

ITEM 3 6:28 p.m.	CASE:	10000C-14
	APPLICANT:	City of Bloomington
	LOCATION:	Citywide
	REQUEST:	City Code Amendments – City initiated amendments to Chapters 19 and 21 addressing Mixed Use Districts, non-conformities, and motor vehicle sales
ITEM 4 6:28 p.m.	CASE:	10940A-I-14
	APPLICANT:	City of Bloomington
	LOCATIONS:	8033 and 8100 Knox Avenue, 1601, 1700, 1701, 1750 and 1800 American Boulevard West; 1601 Southtown Drive; 7803, 7901, 7999, 8000, 8040 and 8100 Penn Avenue; 1600 and 1700 West 82 nd Street; 8100 Knox Avenue; 1600 West 81 st Street; and 8030 Humboldt Avenue
	REQUEST:	Rezone multiple parcels in the Penn American District as recommended by the Penn American District Plan

Goodrum recused himself from these two items.

SPEAKING FOR THE APPLICANT:

Glen Markegard, Planning Manager
Julie Farnham, Senior Planner
Jason Schmidt, Planner

SPEAKING FROM THE PUBLIC:

Bill Griffith, representing Kraus Anderson
Jim McCombs, representing Kraus Anderson
Eric Galatz, representing Lupient Automotive Group and the owners of Lupient Chevrolet
Peter Beck, representing Luther Auto
Steve Elkins, representing Metropolitan Council
Linda McGinty, representing Luther Companies

PUBLIC HEARING DISCUSSION:

Markegard explained that Case 10000C-14 and Case 10940A-I-14 overlap significantly and should be discussed together. He stated the items will need separate motions, but it will be helpful for the public attending to discuss the two items together as well. He explained staff will have three presenters for the items. He will start with the background on the District Plan, Jason Schmidt will talk about the rezoning specifics, and Julie Farnham will talk about the proposed Code Amendments on Mixed Use Standards. Markegard stated he will then address the proposed Code Amendments for Motor Vehicle Sales Uses and Nonconformities.

Markegard identified the location of the Penn American District. He explained the Penn American District Plan (PADP) was created out of directives in the Bloomington Comprehensive Plan which identified the three primary growth districts in the City (Figure 1.1). Based on this direction, the City has adopted three district plans. The first district plan developed was the Normandale Lake District Plan, the second was the South Loop District Plan and the most recent is the Penn American District Plan. These three areas have the highest development potential in the City because of the public investments that have been made in and near those areas including for the Penn American District the Penn Avenue/I-494 Intersection Rebuild, Lyndale Avenue/I-494 Intersection Rebuild, American

Boulevard Bridge, future I-35W/I-494 Interchange Investments, future Orange Line Bus Rapid Transit (BRT), and American Boulevard BRT. These investments increase the potential for redevelopment in this area. After much discussion and input from the Planning Commission, HRA, City Council, the public, and others, the district vision was created. He identified the key elements of the District Plan Vision which are: create new streets and blocks, add residential uses, orient the buildings along the street (with parking to the rear and sides), implement a future BRT station, add office and hotel uses, increase development intensity, create high quality public spaces, and create a new arterial bus transit way along American Boulevard. Markegard displayed a slide with an artist conceptualization of what the PAD could look like if it were to fully redevelop according to the vision. He stated the PADP envisions creating new streets and blocks. The Kraus Anderson super-block is the equivalent of 15 downtown Minneapolis blocks. Having smaller blocks is good for traffic and pedestrians because it allows for more options and routes to get to your destination. Another key vision element of the PADP is to add residential uses such as Genesee (which leased out quickly) and the hope is to add more in the future. The PADP building vision is to orient and locate buildings close to the street and to have parking to the side and rear. This feature promotes walkability. Implementing the two transit ways that we talked about earlier (Orange Line BRT and American Boulevard BRT), adding hotel and office uses and diversifying the predominantly retail uses will increase the development intensity which is another element of the PADP.

Markegard stated as the PADP was being finalized last year, there was a lot of discussion on zoning and whether property within the PAD should be zoned for their current uses or for the district vision. He explained there are pros and cons for each. By zoning for the district vision, the pros are: the proactive approach influences public and private investments, expands spectrum of allowed uses (up-zoning), and increases allowed development intensity. A con is it creates non-conformities. By zoning for the current uses, the pro is it minimizes non-conformities, and the cons are: prolongs under-utilization of land, reduces transit investment incentive, and delays redevelopment that matches vision.

Markegard explained that zoning districts have four primary considerations: uses, intensity levels, building placement, and design standards. The PADP recommended rezoning but that rezoning has not occurred yet - that is what is being done this evening. The plan does make a formal recommendation of what zones to apply. The proposed new zones can be summarized into three categories: next generation retail (C-3), dense office and hotel (C-4), and mixed use (C-5). Implementation steps for the PADP include the comprehensive plan amendments (adopted in June of 2014), Code amendments, and the adoption of the rezoning recommended in the PADP. Markegard explained that the City Council adopted a moratorium in February of 2014 and the moratorium is set to expire on February 3, 2014. Markegard introduced Jason Schmidt who will present the specifics of the proposed rezoning.

Schmidt explained that a number of parcels in the PAD were rezoned to C-5 in 2013 and earlier (referred to as group 1). He explained the proposed group of 19 parcels currently proposed for rezoning (referred to as group 2) have been broken down into 9 different rezoning groups (A-I) which will be explained in detail a little later in the presentation. He explained that the rezoning will have impacts including: higher density requirements, expanded uses, reduced building setback requirements, and will make some of the parcels non-conforming. Schmidt summarized each of the 9 rezoning groups (**A-I listed below**).

A) Commercial Office, CO-1 to Freeway Office, C-4 (SouthPoint Office Center) – The proposed zoning is relatively minor as uses and development standards in the C-4 district are similar to the CO-1 district. The existing office development conforms to the C-4 district standards. The change to C-4 will allow for development that is more intensive, should future redevelopment occur. The maximum allowed floor area ratio changes from 1.0 under the CO-1 District to 2.0 under the C-4 District. The C-4 district is consistent with the Comprehensive Plan Land Use Guide designation of Office.

B) Single-Family Residential, R-1 to Multiple-Family Residential, RM-50 (Knox Landing) –

The site is currently home to the 15-story, 212 unit Knox Landing apartment building. RM-50 is a multiple-family residential zoning district with a minimum density of 20 dwelling units per acre and a maximum density of 50 dwelling units per acre. The proposed zoning change is a cleanup that will make the zoning compatible with the current land use. RM-50 is consistent with the Comprehensive Plan Land Use Guide designation of High Density Residential.

