturity.
- (C) Parking lot screening (see Figure 19.52(b) below) must consist of:
 - (i) A compact hedge of evergreen or densely twigged deciduous shrubs spaced to ensure closure into a solid hedge at maturity;
 - (ii) Perennial plants, including grasses, that form a continuous visual screen;
 - (iii) An architecturally compatible wall or fence;
 - (iv) A berm; or
 - (v) A combination of the above.
 - (vi) Overstory trees, transit shelters, benches, bicycle racks and similar features may be integrated as a part of the screen.

(c) **Figure 19.52(b)**



(d)

(e) *Special design features.* The city allows and encourages use of xeriscaping, rain gardens, lakescaping, native prairie and long grasses in appropriate locations. Use of these materials is further discussed in the Planning Manager's *Landscaping and Screening Policies and Procedures* document.

(f) *Restrictions.* The following restrictions on landscaping and screening apply to protect the public health, safety and welfare.

- (1) *Public easements.* Landowners are advised that landscaping features placed in a public easement may be removed without compensation if it is necessary to install, replace or maintain a public utility, sidewalk or drainage way within the easement. Trees, irrigation lines, berms, walls or fences must not be placed in a public easement where public improvements are located without the written approval of the Director of Public Works.
- (2) *Scenic easements.* No earth moving, construction of improvements, planting of new vegetation or removal of existing vegetation shall take place within scenic easements held by the city unless authorized by the city in accordance with the

- easement.
- (3) *Clear view triangle.* Landscaping and screening must not interfere with the clear view triangle as specified in §§ 17.31 and 17.32.
 - (4) *Crime prevention through environmental design (CPTED).* In support of CPTED principles designed to reduce the fear and incidence of crime and to improve the quality of life, landscaping must support the objectives of natural surveillance, territorial reinforcement, access control and maintenance. These CPTED objectives are further discussed in the Planning Manager's *Landscaping and Screening Policies and Procedures* document.
 - (5) *Fire hydrant and utility clear zone.* The area three feet in radius around all fire hydrants, fire hose connections and utility boxes must be kept free of any trees, shrubs or other landscaping feature that could impede access to or use of the hydrant, fire hose connection or utility box.
- (g) *Authority of Planning Manager.* The Planning Manager shall have the authority to adopt and implement *Landscaping and Screening Policies and Procedures* for the purpose of specifying landscape plan submittal requirements, establishing surety rates and procedures, establishing landscape material costs for fees in lieu of planting on constrained sites, and offering landscaping and screening material and design recommendations.
- (h) *Maintenance.*
- (1) *Material maintenance.* The property owner must maintain all landscaping and screening materials shown on the approved landscape plan in a manner consistent with the intent and purpose of the plan and city code requirements. Approved landscaping and screening materials that die, become diseased or are significantly damaged must be replaced at the next appropriate planting period with new materials in conformance with the approved landscape plan and applicable city code standards.
 - (2) *Structure maintenance.* Landscaping and screening structures such as fences and walls must be maintained in good condition, free of graffiti, peeling paint, decay or warping, must be repaired when needed and replaced periodically to maintain a structurally sound condition.
 - (3) *Ground cover maintenance.* Ground cover must be maintained in accordance with §§ 10.37 through 10.42 of this code.
 - (4) *Removal.* Unless a modified landscape plan is approved, landscaping and screening materials and structures approved on a landscape plan must not be removed except when replaced in accordance with this section.
 - (5) *Surety.* To ensure that landscaping and screening is installed as proposed and survives through at least one full growing season, a landscape performance surety must be submitted prior to issuance of building permits for new development where a landscape plan is required. The landscape surety rate and procedures are set forth in the Planning Manager's *Landscaping and Screening Policies and Procedures* document. The surety may consist of a bond, an irrevocable letter of credit, cash deposit or other instrument which provides an equal performance guarantee to the city.
- (i) *Redevelopment compliance.*
- (1) *Redevelopment or large addition.* When either full redevelopment of a site is proposed or an addition that would increase total floor area on a site by 25% or more, a landscape plan for the entire site, demonstrating compliance with the requirements of this section, must be submitted for approval.
 - (2) *Small addition.* When an addition is proposed that would increase total floor area on a site by less than 25%, but would physically impact existing landscaping, a modified landscape plan for the portion of the site affected by the addition, demonstrating compliance with the requirements of this section, must be submitted for approval.
 - (3) Reserved.
 - (4) *Additional requirements.* Additional requirements for nonconformities are set forth in §

21.504 of this code.



