



December 1, 2014

City Council Members
 City of Bloomington
 1800 West Old Shakopee Road
 Bloomington, MN 55431-3027

Dear City Council Members:

Please accept this letter on behalf of Lupient Automotive Group ("Lupient") requesting minor modifications to the zoning amendments the City of Bloomington, Minnesota proposes to adopt to implement the Penn American District Plan.

Lupient urges the City Council to adopt the Planning Commission recommendation to reject the proposed zoning amendments and direct staff to develop zoning amendments to implement the Penn American District Plan that will "be more permissive and less prescriptive in nature and may allow the vision to occur in a more organic manner."

The Staff alternatives threaten the viability of existing auto dealerships and the jobs and services they provide to the citizens of Bloomington. Lupient proposes a third Option with three simple changes to Staff Option 1 to allow development of new auto dealerships that are consistent with the new design standards and redevelopment of existing dealerships to become consistent with the new design standards:

- (1) Define Class IV Motor Vehicle Sales to allow on-site display, storage and service in a facility that meets the new development standards.
- (2) Permit expansion of existing nonconforming Motor Vehicle Sales facilities pursuant to a Conditional Use Permit if the expansion reduces the degree of nonconformity; and
- (3) Remove "relocation of the use to a structure or portion of the site not previously occupied by the use" from the definition of nonconforming use.

These modest modifications will prevent creation of nonconformities that will inevitably create blight and delay achievement of the Penn American District Plan goals.

The auto dealerships are not going away. Under state statutes that control dealership location, the auto dealerships cannot move. Under federal pension statutes, Lupient cannot afford to go out of business. Under state nonconforming use statutes, the City cannot zone the dealerships out of business. The City therefore has two choices: (1) the City can freeze the auto dealerships in their current configuration as nonconforming uses in small buildings

surrounded by large surface parking lots, or (2) the City can include auto dealerships in the District Plan, and allow them to be incorporated into the higher density, mixed use vision.

The Staff recommendation, with the stated intention "to avoid significant investments that may delay redevelopment of existing motor vehicle sales sites to meet the vision of the Penn American District Plan" cannot and will not make the dealerships go away. The Staff recommendation will only prevent dealerships from becoming a part of the vision. Our proposed modifications to the Staff recommendation will allow the dealerships to become integrated with the vision.

Attached to this letter are copies of (1) our proposal for alternative amendments to the zoning ordinances and (2) a more detailed discussion of the proposed amendments and their potential impact on Lupient and other auto dealerships in the Penn American District, which we have previously provided to the Planning Commission.

We are presenting our proposed revisions with the hope that the City Council can adopt our proposed revisions at the Council Meeting on December 1. We do, however, understand it may be difficult to review and accept the changes on short notice. If that is the case, we urge the City Council to adopt the recommendations of the Planning Commission, reject the proposed amendments, and direct Planning staff to revise its proposed zoning amendments to allow auto dealerships to continue to thrive while fulfilling the objectives of the Penn American District Plan.

Sincerely,

STINSON LEONARD STREET LLP



Eric H. Galatz

EHG/lao

Statement in Support of Proposed Revisions of Amendments

Lupient Chevrolet's Presence in Bloomington. Lupient owns and operates the Lupient Chevrolet auto dealership at 1601 Southtown Drive, Bloomington, Minnesota ("Lupient Chevrolet"). Lupient also owns the adjacent lot, 1700 American Boulevard West (the "American Boulevard Lot"), which Lupient acquired for the development of a new auto dealership or expansion of Lupient Chevrolet. Lupient Chevrolet is a family-oriented organization that employs union workers at livable wages, provides vehicles and auto-related services to residents of Bloomington, contributes to the City's economy by virtue of being a taxpaying corporate citizen and investing in development in other areas of the City, and enriches the community by donating to local nonprofits.

Collaborate with Local Businesses in Implementing the Plan. Lupient supports the Penn American District Plan and wants to be a part of it. Lupient understands the City Council is working against a deadline to implement the Penn American District Plan before the expiration of the development moratorium in February 2015 and the City Council wants to present the City in the best light for federal transit grants. The staff proposal depends on the misguided, and arguably illegal, assumption that the auto dealerships will go away for the City discourages reinvestment in the dealership properties. Under Lupient's proposed Option 3, the City Council can implement the Plan by collaborating with local businesses to the benefit of all members of the community.

The Proposed Prescriptive Approach is Self-Defeating. The staff proposal, with the stated purpose of discouraging re-investment in the auto dealerships and an underlying strategy of depressing the value of the dealership properties to reduce the cost of new development, is misguided and unfair.

Auto dealerships cannot move and Lupient Chevrolet cannot close. State law controlling spacing between same-brand dealerships leaves all District dealerships with little or no ability to relocate outside the District. Federal law requirements for funding pension liabilities (which may exceed \$37,000,000 for Lupient Chevrolet) make it virtually impossible for Lupient Chevrolet to close its business. Lupient Chevrolet cannot move and cannot close. If the zoning amendments do not accommodate growth and evolution, the Lupient Chevrolet site will remain as-is indefinitely. If the zoning amendments make auto dealerships permitted uses, Lupient Chevrolet can grow and be incorporated in the mixed-use high density future.

Auto dealerships should not be made to pay for the District vision. The City can allow development in accordance with the District Plan by adopting zoning ordinances or approving applications for rezoning or variances. The City can encourage development in accordance with the District Plan by providing incentives, including tax increment financing, tax abatement, low interest loans and other development assistance. The City cannot require development in accordance with the District Plan. The City can only prohibit development that is not consistent with the District Plan. If the City uses that power to depress the value of the auto dealership property, the City will create blight in the near term. In the longer term, the City may achieve its higher density vision by depressing land prices, but only at the expense of the dealerships.

Rezoning can cure blight where blight exists and create blight where there is none. At the November 24 study session, Staff presented several examples of other its success in promoting favorable redevelopment through prescriptive ordinances that were opposed by property owners when first adopted.

At Old Shakopee Road and Lyndale, for example, three closed gas stations have been replaced with new development, including a Caribou Coffee Shop, Jimmy Johns, Chipotle and Walgreens. In the South Loop District, the City has successfully guided redevelopment of under-utilized parking lots and undeveloped land around the LRT station and has prevented undesirable uses, including a gas station, from moving in where none had existed before. Staff did not present any examples of districts in which the City succeeded in displacing successful businesses to encourage speculative new development. The Staff could have found examples where the strategy of rezoning successful businesses has not worked: It has taken several decades for the Cities of Minneapolis and St. Paul to redevelop the sites of displaced auto dealerships on Lake Street, Northeast Minneapolis, Washington and Hennepin, and Grand Avenue. With the opening of the Green Line, St. Paul is only starting to see interest in redevelopment of the auto dealership sites on University Avenue.

Damages to Lupient Chevrolet

If Lupient Chevrolet cannot conduct business on the existing site, Lupient Chevrolet will almost certainly have to close. The opportunities for relocation of Lupient Chevrolet is limited by Minnesota Statutes that establish spacing requirements between competing dealerships. The current locations of other Twin Cities Chevrolet dealerships effectively block Lupient Chevrolet from relocating to a site outside the Penn American District. If Lupient Chevrolet cannot maintain and grow in its current location, it will eventually be forced to close, resulting in lost jobs, lost tax revenue, and lost services. If Lupient Chevrolet is forced to close and discharge its employees, the business losses could include funding of a currently unfunded union pension liability in excess of \$37,000,000, which would be triggered by a significant reduction in union workforce. It is likely that the foregoing union pension liability will not be resolved for years. Because Lupient Chevrolet cannot relocate, it is imperative that the City accommodate Lupient Chevrolet's changes in the site that may exceed those allowed changes in the proposed amendment.

Conclusion. In rejecting the proposed amendments, the Planning Commission presented a responsible and prudent approach for implementing the Penn American District Plan. The City can adopt amendments to the zoning code that are permissive, allowing higher density mixed use development, without prohibiting the existing auto dealerships from participating in the growth and transition to the higher-density and mixed-use vision for the Penn American District. Our modifications to the proposed the zoning amendments are simple and accommodate the needs of both the City and auto dealerships: (1) allow auto dealerships as a permitted use in the District; and (2) allow auto dealerships the ability to invest in alterations to the physical structure of the dealerships so long as those alterations bring the structure into closer conformity with the Penn American District Plan.

Option 3
(Showing only changed pages from Staff Option 1)

Draft 09/05/12/01/2014

ORDINANCE NO. 2014 -

AN ORDINANCE MODIFYING DEVELOPMENT STANDARDS IN THE LX LINDAU MIXED USE, B-4 NEIGHBORHOOD COMMERCIAL CENTER, AND C-5 FREEWAY MIXED USE ZONING DISTRICTS; STANDARDS REGARDING MOTOR VEHICLE SALES, GENERAL DEFINITIONS, LANDSCAPING STANDARDS, EXTERIOR MATERIALS STANDARDS, USE TABLES, DEVELOPMENT INTENSITY STANDARDS, STRUCTURE PLACEMENT STANDARDS AND DEFINITIONS REGARDING NONCONFORMITIES THEREBY AMENDING CHAPTERS 19 AND 21 OF THE CITY CODE

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

SEC. 19.03. DEFINITIONS.

Arcade – A roofed passageway supported by columns and attached to a building. Arcades are typically open on at least one side and intended to provide weather protection to pedestrians and ground level tenant space entrances.

Display box – A shallow, framed box structure containing a glass or glazed windowpane that is built into or attached to a building wall and intended to be used for visual displays.

Class IV motor vehicle sales - The sale, brokering, lease or rental of new or used motor vehicles, and servicing of such motor vehicles as an accessory use, where ~~no~~ such vehicles for sale, resale, rental or leasing are services, stored or and displayed on the premises of the business in part within an enclosed building on the premises of the business. —A Class IV motor vehicle sales facility shall conform with the development standards (including floor area ratio (FAR) and gross floor area (GFA)) requirements of the district in which it is located, provided the enclosed floor area of portions of the facility that are used for display, service and storage of vehicles shall be included in the calculation of FAR. Outdoor display and storage of vehicles shall be permitted, subject to compliance with FAR, lot coverage and setback requirements, provided minimum FAR shall not be less than 0.4 regardless of location within its zoning district. Class IV Motor Vehicle Sales shall be

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Division B. Use Standards

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SEC. 21.302.01. MOTOR VEHICLE SALES.