C) Commercial Office, CO-0.5 to Freeway Office, C-4 and Neighborhood Office, B-1

(Southtown Office Park) – Split zoning is recommended on this parcel with the southern 125 feet to be zoned B-1 and the remaining northern portion zoned C-4. A zoning change on the northern portion from CO-0.5 to C-4 would continue to allow the existing 5-story office building and the accessory restaurant to remain permitted uses. C-4 would also allow increased development intensity (FAR minimum of 0.4 and maximum of 2.0) and permit residential uses. Proposed B-1 zoning on the southern 125 feet of the parcel would also allow office use, but would prohibit restaurants within this location. In addition, B-1 limits intensive development (FAR maximum of 0.5), thus providing a good buffer to the existing residential development across the street. The C-4 and B-1 districts are consistent with the Comprehensive Plan Land Use Guide designation of Office.

D) General Business, B-3 to Freeway Mixed Use, C-5 (Bloomington Chrysler Jeep) –

In 2006, the City adopted new commercial zoning districts with the intent to phase out and replace the existing zoning districts in conjunction with property redevelopment and/or district plan implementation. One zoning district identified for replacement is the B-3 General Business District. All other areas of the City that were zoned B-3 have already been rezoned and the B-3 District now only applies to these two parcels. The PADP envisions this site redeveloping over time to a more intense use such as office, hotel or residential, similar to Penn American Phase I and II. The proposed C-5 zoning will allow redevelopment to office and hotel uses and residential as an accessory use, consistent with the PADP vision. However, motor vehicles sales are not currently allowed in the C-5 district except when completely within a building or as an office use without any inventory on site. Thus, depending on the outcome of the proposed code amendments in Item #3, rezoning to C-5 could make the existing auto dealership a legal nonconforming use with limits on expansion. To promote a high intensity, attractive streetscape and pedestrian oriented development, the C-5 District sets high development standards through the regulations of Floor Area Ratios (FAR), structure height, structure and parking placement, drive-throughs, and building design. The C-5 District establishes a minimum FAR of 1.0, with some flexibility for higher or lower FARs. This compares to no FAR requirement in the B-3 District. In the C-5 District, buildings are required to be built close to the street; parking lots are required to be adjacent or behind the building and drive-throughs may not be located between a building and a street. In contrast, the B-3 District requires buildings to be pushed back from the street, which typically means parking is placed between the building and the street. The higher development standards in the C-5 District helps establish the public realm for the pedestrian and meet the high intensity, mixed-use development vision of the PADP. The C-5 district is consistent with the Comprehensive Plan Land Use Guide designation of Regional Commercial.

E) Regional Commercial, CR-1 to Freeway Commercial Center, C-3 (Wedding Day Jewelers and Jiffy Lube) –

The proposed C-3 zoning is intended for high-intensity retail and mixed uses in locations with good local and regional accessibility. The two sites are currently home to retail and an auto-related use adjacent to the Southtown Shopping Center. The C-3 zoning allows retail, office and hotel; however, would make the existing auto-related use legally nonconforming. In addition, C-3 requires higher intensity and design standards that would apply to any new development. This would also result in some existing development characteristics (e.g., setbacks) becoming non-conforming. New development, including building additions would need to meet the C-3 standards or receive

variances. The C-3 district is consistent with the Comprehensive Plan Land Use Guide designation of Regional Commercial.

In addition to achieving the vision of the Penn American District Plan, the proposed zoning changes in the following sections also take into consideration the future alignment of the Orange Line Bus Rapid Transit (BRT) route on Knox Avenue and a proposed BRT station located near the intersection of American Boulevard and Knox Avenue.

F) Regional Commercial, CR-1 to Freeway Commercial Center, C-3 and Freeway Mixed Use, C-5 (Southtown Shopping Center) –The majority of this parcel is recommended to be zoned C-3, except for the southeast corner which is proposed to be zoned C-5. The C-3 zoning is intended for high-intensity retail and mixed uses in locations with good local and regional accessibility. This site has excellent freeway visibility and good regional access via roads and transit. Uses allowed under C-3 zoning are similar to those allowed under the existing CR-1 zoning. One difference is that the C-3 District does not allow vehicle repair and motor vehicle sales uses. The C-3 District requires higher intensity and design standards. Rezoning would allow the existing buildings to remain in their current form and could continue to be used or leased to other allowed uses. The practical impact of rezoning is that new development or redevelopment would need to meet the new C-3 District standards. The southeast portion of the site is proposed to be rezoned to C-5. While C-3 and C-5 allow similar uses, C-5 requires higher intensity development and higher building and site design standards, which are appropriate around a BRT station. The higher standards in the C-5 District are intended to enhance pedestrian comfort and accessibility near transit stations and meet the high intensity, mixed-use development vision of the PADP. A portion of the existing bowling alley is within the proposed C-5 area, and is an allowed use. Otherwise, the proposed C-5 area is occupied by surface parking today. Any new development within this area would need to conform to the C-5 District standards. The C-3 and C-5 districts are consistent with the Comprehensive Plan Land Use Guide designation of Regional Commercial.

G) Regional Commercial, CR-1 to Freeway Office, C-4 (Lucky's, Mitsubishi and Lupient) – The proposed C-4 zoning allows many of the uses allowed in CR-1, including office, restaurants and hotels that would benefit from the site's excellent visibility and close proximity to the proposed BRT Station. CR-1 allows retail as a primary use whereas C-4 allows retail only as an accessory use. C-4 zoning may make the existing auto dealerships legal non-conforming uses depending on the outcome of the code amendments currently under consideration in Item #3 on this agenda. C-4 is proposed in this area rather than C-5 due to the respective building placement standards. C-5 standards force the placement of new buildings near the street, whereas the C-4 standards do not have minimum building setbacks. Given that these parcels front on freeways, a section of American Boulevard that is elevated due to the American Boulevard Bridge over I-35W and a section of future Knox Avenue that is proposed to be lowered, requiring building placement close to streets does not make sense on these parcels. The C-4 district is consistent with the Comprehensive Plan Land Use Guide designation of Regional Commercial.

H) Freeway Office and Service, C-1 to Freeway Mixed Use, C-5 (Luther Kia and Fiat) – These properties were rezoned from General Business, B-3 to C-1 back in November 2013 at the request of the property owner. The applicant was seeking to bring all of their properties within that block under one zoning. At the time of the application, the proposed zoning to C-1 did not meet the recommended rezoning options within the draft PADP; however, it did provide for an incremental improvement from the existing B-3 district. Staff supported the rezone as the C-1 district represented an improvement over the existing B-3 district, recognizing that further rezoning was anticipated after the approval of the PADP. The adopted PADP recommends this area to be zoned C-5. While C-1 and C-5 allow similar uses, C-5 also permits residential as an accessory use and requires higher intensity development and higher building and site design standards desired around the proposed BRT station at the intersection of

American Blvd. and Knox Ave. The higher standards in the C-5 District are intended to enhance pedestrian comfort and accessibility near transit stations and meet the high intensity, mixed-use development vision of the PADP. One impact of the proposed rezoning would be to make the existing auto dealerships legal non-conforming uses, although that depends on the outcome of Item 3 on the same agenda. Motor vehicle sales is a permitted use in the C-1 district, but is not currently allowed in the C-5 district. The code amendments currently under consideration in Item #3 on this agenda may modify the status of motor vehicle sales in the C-5 zoning district and/or provide for limited future expansion. The C-5 district is consistent with the Comprehensive Plan Land Use Guide designation of Regional Commercial.