Planning Commission Item

Originator
Planning

Item
**Consider approval of draft Planning Commission meeting synopsis of
082516**

Date
9/15/2016

Description

Consider approval of draft Plannign Commission meeting synopsis of 8/25/16.

Requested Action

I move to approve the draft 8/25/16 Planning Commission synopsis as presented.

Attachments:

Draft Planning Commission meeting synopsis of August 25, 2016



PLANNING COMMISSION SYNOPSIS

Thursday, August 25, 2016

CALL TO ORDER

Chairperson Spiess called the Planning Commission meeting to order at 6:00 PM in the City Council Chambers of the Bloomington Civic Plaza.

COMMISSIONERS PRESENT: Spiess, Bennett, Snyder, Solberg, Swanson

COMMISSIONERS ABSENT: Batterson, Goodrum

STAFF PRESENT: Pease, Schmidt, O'Day

Chairperson Spiess led the attendees in the reciting of *The Pledge of Allegiance*.

ITEM 1

6:01 p.m.

CASE: PL2016-128

APPLICANT: Patrick Bigelow

LOCATION: 9915 Portland Avenue S

REQUEST: Variances to Increase the opacity from 50 percent to 100 percent, increase fence height from 4 feet to 7 feet 4 inches and increase the posts from 12 inches above the fence to 13 inches

SPEAKING FOR THE APPLICANT:

Pat Bigelow, 9915 Portland Avenue

SPEAKING FROM THE PUBLIC:

Carl Recksiedler, 9920 Portland Avenue

Richard Palbicki, 9923 Portland Avenue

PUBLIC HEARING DISCUSSION:

Pease presented the location of the site and explained the applicant researched and believed the fence was Code compliant and has neighborhood support. After two fence variances were granted in 2015, the City Council directed staff to provide procedures to reduce misunderstanding when residents inquire about fence information. There is a fence handout in several locations, including at the counter and online. If you search the work "fence" on the City website, the handout was made the first link in the search results. Staff sends the fence handout and related information to residents as part of the Gopher One Call request.

The applicant desires variances for a fence with an increased opacity from 50 to 100 percent, increased height from 4 feet to 7 feet 4 inches and increase the post from 12 inches to 13 inches above fence. The approximate fence location is 20 feet from the property line and over 40 feet from the curb along Portland Avenue. The purpose of the fence was to screen possessions. A

site plan displaying locations for a Code compliant fence and a graphic comparing 6 foot fence and the proposed fence was discussed. The applicant believes traffic is a primary issue to support increased height and screening. Traffic on a typical residential street is 300-600 cars per day. A map showing select higher traffic residential streets in Bloomington was displayed. While the traffic is higher than a typical street, it is much lower than many other residential streets in the City.

Staff discussed and was unable to make five of the six required variance findings. Staff believes that the applicant does not have a practical difficulty, and the proposed 7 foot 4 inch fence is not a reasonable request.

Bigelow stated he is requesting variances and has neighborhood support. The process started when he desired to build a shed. He wanted to make improvements that were the least intrusive to the neighbors. After a discussion with the neighbors, he moved the shed to a location where most people may store their recreational vehicles. He had discussed the fence with the neighbors and the outcome was the one he installed. He thought the fence was legal. The posts were installed above the fence for the purpose of constructing a post planter. The lighting makes the posts exceed the allowed 12 inches, His intention was to install a fence that looked nice to the neighborhood.

