

Item 5

**GENERAL INFORMATION**

Applicant: City of Bloomington

Request: Consider a City Code amendment to establish permanent HX-R Zoning District standards and modify height restrictions in the CX-2, CS-0.5, CS-1, CO-0.5, CO-1, CO-2 and RO-50 Zoning Districts

Related Application: Rezoning of several parcels to the permanent HX-R Zoning District (see Item 6, Case #10002A-05)

**PURPOSE**

The purpose of this item is to consider a City Code amendment to implement the Comprehensive Plan through creation of a permanent zoning district (HX-R) to be applied to parcels guided “Airport South Mixed Use”. The Code amendment also removes airport related height limit language in several zoning districts where the existing limits do not correspond with the updated MSP Airport Zoning height limits.

**HISTORY**

In March of 2004, Bloomington updated its Comprehensive Plan as it applies to the Airport South District. Among several changes was the creation of a new land use designation, “Airport South Mixed Use”, which is designed to create a high intensity mixed use node with a significant residential component. This new designation was assigned to several properties near transit opportunities in the eastern portion of the Airport South District. The Comprehensive Plan also calls for the Zoning Ordinance to be updated to implement the new land use designation.

Implementation of the Airport South Mixed Use designation requires 1) creation of a new zoning district that reflects the Comprehensive Plan’s vision and 2) rezoning of land guided Airport South Mixed Use to the new district. The City took one step toward implementation of the Comprehensive Plan on July 6, 2004, when it adopted a new, interim zoning district, called the “High Intensity Mixed Use with Residential (HX-R) District”. This interim district was drafted to ensure that development within the Airport South Mixed Use area would not be impeded. There were several issues related to the interim HX-R provisions that staff, the Planning Commission and City Council wanted to further review and consider before the district was converted to permanent status.

**BACKGROUND INFORMATION**

The proposed ordinance creating the permanent HX-R zoning district is attached. This staff report is intended to be read in conjunction with the proposed ordinance as it provides commentary on several issues.

### ***Research***

As background for the HX-R district, staff reviewed guidebooks on the topic as well as existing standards in place for transit oriented development and mixed use areas in cities across the country, including:

Seattle, WA	Minneapolis, MN	Chicago, IL
Kenmore, WA	Denver, CO	Montgomery County, MD
Bellvue, WA	Salt Lake City, UT	Arlington, VA
Portland, OR	Dallas, TX	Charlotte, NC
Eugene, OR	Richardson, TX	Huntersville, NC
Hillsboro, OR	Addison, TX	Atlanta, GA
Washington County, OR	San Jose, CA	Atlanta Regional Commission
	Millbrae, CA	

### ***Benefits***

While the proposed zoning provisions include features opposed by some landowners in the area during public hearings for the Comprehensive Plan (residential and floor area ratio requirements), it is also important to point out that properties rezoned to the HX-R zoning district will benefit from several provisions including:

- **Greatly increased development potential.** The current zoning districts applicable to the area limit development to a maximum floor area ratio (FAR) of 1.0 (1.5 under special circumstances). The proposed HX-R standards would allow FARs up to 6.0.
- **Reduced setback requirements.** The current zoning districts applicable to the area require buildings to be placed a minimum of 60 feet from public street rights-of-way. The proposed HX-R standards would allow buildings to be placed as close as 10 feet back from public street rights-of-way.
- **Reduced parking requirements.** The proposed HX-R standards reduce parking requirements as compared with current zoning districts applicable to the area, which reduces development costs.