I) Freeway Office and Service, C-1 to Freeway Office, C-4 (Luther Infinity) – This property was rezoned from General Business, B-3 to C-1 in January 2013 at the request of the property owner to coincide with a redevelopment proposal. The C-1 zoning district allowed for a reduced building setback from the existing B-3 zoning district. Staff supported the rezone as the C-1 district represented an improvement over the existing B-3 district, recognizing that further rezoning was anticipated after the approval of the PADP. The proposed rezone from C-1 to C-4 allows many of the uses allowed in C-1, including accessory retail, office, restaurants and hotels that would benefit from the site's excellent visibility and close proximity to the proposed BRT Station. The primary impact of the proposed rezoning may be to make the existing auto dealership a legal non-conforming use. Motor vehicle sales is a permitted use in the C-1 district, but is not currently allowed in the C-4 district. As noted above, code amendments under concurrent consideration (agenda item #3) could affect the status of motor vehicles sales in the C-4 district. C-4 is proposed in this area rather than C-5 due to the respective building placement standards. C-5 standards force the placement of new buildings near the street, whereas the C-4 standards do not have minimum building setbacks. Given that this parcel fronts on I-35W and a section of American Boulevard that is elevated due to the American Boulevard Bridge over I-35W, requiring building placement close to streets does not make sense on this parcel. The C-4 district is consistent with the Comprehensive Plan Land Use Guide designation of Regional Commercial. Schmidt introduced Farnham who will present the proposed Code Amendments – Mixed Use Standards.

Farnham explained the notion of mixed use and intensification in key nodes has been around for many years in planning circles. She stated the region cannot successfully keep expanding out at low densities; the region needs to start intensifying and filling in the core, especially when we consider better utilizing our infrastructure including transit and roadways. In response to this, the City began to look at its commercial zoning code which is a typical, dated, suburban code. Recognizing that markets have changed and that younger generations often demand mixed use and pedestrian oriented features, the City was proactive and began to update their zoning code to reflect the mixed use idea and created new commercial zoning districts in 2006. So at this time, the City, in effect, has two sets of commercial districts, the old districts and the new districts and this is an effort to bring properties into the newer zoning districts as district planning occurs. Recommendations are made in the district planning process and then implemented through the rezoning process.

Farnham called attention to some modifications to the proposed ordinances as handed out to the Commission today that were not included in the ordinances attached to the staff report (primarily changes to the C-3 Zoning District). She stated the changes included items that respond to property owners concerns as expressed in recent correspondence from property owners. Highlights included: changes in the way height is measured, allowing restaurants with drive-throughs to become a conditional accessory use in the C-3 Zoning District, tweaked language in the LX Zoning District regarding the frontage along the primary streets, building floor area and site width and site area in the C-3 Zoning District, and a clarification on the minimum setbacks in C-3 and C-4 Zoning Districts.

Farnham explained the purpose of the mixed use amendments is to add definitions for new items, “clean up” or improve clarity and eliminate internal inconsistency, and to consolidate development standards for mixed use districts. Two definitions being added are for the terms arcade and display box. Clean up amendments include: allowing reduced landscape yards in mixed use districts, allowing rain gardens within the landscape yard, allow greater flexibility for location of parking lot screening, allow perennial plants as screening, clarify that over story trees may be integrated into screening, and to add standards for murals, canopies and awnings.

Farnham stated the Mixed Use District changes are being done for two purposes: consolidating standards for the B-4, C-5, and LX districts, and to modifying/clarifying development standards. Consolidating the standards involves deleting/replacing most text in sections: Neighborhood Commercial Center (B-4) District (Sec. 21.204.03), Freeway Mixed Use (C-5) District (Sec. 21.205.05), Lindau Mixed Use (LX) District (Sec. 21.207.02) while retaining standards unique to each district. The purpose is to make the Code more user-friendly – all in one place, reduce redundancy, and to eliminate text inconsistencies.

Farnham explained why the Mixed Use Standards are being modified, reasons include: respond to challenges unique to suburban setting, allow appropriate or additional flexibility, improve clarity, and minimize need for code deviations. Specific modifications include: Floor Area Ratio (FAR), setbacks, street enclosure, and building design.

Farnham summarized the FAR modifications proposed in the C-4 District which include the minimum FAR increases from 0.4 to 1.0 if over 50 percent of site is located ¼ mile from intersection of American Boulevard & Knox Avenue (proposed transit station area). The LX District is added to the table; and carry-over clause regarding FAR reduction criteria.

Farnham summarized the setback modifications proposed in the B-4 and C-5 Districts which reduce minimum street setback from 20 feet to 10 feet which allows buildings to abut sidewalk edge. In the C-3 and C-4 Districts it reduces minimum street setback from 35 feet to 10 feet (only in Penn American District) which allows buildings to abut sidewalk edge. In the C-3, C-4 and C-5 Districts the modifications reduce minimum rear setback from 30 feet to 10 feet and allows better site utilization and from 40 feet to 30 feet for 4+ story buildings (C-3 & C-4 only). In the C-3 & C-5 Districts it eliminates the mandatory 50 foot setback from residential property (very few locations where setbacks would apply).

Farnham summarized the street enclosure modifications proposed to create pedestrian scale and define street edges by placing buildings abutting sidewalks and the use of trees, shrubs, walls/fences, sculpture. The proposed language also prioritizes streets into primary streets (streets with the highest requirements) - 50% enclosure - (e.g., 80^{1/2} Street, Lindau Lane) and secondary streets (streets with lesser requirements) - 30% enclosure.

Farnham summarized the building design modifications including the corner site modifications and window modifications. The corner site modifications includes reducing the size of corner area where parking is prohibited from 200 feet to 100 feet and will apply to ALL intersections, not just arterials and collector streets. The window modifications include higher requirements on streets dedicated as primary streets (50%) and focuses on the ground level and not the entire façade; and allows alternatives to windows (display boxes; art; or wall treatment).

Farnham summarized the structure design modifications including that street side entrances are proposed to be only required on streets with on-street parking. Structure height is measured in feet vs. stories, and pedestrian street step backs apply only above the 4th story.

Farnham summarized the parking setback modifications that reduce parking lot setbacks in mixed use districts to a minimum of 5 feet if the parking meets screening requirements, creates a more urban character, and increase site utilization. Farnham turned the presentation back to Markegard who will present the changes to nonconformities and motor vehicle sales Code sections.