Solberg asked about the reasoning for the 7 foot 4 inch fence.

Bigelow said the reasoning was for privacy of the boat and camper. A 6 foot fence would provide the same privacy but the lattice makes the fence look nicer. He wanted to fully screen the recreational vehicles from the street and the one foot lattice makes it look nicer.

Carl Recksiedler he lives across the street and likes the fence. He pointed out neighbors on the north and the south have a privacy fences along the street.

Richard Palbicki stated he is the property owner to the south of the applicant and has the most impacting view of the property. He noted the applicant is a great neighbor who has not offended anyone with the fence. He stated Patrick maintains the property very well maintained and it is a very good looking fence. He encouraged permission to allow the fence. The fence does not obstruct sight lines.

The public hearing was closed via a motion.

Solberg asked staff to clarify a Code complying location for a 6 foot fence.

Pease noted City Council adopted the fence ordinance in 2008. There was significant discussion regarding the land area between a structure and street. In that area it was determined a 4 foot tall and 50% opaque would be acceptable. He also explained a fence is taller than 6 feet, the fence must apply principal structure setbacks. There are many fences that are legally non-conforming.

Swanson noted a 4 foot tall and 50% opaque fence would not screen the boat and camper. Although, he does not want to set a precedent for a 7 foot 4 inch tall fence. The fence is able to

be modified and would require work from the homeowner which is unfortunate, while keeping the lattice. He does support screening boats and trailers in yards.

Bennett thanked the applicant for working with and providing neighborhood support and understood the need for privacy. She does have an issue for the 7 foot 4 inch fence as it sets a precedent, but would support a 6 foot fence.

Pease stated the applicant has concerns with timing as winter approaches and prefers not to delay the application. If the Commission is comfortable with the 6 foot fence, they could make a motion to deny the request then forward to City Council a statement that if the Council agrees, recommend support for a 6 foot fence.

Spiess asked about language of the motion.

Pease said proceed with the motion and make a statement at the end.

Solberg asked about the sizing of the planters that are mounted on the posts.

Bigelow said it is possible to cut the post to below 12 inches.

Spiess noted the item moves to City Council on September 12, 2016.

ACTIONS OF THE COMMISSION:

M/Solberg, S/Snyder: To close the public hearing. Motion carried 5-0.

M/Bennett, S/Snyder: In Case PL2016-128, being unable to make the required findings, I move to recommend denial of three variances to increase the allowed height of a fence in the side yard adjacent to a street from 4 feet to 7 feet 4 inches and the posts from 12 inches above the fence to 13 inches above for a total height of 8 feet 5 inches and to increase the opacity from 50 percent to 100 percent at 9915 Portland Avenue South and make a recommendation to City Council to allow a six foot fence in a side yard adjacent to street with full opacity. Motion carried 4-1. Solberg opposing.

ITEM 2
6:34 p.m.

APPLICANT: City of Bloomington
REQUEST: Forward 2040 forecasts for population, households and employment

DISCUSSION:

Schmidt gave a brief background on the Forward 2040 forecasts:

- Who uses the forecasts?
 - o City staff, consultants, and Met Council use the forecasts to determine pipe and road sizing, transit ridership, Comprehensive Plan updates, environmental review documents and in the regional roadway model.
- Forecasting models
 - o Met Council prepares their forecasts by using a top-down methodology, utilizing forecasts for the state, metro area and then dividing up the metro allotment to the cities.
 - o Bloomington prepares their forecasts by using a bottom-up methodology, based on parcel by parcel development projections.
- Forecast Tracker
 - o Staff uses a model that plugs in forecasts from developers or through approved plans to track forecasts
- Covered employment
 - o 86,000 employees in 2010
 - o Projecting to rise to 115,000 employees by 2040
 - o 2040 - City projection: 115,110 employees; Met Council projection: 109,700 employees (4.9% higher)
- Housing unit annual growth
 - o 283 units from 2011-2015 (mostly multi-family developments)
 - o Projecting to average 213 units from 2016-2040
 - o 2040 - City projection: 42,435 units; Met Council projection: 41,250 units (2.9% higher)
- Population comparison
 - o 2040 - City projection: 95,258 people; Met Council projection: 93,300 people (2.1% higher)