(j) **Minimum Floor Area Ratio in the C-1 District.** Notwithstanding any District requirements to the contrary, the minimum Floor Area Ratio in the C-1 District shall be 0.0 for existing Motor Vehicle Sales uses and sites and 0.4 for newly created Motor Vehicle Sales uses and sites. When existing Motor Vehicle Sales uses and sites are modified or expanded, the Floor Area Ratio for the site must not decrease. When an existing Motor Vehicle Sales site in the C-1 District expands beyond its existing site boundaries, the Floor Area Ratio on the added site area must meet or exceed 0.4. The cumulative required Floor Area Ratio for the combined site may be spread throughout the full site.

(k) **Expansion of Nonconforming Motor Vehicle Sales Uses in the C-4 and C-5 Districts.** With the intent of balancing the City's interest in redevelopment of existing motor vehicle sales facilities to meet the vision of the Penn American District Plan with the City's interest in minimizing the negative impacts of the C-4 and C-5 District standards on existing motor vehicle sales businesses, the following standards apply to expansions of nonconforming motor vehicle sales uses in the C-4 and C-5 Zoning Districts approved via Conditional Use Permit:

(1) **Exemptions from Standards.** Expansions of nonconforming motor vehicle sales uses that meet the limitations of this Section are exempt from the following requirements of the C-4 and C-5 Zoning Districts:

- (A) Minimum floor area ratio;
- (B) Minimum structure height;
- (C) Minimum structure setback; and
- (D) Parking placement standards.

(2) Notwithstanding location within the District or any District requirements to the contrary, the minimum Floor Area Ratio in the C-4 and C-5 District shall be 0.4 for newly created Motor Vehicle Sales uses and sites.

(32) **Expansion Limited.** In order to avoid significant investments that may delay encourage redevelopment of existing motor vehicle sales sites to meet the vision of the Penn American District Plan, the following limitations on expansion of nonconforming motor vehicle sales uses apply in the C-4 and C-5 zoning districts:

- (A) Relocation of a nonconforming structure on a site is prohibited permitted, provided such relocation shall conform with structure setback and parking placement standards applicable to new construction in the district;
- (B) Expansion of existing motor vehicle sales facility floor area is limited to a ten percent increase relative to the amount of floor area in place on or approved prior to X/1/2014 is permitted, provided (i) new construction shall conform with the development standards for the district, and (ii) the expansion shall increase the Floor Area Ratio for the site.

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ARTICLE V. ADMINISTRATION AND NONCONFORMITY

Division D. Nonconformity

SEC. 21.504. NONCONFORMITY.

- (a) **Purpose and Intent.** It is the purpose and intent of this section to:
- (1) allow nonconforming structures, uses, site characteristics and lots to continue to exist and be put to reasonable and productive use;
 - (2) encourage such nonconformities to be brought into compliance when reasonable to do so;
 - (3) establish the requirements under which nonconformities may be operated and maintained;
 - (4) diminish the impacts of nonconformities on adjacent properties by limiting the expansion of nonconformities;
 - (5) clarify the level of site modifications that may occur before nonconformities are required to be brought into compliance with current standards; and
 - (6) comply with Minnesota Statutes Section 462.357, Subd. 1e, as amended from time to time.
- (b) **Definitions.** The following terms and accompanying definitions are used in the context of nonconformities. Where the terms are used elsewhere in the Code outside of the context of nonconformities, their meaning may have an alternate definition as otherwise defined in their respective section of the Code.
- (1) **Destroyed structures** - For the purposes of nonconformities, a structure is destroyed if its total assessed market value (including structures and land) is diminished by greater than 50 percent as determined by the most recent valuation of the City Assessor.
 - (2) **Discontinued** - For the purposes of nonconformities, the cessation of a use, or removal of a structure or site characteristic for a continuous period of more than one year.
 - (3) **Expansion** of a nonconformity includes:
 - ~~(A) an increase in: structure dimension(s), size, area, volume, height, width, number of units, and/or the land area of use;~~
 - ~~(B) placement of a structure or part thereof where none existed before;~~
 - ~~(C) addition of certain site characteristics such as a patio, fence, driveway, parking area and/or swimming pool;~~
 - ~~(D) a relocation of operations to a new location on the property not previously used unless the relocation reduces or eliminates the nonconformity;~~
 - ~~(E) an increase in intensity of use as compared to the original nature, function, or purpose of the nonconformity.~~
 - (A) For nonconforming uses, an increase in the site or floor area devoted to the use; an increase in the site area devoted to parking, open storage or outdoor display; an increase in the number of dwelling units or hotel rooms; or a relocation of the use to a structure or portion of the site not previously occupied by the use.
 - (B) For nonconforming lots, a change to the lot size, lot width or other lot feature that would increase the level of lot nonconformity.
 - (C) For nonconforming structures, a change to the structure dimension, size, area, volume, height, floor area or other structure feature that would increase the level of structure nonconformity.

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Option 3
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considered permitted uses in all zoning districts where offices and office uses are permitted.

ARTICLE V. PERFORMANCE STANDARDS

SEC. 19.52. LANDSCAPING AND SCREENING.

(c) Landscaping Standards.

- (2) Minimum Number of Trees and Shrubs. Excluding exceptions specified below in Section 19.52(c)(2)(E), development must at a minimum provide the following numbers of trees and shrubs [in addition to any trees and shrubs required for screening in Section 19.52(d)]:

(E) Exceptions:

- (i) Single family 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)]~~ (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.

- (4) Minimum Landscape Yard. An area for landscaping, kept free of parking, storage, or stormwater ponds, must be provided around the perimeter of a site. ~~[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. Sidewalks, bus shelters and entrance drives may be located within the landscape yard. Buildings may be located within the landscape yard when otherwise allowed by the City Code.]~~
- (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 5 feet provided the screening standards in Section 19.52 (d) (4) 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 ~~[landscaping]~~ 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

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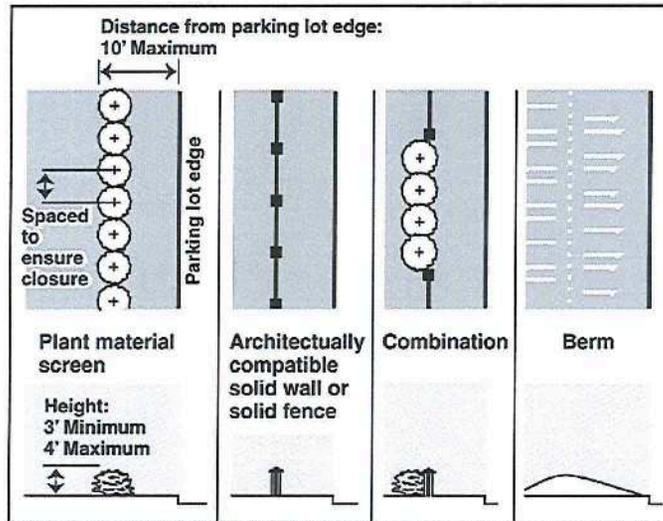
right of way shall not be credited toward the required number of trees and shrubs. Landscaping placed or removed in the public right of way must receive City approvals for right of way plantings (see Section 18.07) and must conform with City right of way planting policies.

(d) **Screening Standards.**

(4) Parking lot screening standards.

- (A) Parking lot screening must be ~~provided within ten feet of~~ placed where it will most effectively screen the perimeter of the parking lot.
- (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)) 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)~~(iii) an architecturally compatible ~~opaque~~ wall or fence;
 - ~~(iii)~~(v) a berm; or
 - ~~(v)~~(vi) a combination of the above.
 - ~~(vi)~~(vii) Overstory trees, [T]transit shelters, benches, bicycle racks and similar features may be integrated as a part of the screen.

Figure 19.52 (b)



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SEC. 19.63.08. EXTERIOR MATERIALS AND FINISH.

- (c) The following regulations apply to all primary and accessory buildings and additions in the following zoning districts:

Multiple-family Residential RM-50 Districts
 Neighborhood Office B-1 District
 General Commercial B-2 District
 General Business B-3 District
 Neighborhood Commercial Center B-4 District
 Freeway Office and Service C-1 District
 Freeway Commercial C-2 District
 Freeway Commercial Center C-3 District
 Freeway Office C-4 District
 Freeway Mixed Use C-5 District
 Regional Commercial CR-1 District
 Freeway Development FD-1 and FD -2 Districts
 Commercial Service CS-0.5 and CS-1 Districts
 Commercial Office CO-0.5, CO-1 and CO-2 Districts
 Residential Office RO-24 and RO-50 Districts
 High Intensity Mixed Use with Residential HX-R District
 Lindau Mixed Use LX District

- (2) **Coating of Exterior Walls.** No existing uncoated exterior wall finish material regulated by this Section shall be coated after the effective date of this Ordinance except for the following:
- (A) As approved in Sections 19.63.08(f) and 19.63.08(g) of this Code;
- (B) Those portions of foundation walls above finished grade may be coated or sealed.
- (C) Architectural trim as listed in Section 19.63.08(c)(3) may be coated or sealed.
- (D) All exterior wall surfaces and architectural trim that were coated prior to the effective date of this Ordinance or allowed to be coated after that date by reason of the granting of development approval, administrative approval, or a variance may be maintained, to include sealing and recoating, in a manner appropriate to that wall finish material or trim and consistent with that existing surface treatment or any prior approval by the Issuing Authority.
- (E) Murals are counted as architectural trim. To protect the integrity and durability of exterior building materials, murals may not be applied directly to the surface of a building elevation. Murals may be applied to separate materials and attached to the building elevation. ~~The coating of exterior wall finish materials regulated by this Section as trim and not to exceed 15 percent of the exterior wall surface of a building elevation either on its own or in combination with the allowance for architectural trim in Section 19.63.08(c)(3).~~
- (3) **Architectural Trim.** When used as architectural trim, up to 15 percent of the exterior wall surface of a building elevation may be wood, metal, exterior insulation finish system (EIFS), or other equivalent material as approved by the Issuing Authority.
- (4) **Canopies and Awnings.** Up to 15 percent of the exterior wall surface of a building elevation may be covered by canopies and/or awnings intended to provide aesthetic embellishment, shade or weather protection. Exterior wall surface materials covered by canopies or awnings must meet the applicable requirements of Section 19.63.08 and, depending on the wall surface material, count as architectural trim. Canopies and awnings must meet all applicable building code requirements to ensure proper installation.