Markegard summarized the types of nonconformities including: uses, structures, lots, and site characteristics. The triggers and standards on these vary, so it is important to differentiate between the type of nonconformity. Under State Law and City Code nonconformities are allowed to stay as is indefinitely. They may be repaired, replaced, restored, maintained, and improved. They may not be expanded unless specifically approved for expansion. Markegard explained that State Law does not define the term expansion and therefore cities are left to define the term on their own as there is no guidance. He displayed a slide with the proposed revised City language defining the term expansion. Main changes include the removal of any reference to intensification within the four walls of a building being expansion and restructuring the language for readability.

Markegard stated there are processes in place today to allow for expansion of nonconformities and they vary depending on the type of nonconformity. Nonconforming uses may be allowed to expand through the issuance of a Conditional Use Permit (CUP). Structures, lots, and site characteristics may be expanded through variance or planned development flexibility processes. An example of a potential nonconformity was presented in the PAD which is the Jiffy Lube site – nonconforming use, structure, and lot. Markegard stated the use could remain indefinitely, be bought, sold, and refinanced. He stated the City receives numerous zoning letter requests for these types of properties and can confirm that nonconforming properties are frequently bought and sold and refinanced. The proposed zoning for the Jiffy Lube site would bring the setback and lot nonconformities closer to conformance. The trigger for a nonconforming structure is typically redevelopment. An example of a site characteristic is the parking lot at the Southtown parcel. Markegard explained that 5-7 years ago, the City Council adopted a Code requiring parking lot islands to have trees. So, the Southtown parcel has in theory been nonconforming since that time. What are the practical difficulties of that; well there are none, until such a time when the parking lot is redeveloped.

Markegard stated in terms of use nonconformities, which are generally considered the most significant type of nonconformity, the Jiffy Lube and the auto dealer sites in the PAD would potentially become nonconforming. The guidance received from the City Council and the Planning Commission was to keep working toward the vision and to minimize the impacts on the auto dealers realizing they may need flexibility over the years. He stated it is really a balancing act to keep working toward the vision and to minimize the impacts.

Markegard stated a lot of time has been spent looking at options that would continue to work toward the vision while trying to minimize the impacts for the auto dealers. Options brought before the Commission are labeled as Option 1 and Option 2 for ease of reference. Markegard explained that while there was City Council consensus for another option (making auto dealers conforming uses but limiting their expansion), City Legal Staff had concerns with that approach and recommends to not go with that approach because it creates a use classification that does not exist or is discussed under State Law and is not something that is typically done in cities. It creates equal protection concerns and may be subject to challenge.

Markegard stated Option 1 would make the dealership use nonconforming, but would allow limited expansion through a Conditional Use Permit process. Expansion would be limited to a ten percent increase in floor area and vehicle storage area relative to conditions at the time the zoning was adopted. The expansion would be exempted from standards for: minimum floor area ratio, minimum height, minimum structure setback, and parking placement standards. Markegard stated Option 2 would keep the dealership uses conforming and any expansion or redevelopment must meet standards required of

other uses in the district (but it would be difficult for auto dealers to meet the FAR standards without an office or hotel use on the same site).

Markegard noted that staff has received correspondence regarding forecasts. He stated the forecasts are not proscriptive. There is nothing requiring that the use mix change as the forecasts predict they may. The purpose of forecast is so that analysis can be done on roadway, water, and sewer capacity to ensure the infrastructure is there to respond to potential development in the future. Could one use expand more than another in these forecasts, yes, but as stated before the forecasts are not proscriptive.

Markegard stated he wanted to address the Southtown site specifically. There seems to be a lot of confusion, especially after the recent article in the newspaper on what the new zoning would allow and not allow on the site. He stated the uses on the Southtown site would be entirely conforming. Southtown could remain as is indefinitely. There would be some nonconformities in regard to site characteristics, but the uses could come and go. The practical impact really comes when the landowner decides to redevelop. At that time, the portion of the site that is being redeveloped would have to meet the development standards of the new zoning district.

Markegard stated one of the concerns expressed in correspondence sent to the Planning Commission is that most of the uses in the PAD today are one and two story uses and the area cannot support higher density uses. He pointed out that Southtown Office Tower (15-story, Class A office building) has been very well received and has been in existence since the 1980's. Other examples of higher density developments in the area are the 15-story Knox Landing Apartment Building, Best Buy Corporate Headquarters, Meridian Crossings, Applewood Pointe, Genesee Development, and the recent groundbreaking for the Home 2 Suites by Hilton and the Fresh Thyme Farmer's Market. He said the area has been home to high intensity development for decades.

Markegard stated one of the benefits of the proposed rezoning is that it allows a wide variety of use types and every use type goes through peaks and valleys. Having in place zoning that allows for many uses will allow redevelopment to occur when each use type is hot. Markegard added that right now the market is very good for residential and hotel uses and he has been in contact with eight different developers recently looking at Bloomington for high density residential development. Many of the residential developers looking at the PAD were especially interested that the grocery store component has broken ground.

Markegard stated in Case 10000C-14, staff is recommending approval of Ordinance Option 1 or 2 as attached to the staff report and the handout to amend Chapters 19 and 21 of the City Code to: 1) modify use, development, and design standards in mixed use districts; 2) modify motor vehicle dealer standards; and 3) modify nonconformity standards. He added that in Case 10940ABCDEFGHI-14, staff is recommending approval of the rezoning as outlined in the staff report. He stated he and the other staff members are available for questions or comments from the Commission.

Fischer asked how intensity intertwines with the parking requirements. Markegard stated it is very much intertwined. Parking requirements are a function of intensity. For example, for an office building, Bloomington Code requires 1 parking space for every 285 square feet of office space. So as intensity goes up the need for structured parking is often times needed and structured parking is much more expensive to construct than surface parking.

Batterson asked for clarification if nonconforming sites needed to rebuild that they could rebuild. Markegard stated if a nonconforming site was destroyed they would need to apply within 6 months for a building permit and they could rebuild a substantially equivalent structure (same location, same size). Batterson stated that both options for auto dealers have processes in place that would allow for expansion. What limits or rights may an auto dealer have for expansion. Markegard stated under

Option 1, expansion would be through a Conditional Use Permit process and the expansion is limited to ten percent increase in floor area and vehicle storage area relative to conditions at the time the zoning was adopted. Under Option 2, any expansion would need to meet the District standards like other uses in the district.

Nordstrom asked if the auto dealership industry were to move to a similar design as the BMW dealership in Bloomington, would the auto dealerships be able to redevelop their businesses in a similar type of fashion. Markegard stated the average FAR of existing dealerships in the PAD is 0.18 and the BMW dealership is in the 0.60 range. The C-4 and C-5 Zoning Districts both require a minimum FAR of 1.0 so it would be very difficult to reach that standard without a joint use such as hotel or office. Nordstrom asked if they are only allowed a 10 percent increase in Option 1 how can the dealerships go to where the market may want them go. Markegard stated the flexibility in Option 1 would allow for minor increases, but not allow larger, more significant investments by property owners which would limit the development potential for the properties for longer periods of time. Nordstrom stated none of the existing dealerships in the PAD could then ever redevelop into something similar in model to the BMW dealership because of the limitations in both Options 1 and 2. Markegard stated that is correct.