Solberg asked the difference between population and household.
Schmidt stated household is based on residents per housing unit. The City used the following assumptions: single family is 2.56 persons per household, duplexes is 1.8 persons per households, townhomes is 2.5 persons per household and multi-family homes is 1.7 persons per household. That is assumed to remain constant through 2040.
- Bloomington development
 - o Industrial land use has the greatest square footage allotment in 2016
 - o Projections show industrial land use will decrease and office will have the greatest square footage allotment by 2040
- Hotels
 - o Today, there is a total of 42 hotels which equates to 9,217 rooms. Hotel rooms are projected to increase to 13,771 by 2040.
Solberg asked how does that compare to Eagan and Plymouth?
Schmidt stated there are more hotels in Bloomington than downtown Minneapolis and St. Paul combined.
 - o Projections show that the majority of hotel rooms will be located in the South Loop with an average of 153 rooms per year in the South Loop and 187 rooms City wide.
- District growth rates
 - o Majority of the City's growth will be occurring within the three development districts, with South Loop accommodating most of that growth by 2040
 - o Schmidt displayed three maps depicting where growth is projected to occur within the City.

ITEM 3
6:49 p.m.

APPLICANT: City of Bloomington
REQUEST: Progress update on Forward 2040 comprehensive plan update

DISCUSSION:

Farnham gave a brief update on the comprehensive plan:

- Schedule overview
 - o 2016: public outreach and data gathering
 - o 2017: topic specific issues and draft policies and priorities
 - o 2018: public review and final draft by December 31, 2018
- Progress to date
 - o Town hall meetings, surveys, community events, webpage, advisory committee
- Town hall meetings
 - o Facilitated discussions focusing on three topics: sustainability, diversity and engagement and community amenities
 - o Attendance of 140+ people
 - o Compiled a data book that compares statistics from 1970 to today
- Community events
 - o Farmers market, Summer Fete, Creekside, Music in the Parks, Heritage Days, Assumption Church (will be conducted in Spanish)
- Survey
 - o The survey was open from June 10 – Aug 19
 - o 13 questions
 - o 258 responses
 - o Staff handed out a draft compilation of the survey results.
- Social media input
 - o Questions about what people value about Bloomington were posted on social media for public comment; staff compiled the responses in word clouds
 - o Questions asked included: In 20 years, how do you hope to describe Bloomington? Where do you like to take out-of-town visitors in Bloomington? When you visit other communities, have you found something that made you say, “we need that in Bloomington?” If so, what was it?
- Advisory committee
 - o Comprised of 14 members: 7 general citizenry and 7 board/commission representatives
 - o Term is 12-14 months
 - o 62 applications received for the general citizen members.
- Next steps in 2016
 - o Appoint and convene Advisory Committee
 - o Compile trends and existing conditions information
 - o Engage staff focus groups related to Plan elements
- Steps to complete
 - o 2017 – define vision, identify opportunities, draft policies and priorities, public review
 - o 2018 – refine policy recommendations based on public input, compile draft plan, distribute draft for review, finalize plan and submit to Met Council by December 31, 2018.

Solberg asked about the number of survey respondents and town hall participants. He asked if there is an overarching goal to engage people of diversity. Farnham said yes, that is a goal and noted it has been a challenge. She noted staff has met with leaders of some underrepresented groups and has plans to hold a facilitated discussion in Spanish at Assumption Church and attend educational sessions at Potters Church. ...

Schmidt said staff has reached out to places of assembly to gather input from people of color. Staff has also reached out to Dar Al Faroq to engage their community.