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- (d) The following regulations apply to all primary and accessory buildings and additions in the following zoning districts:

Industrial Park I-1 District
 Limited Industrial I-2 District
 General Industrial I-3 District
 Industrial Park IP District

- (2) **Coating of Exterior Walls.** No existing uncoated exterior wall finish material regulated by this Section shall be coated after the effective date of this Ordinance except for the following:

- (A) As approved in Sections 19.63.08(f) and 19.63.08(g) of this Code;
- (B) Those portions of foundation walls above finished grade may be coated or sealed. (C) Architectural trim as listed in Section 19.63.08(c)(3) may be coated or sealed.
- (D) All exterior wall surfaces and architectural trim that were coated prior to the effective date of this Ordinance or allowed to be coated after that date by reason of the granting of development approval, administrative approval, or a variance may be maintained, to include sealing and recoating, in a manner appropriate to that wall finish material or trim and consistent with that existing surface treatment or any prior approval by the Issuing Authority.
- (E) Murals are counted as architectural trim. To protect the integrity and durability of exterior building materials, murals may not be applied directly to the surface of a building elevation. Murals may be applied to separate materials and attached to the building elevation. [The coating of exterior wall finish materials regulated by this Section as trim and not to exceed 15 percent of the exterior wall surface of a building elevation either on its own or in combination with the allowance for architectural trim in Section 19.63.08(c)(3).]
- (3) **Architectural Trim.** When used as architectural trim, up to 15 percent of the exterior wall surface of a building elevation may be wood, metal, exterior insulation finish system (EIFS), or other equivalent material as approved by the Issuing Authority.
- (4) **Canopies and Awnings.** Up to 15 percent of the exterior wall surface of a building elevation, not counting architectural trim, may be covered by canopies and/or awnings intended to provide aesthetic embellishment, shade or weather protection. Exterior wall surface materials covered by canopies or awnings must meet the applicable requirements of Section 19.63.08 and, depending on the wall surface material, count as architectural trim. Canopies and awnings must meet all applicable building code requirements to ensure proper installation.

- (e) The following regulations apply to all primary and accessory buildings and additions in the following zoning districts:

Mixed Use CX-2 District

Draft 09/05/12/01/2014

- (2) **Coating of Exterior Walls.** No existing uncoated exterior wall finish material regulated by this Section shall be coated after the effective date of this Ordinance except for the following:
- (A) As approved in Sections 19.63.08(f) and 19.63.08(g) of this Code;
 - (B) Those portions of foundation walls above finished grade may be coated or sealed. (C) Architectural trim as listed in Section 19.63.08(c)(3) may be coated or sealed.
 - (D) All exterior wall surfaces and architectural trim that were coated prior to the effective date of this Ordinance or allowed to be coated after that date by reason of the granting of development approval, administrative approval, or a variance may be maintained, to include sealing and recoating, in a manner appropriate to that wall finish material or trim and consistent with that existing surface treatment or any prior approval by the Issuing Authority.
 - (E) Murals are counted as architectural trim. To protect the integrity and durability of exterior building materials, murals may not be applied directly to the surface of a building elevation. Murals may be applied to separate materials and attached to the building elevation.~~(The coating of exterior wall finish materials regulated by this Section as trim and not to exceed 15 percent of the exterior wall surface of a building elevation either on its own or in combination with the allowance for architectural trim in Section 19.63.08(c)(3).)~~
- (3) **Architectural Trim.** When used as architectural trim, up to 15 percent of the exterior wall surface of a building elevation may be wood, metal, exterior insulation finish system (EIFS), or other equivalent material as approved by the Issuing Authority.
- (4) **Canopies and Awnings.** Up to 15 percent of the exterior wall surface of a building elevation, not counting architectural trim, may be covered by canopies and/or awnings intended to provide aesthetic embellishment, shade or weather protection. Exterior wall surface materials covered by canopies or awnings must meet the applicable requirements of Section 19.63.08 and, depending on the wall surface material, count as architectural trim. Canopies and awnings must meet all applicable requirements to ensure proper installation.

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:

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CHAPTER 21

ZONING AND LAND DEVELOPMENT

ARTICLE II. DISTRICTS AND USES

Division C. Neighborhood Commercial Zoning Districts

SEC. 21.204.03. NEIGHBORHOOD COMMERCIAL CENTER (B-4) DISTRICT.

(c) **Standards.** Development in the B-4 District must comply with the following standards:

- (1) Floor area ratio, building floor area, impervious surface area, site width and site area. See Section 21.301.01 for applicable standards.
- (2) Structure and parking placement. See Section 21.301.02 for applicable standards. ~~[To promote the intended character and pedestrian orientation of the B-4 District, buildings in the B-4 District must generally be located near the street with parking to the side or rear subject to the following requirements:~~
 - ~~(A) Structure placement. See Section 21.301.02 for applicable standards.~~
 - ~~(B) Parking placement. Off street parking must not be located between a building and a public street unless:~~
 - ~~(i) the parking is located entirely below grade;~~
 - ~~(ii) the site meets the standards for in Section 21.204.03(c)(2)(D) large development sites;~~
or
 - ~~(iii) the site has received an exemption for sites with multiple street frontages in accordance with Section 21.204.03(c)(2)(E).~~

~~Off street parking may be located on the rooftops of buildings. Examples of permitted parking configurations are illustrated in Section 21.204.03(d)(1).~~
 - ~~(C) Corner sites. It is the intent of the B-4 District to promote an attractive streetscape by having buildings or gathering spaces anchor high profile corners rather than surface or structured parking lots. Off street parking must not be located within 200 feet of an intersection of two streets classified by the Comprehensive Plan as a collector or arterial street unless there is a building between the parking and the public street (see Section 21.204.03(d)(2) for a graphic illustration). For the purposes of this subsection, intersection is defined as the point at which planned widened right-of-way lines for each street would intersect if extended.~~
 - ~~(D) Large sites. Large development sites may be able to accommodate buildings internal to the site as well as adjacent to public streets. Buildings on sites over five acres in size may be placed beyond the maximum setbacks for the B-4 District provided. At least 50 percent of the linear public street frontage of the site contains buildings within 40 feet of the public street that have no parking located between the buildings and the public street except for parking located entirely below grade.~~
 - ~~(E) Exemptions for sites with multiple street frontages. While it is the intent of the B-4 District to have buildings close to the street with parking to the side or rear or entirely below grade, that arrangement may not be possible for each street frontage on sites which front on two or more public streets in either a corner or through lot configuration. When a site fronts on multiple public streets in a corner or through lot configuration, the City Council may exempt through the~~

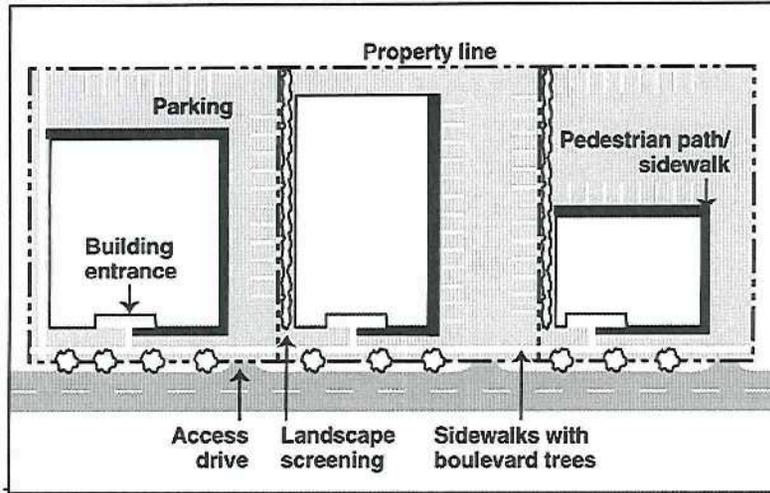
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planned development process all but one of the street frontages from complying with the B-4 District building or parking placement requirements provided the City Council determines that:

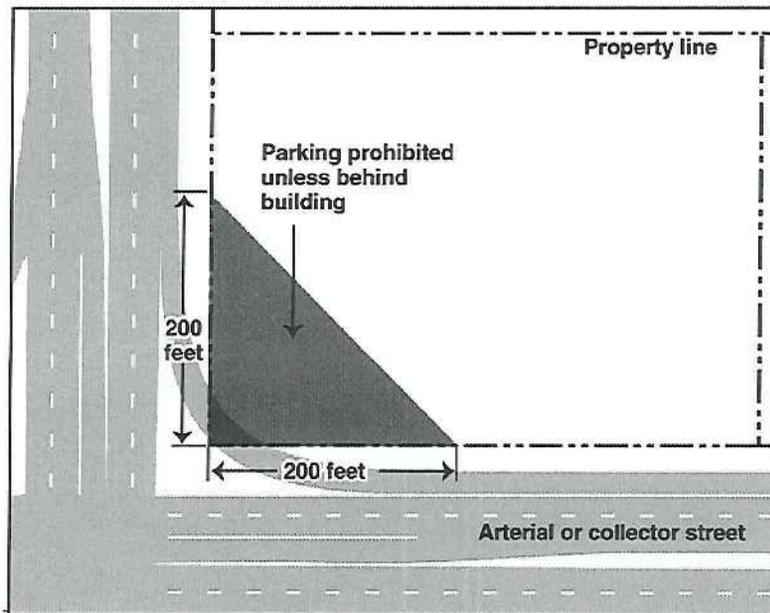
- (i) ~~the site cannot reasonably comply with the B-4 structure and parking placement requirements for all street frontages;~~
 - (ii) ~~the proposed structure and parking configuration will meet the purpose and intent of the B-4 District;~~
 - (iii) ~~the proposed structure and parking configuration will complement the character of existing or planned development in the area;~~
 - (iv) ~~the proposed structure and parking configuration will facilitate pedestrian and bicycle access;~~
 - (v) ~~the proposed structure and parking configuration will place vehicle access points in optimal locations; and~~
 - (vi) ~~the proposed structure and parking configuration will be compatible with natural features, surrounding development, redevelopment plans, and traffic volumes.~~
- (F) ~~Drive-throughs. In addition to requirements of Section 21.301.05, drive-through windows and stacking lanes in the B-4 District must:~~
- (i) ~~not be located between a building and a public or private street;~~
 - (ii) ~~not exceed one lane per business;~~
 - (iii) ~~be located in a manner that discourages pedestrian crossing of stacking lanes; and~~
 - (iv) ~~be screened from public and private streets, sidewalks, adjacent outdoor dining spaces, parks and public open spaces.~~
- (3) Structure height. See Section 21.301.10 for applicable standards.
- (4) Retail floor area restrictions. To ensure that retail uses in the B-4 District are not regionally oriented, single tenant retail buildings or individual retail tenant spaces must not exceed 80,000 square feet in total floor area.
- (5) [Building] Structure design. See Section 21.301.03 for applicable standards. [In addition to the requirements of Section 21.301.03(a), buildings in the B-4 District must meet the following:
- (A) ~~Windows. In addition to the requirements of Section 21.301.03(a)(4) and in order to promote a pedestrian-oriented environment, add visual interest and increase public safety, individual tenant spaces and single tenant buildings in the B-4 District within 100 feet of a public or private street must meet the following window requirements:~~
- (i) ~~At least 50 percent of the first floor elevation area on the primary elevation facing a public or private street must be composed of transparent windows or transparent entrances.~~
 - (ii) ~~At least 25 percent of the first floor elevation area on the second and third elevation facing a public or private street must be composed of transparent windows or transparent entrances.~~
 - (iii) ~~The applicant will determine which elevation is considered to be the primary, second and third elevation.~~
 - (iv) ~~Residential uses are exempt from the window requirements of Section 21.204.03(c)(5)(A).~~
 - (v) ~~In the event that an individual tenant space or single tenant building faces and is within 100 feet of a public or private street on all four elevations, the fourth elevation is exempt from the window requirements of Section 21.204.03(c)(5)(A).~~
 - (vi) ~~The City Council may reduce the window requirements of this section through approval of a planned development provided that the City Council determines that the window requirements cannot be met due to practical difficulties and that the intent of the B-4 district window requirements will be met through other means.~~
- (B) ~~Street side entrances. To promote a pedestrian-oriented environment in the B-4 District, each non-residential building and each separated tenant space adjacent to a public street must include at least one entrance on the street side of the building that is open to the public during regular business hours.~~
- (C) ~~Canopies and awnings. First floor canopies and awnings are encouraged in order to promote a pedestrian-oriented environment and add visual interest. Canopies and awnings must meet the requirements of Section 19.63.08 not extend above the first floor of a building or more than 15 feet above the finished grade.]~~
- ~~(d) Graphic Illustrations.~~