Batterson asked how many auto oriented businesses would be impacted by the proposed rezoning. Markegard listed auto dealerships including Chevrolet owned by Lupient, Infiniti/Kia/Fiat owned by Luther, Richfield-Bloomington Mitsubishi owned by KA, and Chrysler/Dodge/Jeep owned by the Reids and Walsers. He also mentioned Jiffy Lube as an auto repair facility. Batterson asked for clarification on primary and secondary streets and how they relate to the pedestrian standards. Farnham stated the street designation as primary or secondary would be determined by the City and the developer. Batterson asked for clarification on the designation of a street that would have on-street parking and the standards. Farnham stated the higher requirements are on streets dedicated as primary streets (50%) and focuses on the ground level and not the entire façade; and allows alternatives to windows (display boxes; art; or wall treatment). She explained there is also a process for designating more than one side of a structure as primary.

Nordstrom commented South Loop has a no build zone in place for safety reasons with the airport runways. He stated there is an Xcel corridor that also runs through a portion of the South Loop and the Penn American District including the Southtown parcel. There are restrictions in what is allowed under the power line areas. All the graphics in the PADP and the Comprehensive Plan do not depict this feature in any of their renderings and asked if the corridor has been taken into account. Markegard stated that underneath the power line is a 40-50 foot wide easement where today no buildings are allowed and that staff is aware of and has had discussions on this corridor. Nordstrom stated a portion of the Southtown Mall is constructed under the power line. Markegard stated he is not certain how that came to be but has been there for decades and stated perhaps the Kraus Anderson representative could answer that question. This is a major consideration when redevelopment occurs. Markegard stated the City has talked with Kraus Anderson on potentially relocating the transmission line to either I-494 or American Boulevard which is very costly. Nordstrom asked what the process was to underground the portion in South Loop and who footed the bill. Markegard stated the impetus for that was the construction of the north/south runway and the fees were mostly covered by the Federal Government and airport related fees. Markegard added that the City, the airport and MAC chipped in to extend the underground line a little farther to the east to where the line reemerges above ground. Nordstrom asked staff to comment on the costs and the impetus of either moving the transmission lines or underground the lines in the PAD. Markegard stated the costs would likely fall on the property owner if they desired to move the lines in partnership with Xcel and that the cost of undergrounding would be prohibitive. The City would likely not be involved unless the City was asked to partner.

Batterson stated there was some correspondence received and included claiming that mixed use and density is expensive and asked what City resources or if there will be TIF money used for the PADP.

Markegard stated while Genesee did receive public assistance most of the high density development already in the district mentioned earlier did not receive any public assistance. One misunderstanding about the rezoning is that it does not require either horizontal or vertical mixed use. He added that vertical mixed use does sometimes involve public assistance, usually TIF. Markegard stated there may or may not be public assistance required, it would depend on the project.

Griffith stated he is representing Kraus Anderson, the owners of Southtown, and Kraus Anderson Realty, the managers of Southtown. He stated the amendments handed out by staff this morning, which many of the property owners have not yet had time to review, seem to be headed in the right direction, but there is more work to be done to connect the Southtown of today with the Southtown of the future. He stated he thinks it would be difficult for the Commission to act on something this significant and this complex when additional amendments are handed out the same morning as the hearing. There is more work to be done and the ordinance changes and rezonings are not subject to agency action deadlines. He commented that Southtown holds a special place for many that live in the regional community. He stated Southtown was developed many years ago, but has been redeveloped many times since then. He stated Kraus Anderson is one of the largest property owners in the City and has invested heavily in Southtown over the years. They have kept it up and kept it fully leased (99.4 % leased). The shopping center is a success and is a special property. One of the things we contrast with in the Jim McCombs Report where redevelopment occurred is that all those commercial properties were failing. Kraus Anderson (KA) agrees with staff that there is great potential for Southtown in the future. He stated KA is not opposed to mixed use, high density, or transit, but there must be a market for these items. That being said, Southtown primarily serves an auto oriented customer. Transit is a piece, but should not drive the entire project. He stated approximately a year ago we were before the Commission with concerns about where the PADP was headed. He displayed Figure 1.3 from the PADP and stated even this drawing does not take into consideration the Xcel power line corridor. What is the effect of a drawing like this in the PADP Plan? He stated it is a concern that this type of graphic in the plan is not just a concept and becomes more of a guidance. He stated they have raised these concerns in the past and objected to the moratorium put into place. He displayed a Southtown redevelopment site plan which accounts for the Xcel power line, a private Knox Avenue and a high density vision for the future, however not as dense as the City's vision. This plan was ready to implement and timed leases, but the moratorium put the plan on hold pending these decisions. He stated the City's long-term vision and plan and the Orange Line plans inhibits their redevelopment plan. He stated he has met with the City and Metro Transit and others involved. He stated the recent opening of the Eagan Outlet Mall is an example of what can happen when a land owner and the City work together and develop what the market can provide. The point is that sometimes the visions are too grand and if they are too grand they can be an impediment to redevelopment.

Griffith stated Kraus Anderson wants Southtown to be kept at CR-1(PD), which is what the property was redeveloped under in 1995. In January we asked what is the market basis for the City's Plan. He stated Best Buy and Meridian Crossing were city-subsidized developments. He stated the City's response was to look around you. How can you show us what is going to develop on the Southtown site. He stated his client hired Jim McComb (retail analyst). He stated a few of McComb's findings are that Southtown is successful and is not a failing center and that redevelopment should not be targeted on a successful site. Removing a shopping center that still has significant value comes at a cost and maybe even subsidies. He stated the Southtown Center is based on long-term leases which gives some rights to the tenants as they have some control on new tenants. A phased approach to redevelopment is what is needed, a plan like their own. He stated it is difficult for a retail center to redevelop into two stories. We support a reduction in setbacks and were happy to see the flexibility seen in the amendment handed out this morning. Clarity is needed on the grid pattern as shown in Figure 1.3 of the PADP. Is it the law or suggested? He stated it doesn't matter what the type of nonconformity is, nonconformities make it difficult for land owners to refinance or sell. The greater the nonconformity, the greater the cost for cure to settle the nonconformity. These nonconformities not only impact at the time of redevelopment,

it impacts when refinancing, when attracting new tenants. He stated his client would prefer a phased approach to redevelopment where the zoning does not make the property nonconforming. Given the current value of Southtown and the viability of Southtown, the number to replace that value and do something that is pictured here is much greater than 30 million dollars. The mitigation for the Orange Line piece is going to be in the 30 million dollar range. What has changed since 2008 is that the Orange Line alternative has gone from an alternative to a project that is going to go right through his client's property. That has a very devastating impact on the continuity of the KA property. It also has a very detrimental impact on the access to the properties on the east side of the future Knox Avenue. The costs for transit oriented development should not be absorbed by his client. There are real costs and they need to be picked up by the public. He stated he has suggested to the Bloomington City Council they ask Metro Transit to indemnify the City from these costs since the City is acting as a partner in these transit plans.