### ***Uses/Expansion***

**19.29 (d) (1) and (3) and 19.29 (q)** The primary proposed modification to the interim HX-R district use standards is the addition of text that allows existing hotels, electric substations and electric transmission lines to expand on their current parcel without conforming to district residential and floor area ratio standards. These provisions would apply to the Embassy Suites Hotel, Hilton Hotel and Xcel substation sites. Their rezoning to HX-R is important to 1) avoid spot zoning and 2) ensure that redevelopment matches land use visions for the area in the event the sites redevelop earlier than anticipated. Staff sees each of these uses as long term uses that will probably not redevelop in the foreseeable future. Given that each of these sites may desire to expand in the future, staff recommends allowing their expansion by ordinance through issuance of a Conditional Use Permit, despite their non-conformance with district standards. Under State law, cities have authority to allow expansion of non-conformities by ordinance (see section 462.357). The City has used this approach in several other zoning districts, including CX-2, CS-0.5, CS-1, CO-0.5, CO-1, RO-24, RO-50 and SC.

***Residential Uses Required***

**19.29 (f) (1)** The proposed minimum residential density is 30 units per acre for land with future average aircraft noise levels forecast to be below 70 dB DNL. An attached table shows how many residential units would be required on each parcel in the Airport South Mixed Use area given a 30 unit per acre standard and given potential alternative density standards. For example, given the 30 unit per acre standard, 756 units would be required on the Central Station site (1,103 units were approved in the preliminary development plan).

Staff recommends setting the minimum required residential density standard at 30 units per acre to balance the competing objectives of 1) ensuring that a critical mass of residential dwelling units is ultimately created in the area that can help support neighborhood oriented retail and service uses, thereby reducing the length of many trips and increasing the chances for walking trips along with improving the desirability of the area; and 2) ensuring that the requirements are low enough to allow a mixture of non-residential uses within the area and be a realistically achievable development alternative. An average density of 30 units per acre would yield over 1,700 residential units on the Airport South Mixed Use sites expected to redevelop within the next twenty-five years. If sites developed above the minimum, as has been approved at the Central Station site, more units would result. There is also the possibility for additional units beyond the Airport South Mixed Use area, most notably at Appletree Square. At minimum densities above 30 units per acre, the standards start to move away from a mixed use vision for the area and closer to a predominantly residential vision.

It is important to note that the minimum residential density requirements will work hand in hand with the minimum floor area ratio (FAR) requirements. For illustration purposes, imagine a site of 10 acres (435,600 square feet). 300 residential units would be required. The FAR resulting from those 300 units would depend on the size of the units. Given a gross (including hallways, elevators, common rooms, etc.) average size of 1,000 sq. ft. per unit, the FAR would be 0.69; at 1,500 sq. ft. per unit the FAR would be 1.03; and at 2,000 sq. ft. per unit the FAR would be 1.37. To meet the proposed minimum floor area ratio of 1.5, projects would either need to include other non-residential uses or higher residential densities.

Residential development would also be limited through the floor area ratio maximums, which are proposed at 2.0 plus the floor area bonuses (up to a maximum of 6.0). Minimum residential requirements would be open to limited flexibility through the existing planned development process provided there was a public benefit for the flexibility. The level of flexibility is capped at 20% (see Section 19.38.01 (d) (8)) or a minimum of 24 units per acre. The variance process would offer further potential flexibility, provided the required findings could be made.

**19.29 (f) (1) (C)** This subsection exempts sites from residential requirements if over 2/3 of the site is forecast to be exposed to future average aircraft noise levels at or above 70 dB DNL. The only Airport South Mixed Use site that would qualify for this exemption is the General Dynamics West parcel. Limited residential would be allowed on the site but not required. Staff feels that residential uses would not be feasible in such a circumstance given the small land area available. Note that the Xcel substation site is entirely inside the forecast 70 dB DNL line and that the Central Station site is partially (but less than 2/3) above the forecast 70 dB DNL line.

**19.29 (f) (2)** This subsection addresses the issue of residential requirements in a phased project. Of concern is a scenario in which all of the residential uses were reserved for a small percentage of land in the last phase of development and the residential component never materializes. A way to avoid the

scenario would be to require the residential uses to be developed first or to be developed proportionally as the phases proceed. That alternative again presents concerns. Market demand for all use types is cyclical. For a phased mixed use project, the market demand for office or hotel uses may be strong at the same time the market demand for residential uses is weak. Should the non-residential phases be held back until the market demand for residential uses increases? By that time, the market demand for hotel or office uses may have weakened.