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(1) Examples of permitted parking locations in the B-4 District.



(2) B-4 District parking prohibition for corner lots.]



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Division D. Freeway Commercial Zoning Districts

SEC. 21.205.05. FREEWAY MIXED USE (C-5) DISTRICT.

- (c) **Standards.** Development in the C-5 District must comply with the [following] standards in Sections 21.301.01, 21.301.02, 21.301.03, 21.301.10 and the following:
- ~~(1) Floor area ratio, building floor area, impervious surface area, site width and site area. See Section 21.301.01 for applicable standards.~~
 - ~~(2) Structure and parking placement. To promote the intended character and pedestrian orientation of the C-5 District, buildings in the C-5 District must generally be located near the street with parking to the side or rear subject to the following requirements:

 - ~~(A) Structure placement. See Section 21.301.02 for applicable standards.~~
 - ~~(B) Parking placement. Off street parking must not be located between a building and a public street unless:

 - ~~(i) the parking is located entirely below grade;~~
 - ~~(ii) the site meets the standards in Section 21.205.05 (c) (2) (D) for large development sites;~~
or
 - ~~(iii) the site has received an exemption for sites with multiple street frontages in accordance with Section 21.205.05 (c) (2) (E).~~~~
 - ~~Off street parking may be located on the rooftops of buildings. Examples of permitted parking configurations are illustrated in Section 21.205.05 (d) (1).~~
 - ~~(C) Corner sites. It is the intent of the C-5 District to promote an attractive streetscape by having buildings or gathering spaces anchor high profile corners rather than surface or structured parking lots. Off street parking must not be located within 200 feet of an intersection of two streets classified by the Comprehensive Plan as a collector or arterial street unless there is a building or gathering space between the parking and the public street (see Section 21.205.05 (d) (2) for a graphic illustration). For the purposes of this subsection, intersection is defined as the point at which planned widened right-of-way lines for each street would intersect if extended.~~
 - ~~(D) Large sites. Large development sites may be able to accommodate buildings internal to the site as well as adjacent to public streets. Buildings on sites over five acres in size may be placed beyond the maximum setbacks for the C-5 District provided. At least 50 percent of the linear public street frontage of the site must contain buildings within 40 feet of the public street that have no parking located between the buildings and the public street except for parking located entirely below grade.~~
 - ~~(E) Exemptions for sites with multiple street frontages. While it is the intent of the C-5 District to have buildings close to the street with parking to the side or rear or entirely below grade, that arrangement may not be possible for each street frontage on sites which front on two or more public streets in either a corner or through lot configuration. When a site fronts on multiple public streets in a corner or through lot configuration, the City Council may exempt through the planned development process all but one of the street frontages from complying with the C-5 District building or parking placement requirements provided the City Council determines that:

 - ~~(i) the site cannot reasonably comply with the C-5 structure and parking placement requirements for all street frontages;~~
 - ~~(ii) the proposed structure and parking configuration will meet the purpose and intent of the C-5 District;~~
 - ~~(iii) the proposed structure and parking configuration will complement the character of existing or planned development in the area;~~
 - ~~(iv) the proposed structure and parking configuration will facilitate pedestrian and bicycle access;~~
 - ~~(v) the proposed structure and parking configuration will place vehicle access points in optimal locations; and~~
 - ~~(vi) the proposed structure and parking configuration will be compatible with natural features, surrounding development, redevelopment plans, and traffic volumes.~~~~~~

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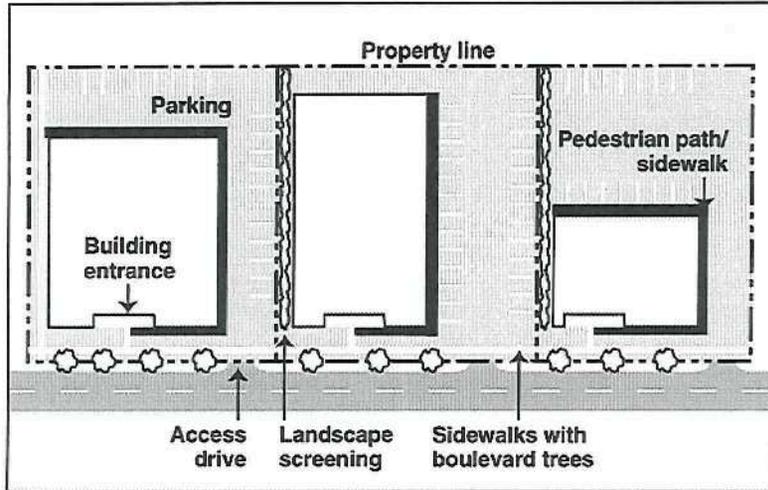
- (F) Drive-throughs. In addition to requirements of Section 21.301.05, drive-through windows and stacking lanes in the C-5 District must meet the following standards:
- (i) Drive through windows and stacking lanes must not be located between a building and a street;
 - (ii) Drive through stacking lanes must be located in a manner that does not require or encourage pedestrians to cross stacking lanes; and
 - (iii) Depending on the visibility and location of drive through windows and stacking lanes, screening may be required through condition of approval.
- (4) Structure height. To promote intensity in the C-5 District, at least 60 percent of building footprint area on a site must rise to at least two stories in height. Structures in the C-5 District must meet the height limitations of Section 21.301.10.
- (5) Building design. In addition to the requirements of Section 21.301.03 (a), buildings in the C-5 District must meet the following:
- (A) Windows. In addition to the requirements of Section 21.301.03 (a) (4) and in order to promote a pedestrian oriented environment, add visual interest and increase public safety, individual tenant spaces and single tenant buildings in the C-5 District within 100 feet of a public or private street must meet the following window requirements:
 - (i) At least 50 percent of the first floor elevation area on the primary elevation facing a public or private street must be composed of transparent windows or transparent entrances.
 - (ii) At least 25 percent of the first floor elevation area on the second and third elevation facing a public or private street must be composed of transparent windows or transparent entrances.
 - (iii) The applicant will determine which elevation is considered to be the primary, second and third elevation.
 - (iv) Residential uses are exempt from the window requirements of Section 21.205.05 (c) (5) (A).
 - (v) In the event that an individual tenant space or single tenant building faces and is within 100 feet of a public or private street on all four elevations, the fourth elevation is exempt from the window requirements of Section 21.205.05 (c) (5) (A).
 - (vi) The City Council may reduce the window requirements of this section through approval of a planned development provided that the City Council determines that the window requirements cannot be met due to practical difficulties and that the intent of the C-5 district window requirements will be met through other means.
 - (B) Street side entrances. To promote a pedestrian oriented environment in the C-5 District, each non-residential building and each separated tenant space adjacent to a public street must include at least one entrance on the street side of the building that is open to the public during regular business hours.
 - (C) Canopies and awnings. First floor canopies and awnings are encouraged in order to promote a pedestrian oriented environment and add visual interest. Canopies and awnings must meet the requirements of Section 19.63.08 not extend above the first floor of a building or more than 15 feet above the finished grade.]
- ([6]1) Residential uses encouraged. To promote the inclusion of residential uses within the C-5 District, the following incentives are available to development that includes residential uses.
- (A) Floor Area Ratio Bonus. Sites with a residential density of at least 10 dwelling units per acre may increase the maximum allowed Floor Area Ratio by two percent for each unit per acre of residential density up to a maximum floor area ratio bonus of 40 percent. For example, a site with a residential density of 10 units per acre would receive a 20 percent floor area ratio bonus, a site with a residential density of 15 units per acre would receive a 30 percent floor area ratio bonus and a site with a residential density of 20 dwelling units per acre would receive a 40 percent floor area ratio bonus.
 - (B) Minimum Floor Area Ratio Reduction. For sites in the C-5 District with at least one half of the total gross floor area on site devoted to residential use, the minimum required Floor Area Ratio is reduced to 0.75.
 - (C) Height Bonus. Residential structures in the C-5 District may be constructed above the maximum height allowed in Section 19.47 of this Code as follows. A height bonus of one foot is allowed per residential dwelling unit up to a maximum height bonus of 45 feet.
 - (D) Parking Reduction. The requirements for number of parking spaces for residential uses in the

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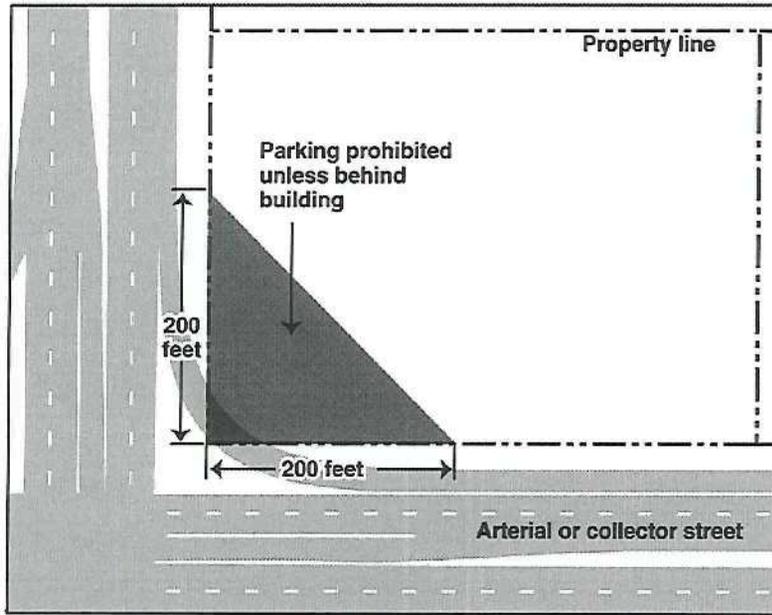
C-5 District are 95 percent of the requirements in Section 21.301.06 of this Code.