Griffith stated he wanted to get back on the modifications and the amendments. He stated he applauds Staff for the amendments received this morning. The most recent amendments are going in the right direction, but not there yet. We have always sought to have a good working relationship with the City and Staff seems to be taking into account some of the concerns his client has. The nonconformity issues you need to wrestle with and some of the other standards need to be wrestled with. He stated he needs to be clear that the proposals Staff is making do not provide any relief to the KA properties east of Knox Avenue and to provide real redevelopment opportunities in the eastern parcels of Southtown. He introduced Jim McCombs.

McCombs stated he has been asked to share a few observations regarding the new amendments that were proposed this morning and to expand on a few things in his report. The modifications on building height, drive-through, FAR, site size, are all positive. The biggest thing he heard this evening was the modification allowing building setback being reduced from 35 feet to 10 feet. He stated this modification and taking into consideration the I-494 expansion, will alone save about 613 parking spaces at the Southtown site. He stated replacing those parking spaces would have to be through underground parking and would cost about \$15 million. If you accept the existing drive pad at Southtown and required the 35 foot building setback, the cost for the parking is \$14 million with nothing being built. One of the difficult challenges with a shopping center is that taking a portion and redeveloping it effects the entire shopping center. Any redevelopment needs to be thought out very carefully. To redevelop Southtown would probably require about \$50 million of market value. Real estate would then have to be rebuilt in excess of that amount. Successful shopping centers are very difficult to redevelop for that reason. Over time, phased redevelopment can be done and is challenging. The last remaining challenge is the nonconformity issue. There is a mortgage that covers the entire shopping center and redeveloping a portion requires the lender to release that mortgage or get a new mortgage for the new development and a new mortgage on the center as a whole. The issue of nonconformity comes up as the lender will ask for an appraisal and the appraiser will find out the property is nonconforming. The appraiser will estimate a cost to cure the nonconformity. The higher the cost to cure may result in the inability for the property owner to get the mortgage on the remaining part of the mortgage for the entire center. Development capital that could go toward developing the center is tied up in paying back the mortgage. So the nonconformity and the cost to cure is a significant unknown. The NSP easement agreement states that you cannot build under the easement area. He stated he does not know if that extends to a parking garage or not. If you are going to add density to Southtown, the most logical place to put the parking is underground because you have to observe the visibility requirements of the anchor stores. The largest area to put a parking garage is under the easement and that is not possible. He stated he did talk with an NSP representative about relocating the power lines and that would come with a \$6 million price tag.

Griffith stated we will continue to work with Staff toward a common resolution. He stated what would be our method of getting this done. Our method would give some flexibility to the property owner,

provide those maximum densities the City wants to achieve, but don't create floors; provide flexibility and work with us, and leave the zoning in place until redevelopment is imminent.

Galatz (representing Lupient Chevrolet) stated he thinks the Planning staff has done a great job explaining nonconformity and there has been a good primer on Planning Law. He stated he will try to keep his remarks brief. He identified the Lupient property located in the northeast quadrant of the Penn American District. He stated they are currently zoned C-1 (actually zoned CR-1) and are a Class I motor vehicle use. He stated the parcel is being proposed to be zoned C-4 in which typical motor vehicles sales uses would not be allowed. He stated the PADP is designed to eliminate automotive uses in the district. He stated that the opening remarks made by Markegard give the option of zoning around the existing uses or the District vision. Galatz stated he would argue that these two options are not the only use choices for the District. There are automotive uses, he thanked Markegard for explaining the difference between a nonconforming use and nonconforming structure, that he believes would work within the C-4 Zoning District with some revisions to definitions and FAR calculations. He suggested taking the BMW dealership and drafting the ordinance around that. The District Plan states that at about the year 2050 is when the vision is realistically to begin to appear. The potentially nonconforming uses are given nearly permanent rights to continue the use and for a few reasons that were expressed in his letter on behalf of Lupient, they are going to be at the site until that time and well beyond. There are two real constraints on the Lupient site. He explained there is a State statute that restricts same brand auto dealerships. He stated all the auto dealers within the PAD could not relocate anywhere remotely close due to these restrictions. The Lupient site is also a union shop and that imposes additional Federal pension restrictions. If the Lupient dealership were to close it would have to fund the current unfunded portion of the pension plan which is estimated at upwards of \$31 million. So if your ordinance does not include provisions for auto dealers, you will have auto dealers that will not be allowed to be improved or expanded in the future. The proposed improvements of I-494/I-35W interchange also may involve a total taking of their site which could involve tremendous potential costs including property costs, business costs and pension cost. An alternative would be to adopt an ordinance which accommodates the current uses and allows the current uses to improve and grow over time. Staff has come a long way as was noted earlier, Option 2, as presented in the staff report, is going in the right direction. He stated a minimum FAR of 0.4 must be part of the ordinance for the C-4 District and must have a relocation right to accommodate the potential freeway takings and to accommodate the City's plan. He stated he submitted specific draft amendments with his materials and will not waste time going through the language. Galatz provided suggested ordinance language for Section 21.504 regarding expansion or alteration of nonconforming motor vehicle sales uses and structures. He stated he is available for questions or comments from the Commission.

Beck (representing Luther Automotive) stated it is his client's position that they remain zoned C-1 and are opposed to any zoning change. He stated they have been working hard with the City and will continue to do so. He stated they did not object to the PADP, the Orange Line BRT, and volunteered to be rezoned to their current C-1 zoning and all along have said they just want the opportunity to remain in business and be successful until the eastern area of the PAD is ready for redevelopment. That timeframe, the PADP itself says is decades away. The two ordinance options in front of the Commission tonight will not accomplish that goal. Both of the options are in direct conflict with allowing his client to remain in business and be successful. These options do not advance the City's goal of moving the PADP towards implementation. State Law protects nonconforming uses these days to the extent where the dealerships can be replaced. Nothing in the zoning ordinance can impact that right to stay there and to replace the buildings. So, given that State Law protection and the ordinance amendments that are in front of you tonight, the options are the dealers stay in the buildings they are in for decades or they get replaced in place for another 50-60 years which is inconsistent with the goals and objectives of the PADP. What we had proposed was enough flexibility in the zoning if not the plan so that the dealers, if they decided to invest in their properties rather than replace what they have in place, be allowed to put it in a new location that conforms with the new requirements. The ability to

relocate is very important. The City and I have a disagreement on whether the City has a legal right to stop nonconforming uses from relocating. Defining expansion to include relocation is protected by the State statute. It also gives the opportunity to allow the dealership to stay in business while the new investment is made. He stated he cannot support either of the amendment options in front of the Commission today. The FAR is a big issue, we had proposed we either be C-4 or that other uses in the C-5 zone be allowed to develop at a .40 and that only works if we can count inside auto storage space towards the floor area. The thought is that if property owners wanted to make the investment and were willing to invest in a multi-floor dealership, we would build floors above the first floor retail sales and service and use them for auto storage until the market is right for redevelopment. This option allows for investment and tax collection until conversion to office would occur. He stated it makes more sense to get to that sort of solution rather than face potential litigation.