Solberg went through the same process through MNDOT's state plan and suggested engaging underrepresented groups to match population data. Farnham said that hasn't been a goal but can certainly look at the possibility to set a quantifiable goal. Snyder noted the changing demographic by 2040. The pastors may be key figures to bring people forward.

Schmidt said the survey is still live on the website. Staff is distributing surveys to local congregations and will continue to receive information from the community. Farnham added that staff will continue to gather input from social media throughout the plan update process. Solberg asked if social media was used in the last comprehensive plan update. Farnham said there was a webpage created, but social media was not routinely used at that time. With the current update, it is important to use social media and gather input from underrepresented groups in the community particularly because of the changing demographics. Because Bloomington is fully-developed the focus isn't so much on identifying new infrastructure systems and land uses; the implications related to outcomes like sustainability and equity, plus the much broader scope of outreach is the big difference from the last update.

Swanson asked if the survey information is distributed to various City departments so they know what the citizens want. Farnham stated staff is working closely with other departments but agreed that sharing the survey is a great idea.

ITEM 4
7:10 p.m.

APPLICANT: City of Bloomington
REQUEST: Overview of the update to the South Loop District AUAR

DISCUSSION:

Farnham gave an update to the South Loop District AUAR:

- AUAR definition
 - AUAR = Alternative Urban Areawide Review
 - Substitute for individual EAWs or EISs
 - Assesses cumulative environmental impacts of development in a defined area or district
 - The Met Council forecasts are being used as part of the update
- South Loop AUAR
 - Originally adopted in 2002 with updates in 2009 and 2012
 - Focus of interim updates was to incorporate unanticipated infrastructure projects, such as the lowering of Lindau Lane and extension of Lindau east of 24th Avenue.
 - 2016 update entails a more comprehensive update and will incorporate:
 - Updated South Loop District traffic study
 - Updated utility modeling
 - We will also update the 2002 AUAR mitigation plan
- Key changes 2002-2016
 - Redevelopment sites have changed
 - Result is an overall decrease in total square footage of development projected by 2040
 - Less retail and office because the approved 2015 Preliminary Development Plan for Mall of America build out includes a decrease in retail and office
 - However, the shift to more hotel rooms and residential will result in higher demand on water and sanitary systems
 - Implications
 - Higher utility demand
 - More even traffic distribution during peak hours
 - At this point, it appears 2002 remains as worst case scenario as far as development impacts on the natural environment, but we need to verify based on the findings of the updated models
 - Airport noise
 - Reduction and changes in area included in the 60, 65 and 70 DNL contours where use restrictions and mitigation measures may be required.
 - Swanson asked about the airport noise reduction. Farnham noted that much of the reduction is due to quieter airplanes rather than a decrease in flights.
 - Swanson asked if airport noise will impact residential in the South Loop. Farnham stated the most affected area is between 24th and

30th Avenue. Residential uses are only allowed to the east (e.g., BCS) and west.

- Traffic noise may decline from 2002 levels due to less peak traffic.
- Official review process
 - Staff completes AUAR and mitigation plan in November
 - City Council releases AUAR for distribution in December
 - Notice published in the EQB monitor in early January
 - Review period: January-March
 - Revise and adoption by City Council by the end of April 2017 as the AUAR expires in May.
 - Planning Commission does not formally review the AUAR, rather, this is intended as an update to make sure you're aware of this process.

ITEM 5
7:24 p.m.

APPLICANT: City of Bloomington
REQUEST: Draft Planning Commission meeting synopses of August 4, 2016 and August 11, 2016

ACTIONS OF THE COMMISSION:

M/Solberg, S/Bennett: I move to approve the draft Planning Commission meeting synopsis of August 4, 2016 as presented.
Motion carried 5-0.

M/Solberg, S/Bennett: I move to approve the draft Planning Commission meeting synopsis of August 11, 2016 as presented.
Motion carried 5-0.

The meeting adjourned at 7:25 p.m.

Prepared By: EO **Reviewed By:** LP, JF, JS

Approved By Planning Commission: _____