~~(d) Graphic Illustrations:~~

- ~~(1) Examples of permitted parking locations in the C-5 District.~~



- ~~(2) C-5 District parking prohibition for corner lots.~~



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Division F. Specialized Zoning Districts

SEC. 21.207.02. LINDAU MIXED USE (LX) DISTRICT.

- (c) **Standards.** Development in the LX District must comply with the [following] standards in Sections 21.301.01, 21.301.02, 21.301.03, 20.301.10 and the following:
- (1) Floor area ratio, building floor area, impervious surface area, site width and site area must comply with the applicable requirements of Section 21.301.01 as well as the following:
 - (A) Floor Area Ratio - Minimum. The minimum floor area ratio on sites in the LX District may be decreased to 0.50 provided that:
 - (i) at least 50 percent of building frontages along a public street are located at the minimum setback required;
 - (ii) at least 60 percent of the primary building facade along a public streets is at least three stories or 50 feet in height;
 - (iii) buildings facing onto Lindau Lane meet or exceeds the ground level building design requirements in Section 21.301.03(b); and
 - (iv) on-site parking supply does not exceed code requirements.
 - ~~(2) Structure and parking placement. To promote the intended urban character and pedestrian orientation, buildings in the LX District must generally be located near the street with parking to the side or rear subject to the following requirements.~~
 - ~~(A) Structure placement. See Section 21.301.02 for applicable standards unless:

 - (i) the site has received an exemption for sites with multiple street frontages in accordance with Section 21.207.02(e)(2)(E).~~
 - ~~(B) Skyways, tunnels, and similar pedestrian connection structures up to 120 feet in width have no setback requirements from property lines.~~
 - ~~(C) Parking placement. Off street parking must not be located closer to a street than the principal building on site unless:

 - (i) the parking is located entirely below grade; or
 - (ii) the site has received an exemption for sites with multiple street frontages in accordance with Section 21.207.02(e)(2)(E).~~
 - ~~Off street parking may be located on the rooftops of buildings. Examples of permitted parking configurations are illustrated in Section 21.205.05(d)(1).~~
 - ~~(D) Drive-throughs. In addition to requirements of Section 21.301.05, drive-through windows and stacking lanes in the LX District must meet the following standards:

 - (i) Drive through windows and stacking lanes must not be located closer to a street than the principal building on site;
 - (ii) Drive through stacking lanes must be located in a manner that does not require or encourage pedestrians to cross stacking lanes; and
 - (iii) Depending on the visibility and location of drive through windows and stacking lanes, screening may be required through condition of approval.~~
 - ~~(E) Exemptions for sites with multiple street frontages. While it is the intent of the LX District to have buildings close to the street with parking to the side or rear or entirely below grade, that arrangement may not be possible for each street frontage on sites which front on two or more public streets in either a corner or through lot configuration. When a site fronts on multiple public streets in a corner or through lot configuration, the City Council may exempt through the planned development process all but one of the street frontages from complying with the LX District building or parking placement requirements provided the City Council determines that:

 - (i) the site cannot reasonably comply with the LX structure and parking placement requirements for all street frontages;
 - (ii) the proposed structure and parking configuration will meet the purpose and intent of the LX District;~~

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- (iii) ~~the proposed structure and parking configuration will complement the character of existing or planned development in the area;~~
 - (iv) ~~the proposed structure and parking configuration will facilitate pedestrian and bicycle access;~~
 - (v) ~~the proposed structure and parking configuration will place vehicle access points in optimal locations; and~~
 - (vi) ~~the proposed structure and parking configuration will be compatible with natural features, surrounding development, redevelopment plans, and traffic volumes.~~
- (3) ~~Structure height. To promote intensity in the LX District, at least 60 percent of building footprint area on a site must rise to at least 30 feet in height. Structures in the LX District must meet the height limitations of Sections 21.301.10 and 19.38.03.~~
- (4) ~~Ground level building design. In order to promote a pedestrian-oriented environment, add visual interest, and increase public safety, the portion of a building façade between two feet and ten feet above grade fronting on a public or private street must meet the following standards:~~
- (A) ~~Transparency. A minimum of 30 percent of the ground level façade between two feet and ten feet above grade must consist of:

 - (i) ~~Windows. A minimum of 75 percent of all window areas must be transparent. Highly reflective glass is prohibited.~~~~
 - (B) ~~Street entrances. Each building and each separate tenant space adjacent to a public street must include at least one entrance on the street side of the building that is open to the public during regular business hours.~~
 - (C) ~~Other. If less than 50 percent of the ground level façade is comprised of windows or entrances, at least two of the following must also be used:

 - (i) ~~Wall design. Embellishment of the building façade to create visual interest through:

 - (a) ~~Horizontal and vertical reveals not less than one inch in width/depth;~~
 - (b) ~~Variations in material module, pattern and/or color;~~
 - (c) ~~Green screen or planter walls; and~~
 - (d) ~~Translucent, fritted, patterned or colored glazing.~~~~
 - (ii) ~~Outdoor seating and serving areas. Seating areas must be located immediately adjacent to the subject business.~~
 - (iii) ~~Permanent art. Non-commercial art or graphic design that complies with the following standards:

 - (a) ~~is of sufficient scale and orientation to be perceived from the public right-of-way;~~
 - (b) ~~is rendered in materials or media appropriate to an exterior, urban environment; and~~
 - (c) ~~is permanently integrated into or immediately adjacent to the building wall.~~~~~~
 - (D) ~~The City Council may reduce the ground level building design requirements of this section through approval of a planned development provided that the City Council determines that the requirements cannot be met due to practical difficulties and that the intent of the LX district ground level building design standards will be met through other means.~~
- (5) ~~Additional building design standards. In addition to the requirements of Section 21.301.03(a), buildings in the LX District must comply with the following:~~
- (A) ~~Exterior materials. The exterior materials and finish of all buildings and structures in the LX District must comply with the applicable requirements of Section 19.63.08 of this Code.~~
 - (B) ~~Arcades. Arcades along building frontages must comply with the following standards:

 - (i) ~~the arcade must extend no more than two stories in height;~~
 - (ii) ~~the exterior face of the arcade column line must meet the minimum setback requirements in Section 21.301.02 and generally continue the wall plane of the building above;~~
 - (iii) ~~the interior wall of the arcade must not exceed the maximum setbacks requirements in Section 21.301.02;~~
 - (iv) ~~the average depth of the arcade must be no less than six feet clear as measured from the interior face of the columns; and~~
 - (v) ~~the interior wall of the arcade must meet the required ground floor building design requirements in Section 21.207.02(e)(4).~~~~
 - (C) ~~Canopies and awnings. First floor canopies and awnings are encouraged in order to provide a comfortable pedestrian environment and add visual interest. Canopies and awnings must not~~

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- extend above the first floor of a building or more than 15 feet above the finished grade.
- ~~(D) Parking Structures. Parking structures must comply with the requirements in Section 21.301.06(h) of this Code.~~
- ~~(6) Signs. Signs in the LX District must comply with the requirements of the Class VIII Sign District as described in Section 19.115.02.~~
- ~~(7) Landscaping. Sites in the LX District must comply with the landscape requirements in Section 19.52.]~~

Division H. Uses

SEC. 21.209. USE TABLES.

- (a) **Purpose.** The use tables in this Section depict the classification of land uses within zoning districts.
- (b) **Table Key.** The following labeling conventions apply to each table in this Section.
- (1) **Uses.** Uses are often defined in Section 19.03. Uses not defined are subject to standard dictionary definitions.
 - (2) **Permitted uses.** Uses identified in the zoning district column with the letter "P" are allowed as permitted uses, primary or accessory, in the respective zoning district.
 - (3) **Conditional uses.** Uses identified in the zoning district column with the letter "C" are allowed as conditional uses, primary or accessory, in the respective zoning district. Conditional uses must obtain a Conditional Use Permit prior to commencing.
 - (4) **Interim uses.** Uses identified in the zoning district column with the letter "I" are allowed as interim uses, primary or accessory, in the respective zoning district. Interim uses must obtain an Interim Use Permit prior to commencing.
 - (5) **Accessory uses.** Uses identified in the zoning district column with the letter "A" are allowed as accessory uses in the respective zoning district. Except for accessory residential uses, which are governed by the standards in Section 21.302.02, accessory uses must not occupy more than 25 percent of the total floor area on a site.
 - (6) **Conditional accessory uses.** Uses identified in the zoning district column with the letter "CA" are allowed as conditional accessory uses in the respective zoning district. Conditional accessory uses must obtain a Conditional Use Permit before commencing and are subject to the floor area limitations of accessory uses discussed in Section 21.209(b)(5).
 - (7) **Prohibited uses.** Uses not associated with a letter in the zoning district column are prohibited uses in the respective zoning district. Uses not listed are prohibited.
 - (8) **Standards.** For ease of reference, uses for which specific standards apply include a table reference to the applicable Code Section.
- (c) **Reserved.**

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(d) Neighborhood and Freeway Commercial Zoning Districts.