Elkins stated he is available for questions from the Commission regarding the Orange Line BRT progress. He stated the application has now been made to the Federal Transportation Administration (FTA). He stated the FTA is looking for more specific assurances about the portion of the funding for the project that will come from the County's Transit Improvement Board (CTIB). He stated we should be able to receive those assurances from CTIB in October. The planning is proceeding on pace and we expect approval to formally move into design from the FTA soon and so the detailed designs will be done in 2016. He reiterated the designs seen on any plans at this time are still preliminary. Nordstrom asked staff to comment on whether there are presently any easements in place for the extension of Knox Avenue to the north which will accommodate the proposed Orange Line BRT, the I-494 widening, and the I-494/I-35W Interchange Project. Markegard stated there is a watermain easement that extends north of the existing Knox Avenue. He added Metro Transit would be acquiring additional easements and would be compensating land owners. Elkins added the BRT plans are being coordinated with the Interchange project and the preliminary analysis done so far indicated that Knox Avenue would go under the current grade of I-494. Nordstrom asked if Knox Avenue would be a public street or solely dedicated to the BRT line. Elkins stated a decision has not yet been made. Elkins stated he is promoting it be a general purpose street to be pedestrian and bicycle friendly and will provide more transportation options. Nordstrom stated if it doesn't become a public street, the parcels north of American Boulevard and east of the Knox Avenue extension would be orphaned by the interchange rebuild and become undevelopable. Elkins stated they will continue to have discussions with all involved parties as the plans progress.

McGinty (representing Luther Automotive) empathized with the Commission on the huge tasks they are faced with. She urged the Commission to not minimize the impacts of the decision they are faced with. She stated she has been coming to all the public hearing for the last two years and cannot recall one time a taxpaying citizen has come forward expressing support of what the PADP is trying to accomplish. McGinty stated that at all the public hearings taxpaying business owners have come forward testifying that all they want is to be able to maintain and improve their businesses in this area. She stated Southtown is a destination location and people come from all over to shop there. The Infiniti dealership is also a destination location as they bring in business from all over the region. We would like to maintain the ability to stay where we are. She applauds the staff as this is a huge undertaking. She stated she has to draw the line and disagree. Businesses have the right to grow and maintain their businesses. Cars are not going away, at least not right away. The predominate mode of transportation is still the automobile. Public transportation probably represents less than 15 percent of the total traffic along I-494. We have built seven new dealerships in the last eight years. She stated she has eight new dealerships planned for the next three years. Three of those are in the City of Bloomington, why? Because we firmly believe we have a future here. We are a good employer and currently employ 24 people. We have been in business for 63 years and would love to be here another 100 years.

The public hearing was closed via a motion.

Nordstrom asked staff for guidance on the motion process. Markegard explained that for Case 10000C-14 staff has drafted two ordinances labeled Options 1 and 2 for ease of reference purposes. A motion should reference which option is recommended. He added in Case 10940A-I-14 each of the 9 properties being rezoned is assigned a letter A-I. He recommended the Commission deliberate and come to consensus regarding which properties they can all agree on and take those properties in a single motion and then discuss the other properties individually in separate motions.

Nordstrom suggested discussing Case 10000C-14 first to see if the Commission can come to any kind of agreement on the ordinance amendments before discussing the rezoning requests.

Batterson stated he wants to make some general comments before the Commission begins to weigh in on these cases. He stated the PADP is a wonderful vision of what a mixed use development is supposed to be. It has high density residential and commercial components, transit, pedestrians and walkability, and a town center feel. No one would argue that those things would be a wonderful concept to have, but it impacts a lot of automobile businesses which have been there for a long time. It impacts them in a way that is going to be creating dying auto related businesses because they will not be allowed to change and improve. It impacts an extremely successful shopping center so I have grave concerns on a lot of different levels regarding this. I don't know where the auto dealerships will go, I don't like seas of parking, but the costs of taking that parking and putting it underground is great. We can look at a similar type of development, like Excelsior Grand, which is often pointed to be the great redevelopment and that development did take a bunch of small dying businesses along Excelsior Boulevard, but that building counted on a couple of large residential areas and a few stores and shops kind of turned inward, and turning their back to the main street. Another one is The West End development, that when you strip it down, there about three blocks of retail facing each other on each side and on the corners are some very nice popular restaurants with a lot of outdoor seating which makes for the appearance of a lot of people coming there. But to get to those shops you go through an underground garage and you walk through miles of underground garage to get to an elevator and a staircase to go up. It is not creating the walking destination that we want. That may do doable here and that may be desirable, but what is built and what we already have here is dealerships and a successful mall. What we are seeing in West End now is a lot of apartments and hotels being built. Those are only one-off buildings, pretty big, pretty generous.

A lot of the areas that have tried this type of massive redevelopment have done so in failing or failed areas. I think there has to be a market driven piece to this approach, I am very concerned that although there is transit, the majority of those that will be using this type of development will be arriving by car and we are turning our backs on the city street that are getting them there. We need to have people drive by there and want to come there and I don't think we are doing that. Redevelopment ideally, in my opinion, should happen more organically.

There has been discussion about Southdale this evening and what is happening over there. That is a pretty organic thing and no one is talking about tearing down Southdale or putting a street grid over Southdale. I am hearing very realistic proposals from business owners in the area who have been working with the City to come up with something viable. My fear is the FAR requirements may actually be a hindrance to redevelopment in this area because the market is not there and the dollars from developers are not there. We will get some housing in there because right now housing is hot, but retail is not and two story retail is almost impossible. Mostly I have concerns about this: we have a plan that is a great plan, but we can't implement it for about forty years. We should be ready to implement, but not do so until the time is right. I think it is a grave mistake to create dozens of viable businesses that are vibrant, successful, growing, and thriving and to make them nonconforming. The mortgage argument for me is very prevalent. I have been involved where in commercial loans they are renewing in five and ten years and when you face those bankers and you are not conforming why would they want to have their money at risk there. I really think this needs to be looked at in a more

collaborative way. Something that can work now and setting up this area for redevelopment in the future to a greater density when that time is here or near here. I have great difficulty with any of this and I hope I have explained my position.