USE TYPE	ZONING DISTRICT								REFERENCES
	B-1	B-2	B-4	C-1	C-2	C-3	C-4	C-5	
									See Listed Section

RETAIL/SERVICES

Motor Vehicle Services

USE TYPE	ZONING DISTRICT								REFERENCES
	B-1	B-2	B-4	C-1	C-2	C-3	C-4	C-5	
									See Listed Section
Motor vehicle sales, Class I				P					21.302.01
Motor vehicle sales, Class II				A					21.302.01
Motor vehicle sales, Class III		C		C	C				
Motor vehicle sales, Class IV	P	P	P	P	P	P	P	P	
Motor vehicle sales, enclosed		P		P	P	P		P	21.302.01
Motor vehicle sales in existence in the B-2 District prior to 1/1/2010		P							21.302.01
Expansion of nonconforming motor vehicle sales uses in the C-4 and C-5 Districts							C P	C P	21.302.01 (k)
Motor vehicle storage lot									

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ARTICLE III. DEVELOPMENT STANDARDS**Division A. General Standards****SEC. 21.301.01. DEVELOPMENT INTENSITY AND SITE CHARACTERISTICS.**

- (a) **Purpose.** The tables in this Section depict required floor area ratio, building floor area, impervious surface area, site width and site area standards by zoning district.
- (b) **Table Key.** The following labeling conventions apply to each table in this Section.
- (1) Floor area ratio – minimum. The floor area ratio on a site, as calculated in City Code Section 19.03, must meet or exceed the listed minimum for the respective zoning district. In cases where development on a site occurs in phases, each individual development phase must comply with the floor area ratio requirements of this subsection on its own or in conjunction with previous phase(s) if previous phase(s) exceeded floor area ratio requirements.
 - (2) Floor area ratio – maximum. The floor area ratio on a site, as calculated in City Code Section 19.03, must not exceed the listed maximum for the respective zoning district.
 - (3) Building floor area - minimum. Building floor area, expressed in gross square feet, for each principal building on a site must meet or exceed the listed minimum for the respective zoning district.
 - (4) Impervious surface area – maximum. The total impervious surface area on a site may not exceed the listed maximum for the respective zoning district.
 - (5) Site width - minimum. The site width, measured at the minimum required structure setback for the respective zoning district must meet or exceed the listed minimum for the respective zoning district.
 - (6) Site area – minimum. The gross site area must meet or exceed the minimum listed for the respective zoning district.
 - (7) Not applicable. Standards identified in the zoning district row with the letters "NA" do not apply within the respective zoning district.

(d) Commercial and Industrial Zoning Districts.

Zoning District	Floor Area Ratio		Building Floor Area	Impervious Surface Area	Site Width	Site Area
	Minimum	Maximum	Minimum	Maximum	Minimum	Minimum
B-1	NA	0.5	1,000 sq. ft.	80%	100 ft. 150 ft. for corner sites	25,000 sq. ft.
B-2	NA	0.5	3,000 sq. ft.	90%	100 ft. 150 ft. for corner sites	25,000 sq. ft.
B-4	0.2	0.5 2.0 with residential	4,000 sq. ft.	95%	150 ft. 200 ft. for corner sites	40,000 sq. ft.
C-1	0.4	1.0	20,000 sq. ft.	90%	200 ft. 250 ft. for corner sites	120,000 sq. ft.
C-2	NA	0.5	20,000 sq. ft. 10,000 sq. ft. for restaurants and gas stations	90%	200 ft. 250 ft. for corner sites	80,000 sq. ft.

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C-3	0.5	1.0	50,000 sq. ft.	95%	200 ft. 250 ft. for corner sites	200,000 sq. ft.
C-4	0.4*	2.0	20,000 sq. ft. 10,000 sq. ft. for restaurants	90%	200 ft. 250 ft. for corner sites	120,000 sq. ft.
C-5	1.0	1.5	20,000 sq. ft.	95%	200 ft. 250 ft. for corner sites	80,000 sq. ft.
CX-2	NA	2.0	200,000 sq. ft. 2,000 sq. ft. for accessory buildings	NA	200 ft. 250 ft. for corner sites	150,000 sq. ft.
LX	0.7**	2.0	10,000 sq.ft.	NA	100 ft.	NA

Notes:

* Minimum FAR increases to 1.0 for sites where over 50 percent of the site is within one quarter mile of the intersection of American Boulevard and Knox Avenue (planned bus rapid transit station location)

** FAR reductions may be allowed subject to the criteria in Section 21.207.02(c)(1)(A)

SEC. 21.301.02. STRUCTURE PLACEMENT.

(b) **Table Key.** The following labeling conventions apply to each table in this Section:

- (1) **Setbacks from public streets.** All setbacks from public streets or proposed public streets must be measured from the planned widened rights-of-way in accordance with the Master Street Plan of the City.
- (2) **Rear and side.** For corner sites that abut two public streets and for which it is not apparent due to lot configuration or past approval which property line is the rear and which property line is the side, the applicant may select which property line to consider rear and which to consider side.
- (3) **Abutting residential.** For the purpose of determining the required setback abutting residential, a site is considered to be "residential" if it is guided residential by the Comprehensive Plan.
- (4) **Where applicable, at least 75 percent of any building façade with street frontage must meet the listed maximum setback requirement.** The City Council may waive maximum setback requirements through the planned development process for buildings with more than two street frontages.

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(d) Reserved.

(e) Commercial and Industrial Zoning District Setbacks.

Zoning District	Along Public Street		Rear	Side	Abutting Property Used and Zoned Residential
	Minimum	Maximum	Minimum	Minimum	Minimum
B-1	35 ft.	NA	15 ft.	10 ft.	50 ft.
B-2	35 ft.	NA	15 ft.	10 ft.	50 ft.
B-4	20 ft. 10 ft. (or width of required public easement)	40 ft.	15 ft. 30 ft. for buildings over 4 stories in height	10 ft. 20 ft. for buildings over 4 stories in height	50 ft.
C-1	35 ft.	NA	30 ft. 40 ft. for buildings over 4 stories in height	20 ft. 30 ft. for buildings over 4 stories in height	50 ft.
C-2	35 ft.	NA	30 ft. 40 ft. for buildings over 4 stories in height	20 ft. 30 ft. for buildings over 4 stories in height	50 ft.
C-3 See Note (1)	35 ft.	NA	30 20 ft. 40 30 ft. for buildings over 4 stories in height	20 ft. 30 ft. for buildings over 4 stories in height	50 ft. NA
C-4 See Note (1)	35 ft.	NA	30 20 ft. 40 30 ft. for buildings over 4 stories in height	20 ft. 30 ft. for buildings over 4 stories in height	50 ft.
C-5	20 ft. 10 ft. (or width of required public easement)	20 ft.	30 20 ft. 40 for buildings over 4 stories in height	20 ft.	50 ft. NA
CX-2	20 ft.	NA	20 ft.	20 ft.	NA
LX	10 ft. (or width of required public easement)	20 ft.	10 ft.	10 ft.	NA

Notes:

(1) In the Penn American District setbacks in C-3 and C-4 zoning districts follow the C-5 district setbacks

(2) Skyways, tunnels, and similar pedestrian connection structures up to 120 feet in width have no setback requirements from property lines.

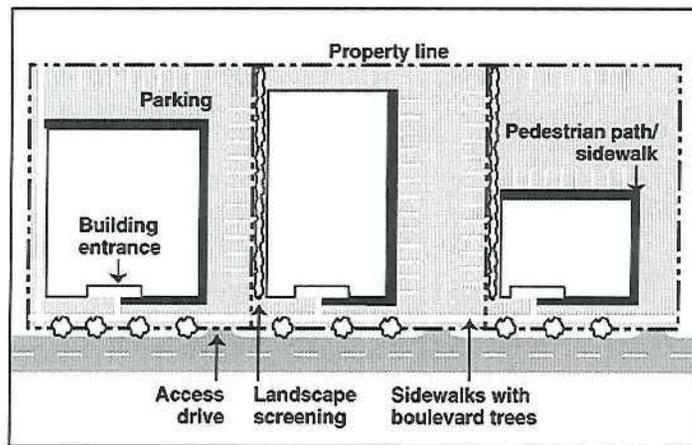
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- (f) Mixed Use District Standards. To promote the intended character and pedestrian orientation, commercial structures in the mixed use districts (B-4, C-5, LX) must generally be located near the street with parking to the side or rear subject to the following requirements:
- (1) Structure placement. See Section 21.301.02(e) for applicable standards.
 - (2) Parking placement. Off-street parking must not be located between a building and a public street unless:
 - (A) the parking is located entirely below grade;
 - (B) the site meets the standards for large development sites in accordance with Section 21.301.02(f)(5); or
 - (C) the site has received an exemption for sites with multiple street frontages in accordance with Section 21.301.02(f)(6).

Off-street parking may be located on the rooftops of buildings. Examples of permitted parking configurations are illustrated in Section 21.301.02(f)(8).
 - (3) Street Enclosure. It is the intent of the mixed use districts (B-4, C-5, LX) to foster a more urban character by establishing clearly defined street edges enclosed by buildings and other vertical elements. The highest degree of enclosure should be provided on the street determined by the Issuing Authority to be the most pedestrian-oriented; this is considered the primary street. All other streets are considered to be secondary streets. A combination of building frontage and other vertical elements may be used to enclose and define the street edge as follows:
 - (A) Primary street. At least 50 percent of the linear primary street frontage must be enclosed by buildings. An additional 20 percent must be enclosed by buildings and/or other vertical elements located along the minimum building setback line. Vertical elements may consist of: trees, shrubs, walls, fences, and sculptural elements. Vertical elements over four feet in height must be consistent with the Crime Prevention Through Environmental Design (CPTED) objectives in the Planning Manager's Landscaping and Screening Policies and Procedures document as may be amended from time to time.
 - (B) Secondary street. At least 30 percent of the linear secondary street frontage must contain buildings. An additional 20 percent must be enclosed by buildings and/or vertical elements, located along the minimum building setback line. Vertical elements over four feet in height must be consistent with the Crime Prevention Through Environmental Design (CPTED) objectives in the Planning Manager's Landscaping and Screening Policies and Procedures document.
 - (4) Corner sites. It is the intent of the mixed use districts (B-4, C-5, LX) to promote an attractive streetscape by having buildings or gathering spaces anchor corners, particularly on highly visible and/or pedestrian-oriented streets. Off-street parking must not be located within 100 feet of an intersection of two streets unless there is a building or gathering space between the parking and the public street (see Section 21.301.02(d)(8) for a graphic illustration). For the purposes of this subsection, intersection is defined as the point at which planned widened right-of-way lines for each street would intersect if extended.
 - (5) Large sites. Large development sites may be able to accommodate buildings internal to the site as well as adjacent to public streets. Buildings located on the interior of sites over five acres in size may be placed beyond the maximum setbacks for the C-5 District provided at least 50 percent of the linear public street frontage of the site contains buildings that comply with setback requirements and have no parking located between the buildings and the public street except for parking located entirely below grade.
 - (6) Exemptions for sites with multiple street frontages. While it is the intent of the mixed use districts to have buildings close to the street with parking to the side or rear or entirely below grade, that arrangement may not be possible for each street frontage on sites which front on two or more public streets in either a corner or through-lot configuration. When a site fronts on multiple public streets in a corner or through-lot configuration, the City Council may exempt through the planned development process all but one of the street frontages from complying with the mixed use districts (B-4, C-5, LX) building or parking placement requirements provided the City Council determines that:
 - (A) the site cannot reasonably comply with the mixed use districts structure and parking placement requirements for all street frontages;
 - (B) the proposed structure and parking configuration will meet the purpose and intent of the mixed use districts;

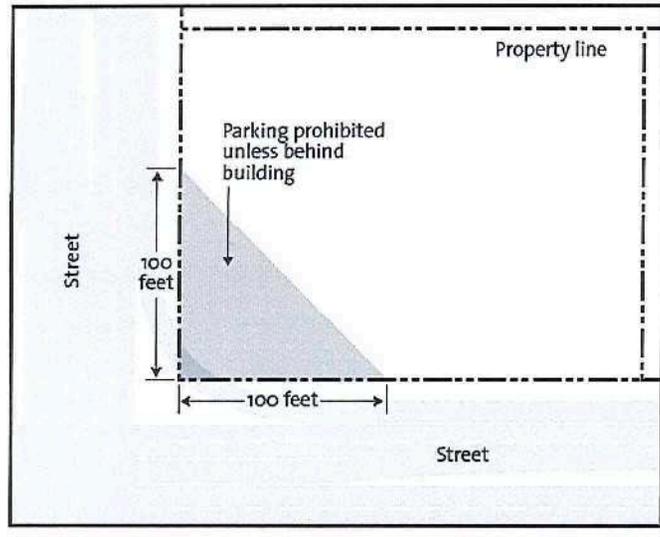
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- (C) the proposed structure and parking configuration will complement the character of existing or planned development in the area;
- (D) the proposed structure and parking configuration will facilitate pedestrian and bicycle access;
- (E) the proposed structure and parking configuration will place vehicle access points in optimal locations; and
- (F) the proposed structure and parking configuration will be compatible with natural features, surrounding development, redevelopment plans, and traffic volumes.
- (7) Drive-throughs. In addition to requirements of Section 21.301.05, drive-through windows and stacking lanes in the mixed use districts (B-4, C-5, LX) must:
- (A) not be located between a building and a street;
- (B) not exceed one lane per business;
- (C) be located in a manner that discourages pedestrian crossing of stacking lanes; and
- (D) be screened from public and private streets, sidewalks, adjacent outdoor dining spaces, parks and public open spaces.
- (8) Graphic Illustrations.
- (A) Examples of permitted parking locations in the Mixed Use Districts.



- (B) Mixed Use District parking prohibition for corner lots.

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SEC. 21.301.03. STRUCTURE DESIGN.

(a) ~~[Neighborhood and Freeway]~~**General [Commercial] Structure[s] Design Standards.** Structures in the B-1, B-2, B-4, C-1, C-2, C-3, C-4, ~~and C-5,~~ and LX zoning districts must meet the following requirements:

- (1) Blank facades. Blank building facades or walls must not exceed 20 feet in length when the building façade or wall faces a public street. A building façade or wall is considered to be blank if it is uninterrupted by windows, doors, ornamentation, decoration, articulation or other architectural detailing.
- (2) Building articulation. To reduce the apparent scale and uniformity of long, one or two-story building facades and to provide visual interest, one or two-story building facades facing public streets that exceed 200 feet in linear building length must include wall projections or recesses of three or more foot depth for every 100 linear feet of façade and/or vertical height variations of four or more feet for every 100 linear feet of façade.
- (3) Architectural unity. When multiple non-residential structures are constructed on one site, all non-residential buildings must be related in architectural style, color scheme and building materials.
- (4) Windows. For windows facing public or private streets or pedestrian corridors, no more than 25 percent of the total window area and no more than 25 percent of linear eye-level window width may be obscured by signs, product displays or similar covering. Blinds, curtains and similar temporary coverings for privacy or sunlight control are permitted.
- (5) Entrance buffer. To ensure that pedestrians can safely exit a building before entering traffic flow, any building must provide a sidewalk buffer area of at least 8 feet between a public entrance and any vehicular circulation drive. Any single tenant building or individual tenant space of 20,000 square feet or above must provide a sidewalk buffer area of at least 10 feet between a public entrance and any vehicle circulation drive.

(b) **Additional Structure Design Standards for Mixed Use Districts.** To provide an attractive street-level environment that promotes pedestrian activity, comfort and public safety in the B-4, C-5, and LX zoning districts, buildings fronting on a public or private street must meet additional design standards as described below. The highest design standards must be provided on the street front intended for the highest pedestrian-orientation; this is the primary façade. The Issuing Authority will determine which elevation is considered to be the primary façade. All other street frontages are considered to be secondary facades.

- (1) Windows. The ground level portion of a building façade between two feet and ten feet above grade must consist of:
 - (A) Primary façade. A minimum of 50 percent transparent windows, including windows on entrances.

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- (B) Secondary façade. A minimum of 25 percent transparent windows, including windows on entrances.
- (C) Highly reflective glass is prohibited.
- (D) Exceptions. Where the Issuing Authority determines that meeting the minimum window requirement is not practical due to location of loading, storage, "back of house" operations, or other structural impediments, the area of windows required in this Section may be substituted with an equivalent area comprised of at least two of the following enhancements to the ground level portion of a building façade between two feet and ten feet above grade:
- (i) Wall design. Embellishment of the building façade to create visual interest through:
- (aa) Horizontal and vertical indentations or projections that create discernible patterns or shadows;
- (bb) Variations in material module, pattern and/or color;
- (cc) Green screen or planter walls; or
- (dd) Translucent, fritted, patterned or colored glazing.
- (ii) Display boxes. Framed display boxes may be attached to the exterior building wall provided:
- (aa) applicable building setbacks are met;
- (bb) internal light sources are not visible;
- (cc) any signage in or attached to the display box meets the requirements of City Code Article X Sign Regulations; and
- (dd) any merchandise displayed is available for sale on the site.
- (iii) Permanent art. Non-commercial art or graphic design that complies with the following standards:
- (aa) is of sufficient scale and orientation to be perceived from the public right-of-way;
- (bb) is rendered in materials or media appropriate to an exterior, urban environment;
- (cc) is permanently integrated into or immediately adjacent to the building wall; and
- (dd) complies with all applicable safety and maintenance requirements.
- (2) Street entrances. Each building and each separate tenant space adjacent to a street where on-street parking is provided must include at least one entrance, on the street side of the building that is open to the public during regular business hours.
- (3) Structure height. To promote intensity in the mixed use districts (C-5, LX), at least 60 percent of the building footprint area on a site must rise to at least two stories or 25 feet in height. Structures in the mixed use districts must meet the height limitations of Section 21.301.10. Additionally, structures in the LX District must meet the height limitations of the Airport Runway Overlay Districts in Section 19.38.03.
- (4) Exterior materials. The exterior materials and finish of all buildings and structures must comply with the applicable requirements of Section 19.63.08 of this Code.
- (5) Arcades. Arcades along building frontages must comply with the following standards:
- (A) the exterior face of the arcade column line must meet the minimum setback requirements in Section 21.301.02;
- (B) the interior wall of the arcade must not exceed the maximum setbacks requirements in Section 21.301.02;
- (6) Canopies and awnings. First floor canopies and awnings are encouraged in order to promote a pedestrian oriented environment and add visual interest to a building elevation. Canopies and awnings must meet the requirements of Section 19.63.08.

SEC. 21.301.06. PARKING AND LOADING.

(c) Design -

- (1) **Single family and two family land uses.** See requirements set forth in Section 17, Article I and Section 21.301.06(i) of this Code.

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(2) Other land uses.

(l) Setbacks for surface parking.

- (i) The required setback for surface parking is a minimum of 20 feet from a planned widened right-of-way line and a minimum of five feet from a property line not abutting a street. In mixed use districts (B-4, C-5, LX), setbacks from streets may be reduced if screening is provided that meets the standards in Section 19.52(d).

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SEC. 21.301.10. HEIGHT.

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(e) **Pedestrian Street Step Back Standards.** The following required standards are intended to maintain a pedestrian scale and character, minimize the impacts of shadows and minimize the impacts of wind currents along pedestrian oriented streets by limiting building height near the street. The standards apply only to buildings and structures along Pedestrian Street Segments designated on the official height limits map, which is hereby incorporated by reference in the City Code and is available online and in the Planning Division offices. Any proposed amendments to the Pedestrian Street Segments designated on the height limits map will be considered amendments to the City Code.

- (1) Pedestrian Street step back standard. Any portion of a new building or structure above the fourth story adjacent to a Pedestrian Street Segment may not exceed the horizontal distance of that portion of the structure to the centerline of the adjacent Pedestrian Street Segment, except that portions of buildings or structures more than 80 feet from the centerline of the adjacent Pedestrian Street Segment are exempt from further step back. See Figure 21.301.10 (e) (4) for an illustration of the Pedestrian Street step back standard. For the purposes of Pedestrian Street step back standards, building height is calculated relative to the elevation of the centerline of the street.

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Division B. Use Standards

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SEC. 21.302.01. MOTOR VEHICLE SALES.

(j) **Minimum Floor Area Ratio in the C-1 District.** Notwithstanding any District requirements to the contrary, the minimum Floor Area Ratio in the C-1 District shall be 0.0 for existing Motor Vehicle Sales uses and sites and 0.4 for newly created Motor Vehicle Sales uses and sites. When existing Motor Vehicle Sales uses and sites are modified or expanded, the Floor Area Ratio for the site must not decrease. When an existing Motor Vehicle Sales site in the C-1 District expands beyond its existing site boundaries, the Floor Area Ratio on the added site area must meet or exceed 0.4. The cumulative required Floor Area Ratio for the combined site may be spread throughout the full site.