Nordstrom stated he shares much of Batterson's concerns. I don't see Bloomington as a place that doesn't have auto dealerships. When you look at where people will come to shop, they are things that are close to freeways. Those are zones that become very attractive. Automobiles are a commodity like anything else. Eventually the highest and best purpose for a piece of land comes about because of changes in economic value. France Avenue Drive In Theatre is part of my memory, but there was a point in time when that big open space no longer made sense as there was a higher economic use for property. We need a process where we can value what we already have, encourage it and nurture it, and make sure it is ready when there comes the opportunity for a higher economic value. Sometimes what is developed next to it drives that value. So maybe Penn American develops from west to east and at some point in time it goes north crossing American Boulevard. Maybe it has to develop on that south strip first and that drives the rest of the district. I was surprised to see the BMW dealership develop into the cube it is and maybe that is the model for new luxury car dealerships. Do we want to hamstring the dealerships that want to redevelop in this manner? I think we need to stick very close with the Statute, you can replace it, rebuild it, repair it and relocate it on the existing piece of property. What about expansion? If we simply cap it and allow no expansion, then we are killing the future of it. If we want it to contribute a higher economic value, maybe we have to look at it in some more creative way that would allow it to become denser. I am a little frustrated by the fact the power line never showed up or was addressed in any of the graphics in the PADP or the Comprehensive Plan which severely limits the development north of American Boulevard. I know we have to plan for mass transit, and so I would hope that the direction is for a public street (Knox Avenue) that does allow for development on either side. I am really concerned those parcels to the east could become orphaned and are not adequately addressed in the PADP. I find it troubling the I-35W/I-494 Interchange Project is coming along with the Orange Line BRT and yet there are so many unknowns as far as easements and right-of-way that will directly impact the parcels north of American Boulevard and East of Knox Avenue. Nordstrom asked the other Commissioners for additional input.

Fischer stated the City's interest and the property owner's interest are actually in line. It is frustrating that if both parties seem to want increased density and improvements to the properties yet seem poised for legal action instead of working together to create development. I think it is good the City has high standards and doesn't let properties just slide and not be redeveloped. The City does however, need to work with the property owners to make this redevelopment happen. Flexibility should be given to the property owners as they are the bigger risk takers. A District vision is great, but that does not mean it is attainable in the foreseeable future. He stated he would rather see some positive movement rather than no movement at all.

Willette stated when Southtown was first opened the attraction was the movie theaters and Wards. They are both gone now and the shopping center has survived and is doing very well. Looking to the future the Orange Line will be coming through which will change the character of the neighborhood and the chance for advancement or redevelopment is stronger than ever.

Spiess stated she agrees with the comments made by the other Commissioners. The Commission's responsibility is to look at the current situation in light of a very aggressive and wonderful plan for the future. I would agree the timing is not in line. She stated she agrees with Commissioner Fischer that this can be done by working more collaboratively with the property owners and taking things in smaller pieces and not all at once.

Bennett stated she also has concerns with taking on such an aggressive goal at this time and especially since there are viable businesses there now. She agreed with Commissioner Batterson's comment about

the rezoning should be more organic and seeing how the transit component impacts the area. She stated she is uncertain if the Commission should act on implementing the rezoning at this time.

Batterson suggested the Commission either vote all these rezonings down or we put them on hold. What I would like to see is the City and the property owners collaborating on something that is workable and achievable now and setting up some method of future rezoning that may come into play down the road. But right now looking at what can be done and what should be done over the next ten years. He stated it would be nice to see an attorney for one of the land owners come to one of these meetings that is saying we have been working with the City and there is enough agreement and we buy into the long-term vision for the area. At that point I would be willing to look into changing zoning and start rezoning properties. We are not under a time limit since this is a City initiated proposal, so I am not ready to impose rezoning onto properties which are successful and thriving

Fischer stated he likes the flexibility the City has brought forth with regard to the setbacks and the language in the ordinance. He believes the big problem is the density issue and that will resolve itself when the time is right. What is the point of rezoning properties to higher density when the existing successful businesses are opposed to it and by law, can remain as is in perpetuity? I don't want to get into a standoff that in the end does not accomplish anyone's goals and I don't want acrimony from one of our largest property owners in Bloomington who have run successful businesses here for a long time, it is not necessary and we have the same goals in mind.

Nordstrom stated he believes it should be a goal when rezoning property to eliminate nonconformity, but it is usually not possible. If there is a way to minimize the nonconformity's effect or defer its effect, that would be ideal. He asked for staff to comment.

Markegard stated he believes what he is hearing from the commission is discomfort with prescriptive zoning and there have been comments made by commissioners in favor of more permissive zoning that allows the vision to occur but does not necessarily require it. The danger with a more permissive zoning approach is you may see new redevelopment occur that does not meet the City's vision but then is in place for another 40 or 60 years. He stated he could, based on the discussion, see the Commission giving this to Council with a recommendation that you would rather see permissive zoning and you would like to see the ordinance rewritten in that fashion and then it would be the Council's call to decide if they agree or not and to direct staff on the next steps.

Nordstrom stated he understands Council's concern with redevelopment that is inconsistent with the vision happening in front of the rezoning and that is one of the reasons for the moratorium. If we were to recommend a more permissive approach to Council, that would give Council enough time to think more about that before the February moratorium deadline.

Batterson stated that does make some sense, but I would recommend the Commission deliver a stronger message to Council and vote for denial. Nordstrom stated that if the Commission were to recommend denial, it would need to do so on both items and carry with it a message that the Commission believes the zoning should be more permissive in nature. There was a consensus amongst the Commission for this to be message to Council.

Nordstrom stated this item will be heard at the October 6, 2014 City Council meeting. [rescheduled to December 1, 2014]

ACTIONS OF THE COMMISSION:

M/Spiess, S/Fischer: To close the public hearing. Motion carried 6-0. (Goodrum recused)

M/Batterson, S/Fischer: In Case 10000C-14, I move to recommend denial of Ordinance Option A and B as attached to the staff report to amend Chapters 19 and 21 of the City Code to: 1) modify use, development, and design standards in mixed use districts; 2) modify motor vehicle dealer standards; and 3) modify nonconformity standards. Motion carried 6-0. (Goodrum recused)

M/Batterson, S/Willette: In Case 10940A-I-14, I recommend denial of rezoning the listed parcels. Motion carried 6-0. (Goodrum recused)

M/Fischer, S/Spiess: I recommend the rezoning for the Penn American District be more permissive and less prescriptive in nature and may allow the vision to occur in a more organic manner. Motion carried 6-0. (Goodrum recused)

ITEM 5
10:06 p.m.

CASE:	N/A
APPLICANT:	City of Bloomington
LOCATION:	N/A
REQUEST:	Consider approval of the August 7, 2014 Planning Commission meeting synopsis

ACTIONS OF THE COMMISSION:

M/Bennett, S/Fischer: I move to approve the August 7, 2014 Planning Commission meeting synopsis as presented. Motion carried 7-0.

The meeting adjourned at 10:07 p.m.

Prepared By: MH **Reviewed By:** GM, LP, JS

Approved By Planning Commission: _____

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