(k) **Expansion of Nonconforming Motor Vehicle Sales Uses in the C-4 and C-5 Districts.** With the intent of balancing the City's interest in redevelopment of existing motor vehicle sales facilities to meet the vision of the Penn American District Plan with the City's interest in minimizing the negative impacts of the C-4 and C-5 District standards on existing motor vehicle sales businesses, the following standards apply to expansions of nonconforming motor vehicle sales uses in the C-4 and C-5 Zoning Districts approved via Conditional Use Permit:

(1) **Exemptions from Standards.** Expansions of nonconforming motor vehicle sales uses that meet the limitations of this Section are exempt from the following requirements of the C-4 and C-5 Zoning Districts:

- (A) Minimum floor area ratio;
- (B) Minimum structure height;
- (C) Minimum structure setback; and
- (D) Parking placement standards.

(2) Notwithstanding location within the District or any District requirements to the contrary, the minimum Floor Area Ratio in the C-4 and C-5 District shall be 0.4 for newly created Motor Vehicle Sales uses, and sites.

(3) **Expansion Limited.** In order to avoid significant investments that may delay encourage redevelopment of existing motor vehicle sales sites to meet the vision of the Penn American District Plan, the following limitations on expansion of nonconforming motor vehicle sales uses apply in the C-4 and C-5 zoning districts:

- (A) Relocation of a nonconforming structure on a site is prohibited permitted, provided such relocation shall conform with structure setback and parking placement standards applicable to new construction in the district;
- (B) Expansion of existing motor vehicle sales facility floor area is limited to a ten percent increase relative to the amount of floor area in place on or approved prior to X/X/2014's permitted, provided (i) new construction shall conform with the development standards for the district, and (ii) the expansion shall increase the Floor Area Ratio for the site.

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ARTICLE V. ADMINISTRATION AND NONCONFORMITY

Division D. Nonconformity

SEC. 21.504. NONCONFORMITY.

- (a) **Purpose and Intent.** It is the purpose and intent of this section to:
- (1) allow nonconforming structures, uses, site characteristics and lots to continue to exist and be put to reasonable and productive use;
 - (2) encourage such nonconformities to be brought into compliance when reasonable to do so;
 - (3) establish the requirements under which nonconformities may be operated and maintained;
 - (4) diminish the impacts of nonconformities on adjacent properties by limiting the expansion of nonconformities;
 - (5) clarify the level of site modifications that may occur before nonconformities are required to be brought into compliance with current standards; and
 - (6) comply with Minnesota Statutes Section 462.357, Subd. 1e, as amended from time to time.
- (b) **Definitions.** The following terms and accompanying definitions are used in the context of nonconformities. Where the terms are used elsewhere in the Code outside of the context of nonconformities, their meaning may have an alternate definition as otherwise defined in their respective section of the Code.
- (1) **Destroyed structures** - For the purposes of nonconformities, a structure is destroyed if its total assessed market value (including structures and land) is diminished by greater than 50 percent as determined by the most recent valuation of the City Assessor.
 - (2) **Discontinued** - For the purposes of nonconformities, the cessation of a use, or removal of a structure or site characteristic for a continuous period of more than one year.
 - (3) **Expansion** of a nonconformity includes:
 - (A) ~~an increase in: structure dimension(s), size, area, volume, height, width, number of units, and/or the land area of use;~~
 - (B) ~~placement of a structure or part thereof where none existed before;~~
 - (C) ~~addition of certain site characteristics such as a patio, fence, driveway, parking area and/or swimming pool;~~
 - (D) ~~a relocation of operations to a new location on the property not previously used unless the relocation reduces or eliminates the nonconformity;~~
 - (E) ~~an increase in intensity of use as compared to the original nature, function, or purpose of the nonconformity.]~~
 - (A) For nonconforming uses, an increase in the site or floor area devoted to the use; an increase in the site area devoted to parking, open storage or outdoor display; an increase in the number of dwelling units or hotel rooms; or a relocation of the use to a structure or portion of the site not previously occupied by the use.
 - (B) For nonconforming lots, a change to the lot size, lot width or other lot feature that would increase the level of lot nonconformity.
 - (C) For nonconforming structures, a change to the structure dimension, size, area, volume, height, floor area or other structure feature that would increase the level of structure nonconformity.

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(D) For nonconforming site characteristics, a change to site characteristics including size, height, area, opacity, coverage or other feature that would increase the level of site characteristic nonconformity.

- (4) **Improvement** - Where a nonconforming use is made more compatible with the use of adjacent properties, efficient, and/or more aesthetically pleasing. For the purposes of nonconformities, an "improvement" does not include an "expansion".
- (5) **Legally conforming** - The status of any land use, structure, physical form of land development, parcel, or sign that complies with the current City Code and received any required approvals.
- (6) **Maintenance** - Normal repair, restoration, and improvement including cosmetic changes. For the purposes of nonconformities, "maintenance" does not include new construction or expansion of a use or structure.
- (7) **Nonconforming lot** - A lot lawfully established prior to the effective date of the City Code, or subsequent amendments to it, which fails to meet requirements for lot area, and/or width, depth, lot frontage, or other requirement of the existing City Code.
- (8) **Nonconforming site** - A site lawfully established prior to the effective date of the City Code, or subsequent amendments to it, which fails to meet requirements of the existing City Code.
- (9) **Nonconforming site characteristics** - A site characteristic lawfully established prior to the effective date of the Code, or subsequent amendments to it, which fails to meet requirements of the existing City Code. For the purposes of nonconformities, "site characteristics" are physical improvements to the site beyond structures, and may include but are not limited to: impervious surface coverage, storm water facilities, parking and parking lots, driveway surfaces, screening, fences, landscaping, sidewalks, patios, man-made water features such as ponds or swimming pools, and similar features.
- (10) **Nonconforming structure** - A structure that was legally conforming at the time it was constructed but which does not comply with the current City Code.
- (11) **Nonconforming use** - A use that was legally conforming at the time it was established but which does not comply with the current City Code.
- (12) **Nonconformity** - Any use, structure, site characteristic or parcel of land which existed lawfully at the effective date of a zoning ordinance or subdivision ordinance, has been continued since that time but which would not have been permitted to become established under the terms of the City Code as now written.
- (13) **Nonconformity, legal** - A nonconformity that was legally conforming at the time it was established and received all required approvals.
- (14) **Nonconformity, illegal** - A nonconformity that was not legal at the time it was established or did not receive all required approvals.
- (15) **Operational Characteristics** - "Operational characteristics" include but are not limited to hours of operation, where a vehicle may park, electronic sign operating characteristics, use of outdoor loud speakers, auto dealer test drive routes, unloading of auto dealer vehicles, noise, traffic generation, exterior storage, odors, lighting operation and similar operational activities.
- (16) **Repair** - For the purposes of nonconformities, "repair" means to restore to good condition by replacing or reassembling broken, worn out or malfunctioning components. Repair does not include expansion.
- (17) **Replacement** - Construction that provides a substitute substantially equivalent to the pre-existing conditions that preceded damage or destruction.
- (18) **Restoration** - For the purposes of nonconformities, "restoration" means to restore or repair to good condition by replacing or reassembling broken, worn out or malfunctioning components. Restoration does not include expansion.

(c) **Standards.**

- (1) **Rights.** Pursuant to Minnesota Statutes, Section 462.357, Subd. 1e, any nonconformity, including the lawful use or occupation of land or premises existing at the time a City Code amendment created the nonconformity, may be continued with any necessary approvals, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless authorized by this Section.
- (2) **Expansion prohibited.** Nonconformities may not be expanded, unless expressly permitted as discussed below.
 - (A) Nonconforming uses may expand upon issuance of a conditional use permit only when such expansion is expressly listed as a conditional use within the applicable zoning district.

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- (B) Nonconforming lots may expand only upon approval of a variance or planned development zoning that allows the proposed level of nonconformity.
 - (C) Nonconforming structures may expand only upon approval of a variance or planned development zoning that allows the proposed level of nonconformity, except as provided in Section 19.38.11, Bluff Development (BP-1) Overlay Districts (d) Development Prohibition, or Section 19.38.12, Bluff Development (BP-2) Overlay Districts (d) Development Prohibition.
 - (D) Nonconforming site characteristics may expand only upon approval of a variance or planned development zoning that allows the proposed level of nonconformity.
- (3) **Termination of rights.**
- (A) A legal nonconforming use must not resume where:
 - (i) The use is discontinued for a period of more than one year; or
 - (ii) The use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value and no building permit has been applied for within 180 days of when the property is damaged. The assessed market value (including buildings and land) must be determined by the most recent valuation of the City Assessor.
 - (B) Where any right to continue the nonconformity is terminated, any future use of land must comply fully with the City Code.
 - (C) Where nonconforming uses are removed or otherwise discontinued, requirements providing for expiration of variances, interim use permits, and conditional use permits are set forth in Section 19.23.01.
- (4) **Conformance Triggers.** Nonconformities must be brought into conformance upon the following events.
- (A) Nonconforming uses. Nonconforming uses must be brought into conformance with current requirements of the City Code upon:
 - (i) Change of the use;
 - (ii) Discontinuance of the use; or
 - (iii) Destruction of the use, provided no building permit is applied for within 180 days of the date of destruction. The City may impose reasonable conditions on the building permit to mitigate newly created impacts on adjacent properties.
 - (B) Nonconforming lots. Nonconforming lots must be brought into conformance with current lot requirements of the City Code upon:
 - (i) Subdivision or replatting of the lot.
 - (C) Nonconforming structures. Nonconforming structures must be brought into conformance with current structure requirements of the City Code upon:
 - (i) Destruction or removal of the structure; or
 - (ii) Relocating the structure.
 - (D) Nonconforming site characteristics. Nonconforming site characteristics must be brought into conformance with current site characteristic requirements of the City Code upon:
 - (i) Redevelopment of the site or expansion of total floor area on the site by 25 percent or greater;
 - (ii) Destruction or removal of the site characteristic;
 - (iii) Issuance of a permit for a related site characteristic, if conformance is stipulated as a condition of permit approval;
 - (iv) Change of use of the site (only for use generated requirements, including but not limited to the number of parking spaces and trash storage requirements);
 - (v) Other events listed as specific triggers in the various City Code sections on site characteristic standards; or
 - (vi) A determination by the Issuing Authority that the site characteristic must be brought into conformance to protect the public health, safety, and welfare.
 - (E) Operational characteristics. Operational characteristics must be brought into conformance immediately upon a change in City Code unless otherwise specified in the City Code.
- (5) **Nonconforming signs.** Nonconforming signs are regulated as specified in Chapter 19, Article X, Sign Regulations.
- (6) **Unsafe situations.** Nothing in this Section should be construed to permit the continued use of a structure or site found to be in violation of building, basic life safety, or health codes of the City.

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Passed and adopted this _____ day of _____, 2014.

Mayor

ATTEST:

Secretary to the Council

APPROVED:

City Attorney