To address these challenges, the proposed ordinance would allow no more than one half of the sitewide non-residential floor area to receive Final Development Plan approval before construction commences on at least 50 percent of the sitewide approved residential units. This approach provides some flexibility for a developer to respond to market cycles while also providing some assurance for the City that residential development components will not be permanently set aside.

### ***Floor Area Ratio***

**19.29 (g) (1)** The proposed minimum FAR is 1.5 and applies to both residential and non-residential development. Staff believes the 1.5 minimum FAR adopted with the interim HX-R District should be carried forward in the permanent version. Reasons for this recommendation include:

- The Comprehensive Plan sets forward a high intensity, downtown-like land use vision for the area. Staff believes that build out of the area at intensities below 1.5 FAR would not fulfill this expressed vision and would be an underachievement given the unique combination of amenities and infrastructure in the area.
- Freeway congestion levels in the Twin Cities are growing at among the highest rates in the nation. Concentrating development in areas with high transit service is one way to retain high levels of access despite freeway congestion. However, there is very little land in Bloomington that has access to the high level of transit service that LRT provides. Because such land is limited, it becomes paramount to ensure that it is fully utilized.
- Some existing projects in Bloomington have achieved FARs at or above 1.5 despite parking and setback requirements that are substantially greater than those proposed in the HX-R district. With reduced setbacks, reduced parking requirements, and the use of underground and structured parking, FARs at or above 1.5 are clearly feasible in the area.
- Transit oriented development in other American cities has often been completed at FARs well above 1.5. Reviewing projects in comparable locations outside of Minnesota has increased staff's comfort level with the appropriateness and feasibility of a 1.5 minimum FAR level.
- With an overall FAR of 1.55, the Central Station project under construction constitutes a tangible demonstration that the market is interested in developing in this area at intensities above 1.5 FAR. Public reaction to Central Station, in the form of purchase agreements for its first phase, has been strong.

Minimum and maximum FAR requirements would be open to limited flexibility through the existing planned development process provided there was a public benefit for the flexibility. The level of flexibility is capped at 20% (see Section 19.38.01 (d)); a reduction to an FAR of 1.2 or an increase to an FAR of 2.4, or significantly higher with bonuses applied. As always, the variance process would offer further potential flexibility, provided the required findings could be made.

**19.29 (g) (3)** The FAR standards are proposed to be applied to each project phase. As drafted, each phase would have to comply with the minimum FAR requirement either on its own or in conjunction with previous phases already constructed, if previous phases exceeded FAR requirements.

**19.29 (g) (4)** The proposed maximum FAR of 2.0 can be significantly increased through bonuses for retail and service uses, below grade parking, parks and plazas, affordable housing, public art and sustainable design. Under the proposed ordinance, if a development took full advantage of each bonus, it could have an FAR of 6.0.

As requested by the Planning Commission during discussion on the interim HX-R district, staff has added a “sustainable design” bonus. Rather than setting up a complex set of sustainability standards unique to Bloomington, staff proposes to use the LEED (Leadership in Energy and Environmental Design) Green Building Rating System<sup>®</sup>. The LEED rating system is the most recognized and commonly used sustainability rating system in the United States. Most architects will be familiar with the system. Under LEED, buildings receive points for a variety of “sustainable” design components including transportation demand management, water efficiency, energy efficiency, use of recycled and renewable materials, indoor environmental quality and innovative design. A complete list of available LEED credits is enclosed along with additional background information.

#### ***Dimensional Requirements***

**19.29 (h) (1)** To maximize design flexibility and potential development intensity, there is no minimum setback proposed from property lines fronting public streets. Buildings would not be able to encroach into public easements, which in this area typically exist adjacent to all public streets at a width of 10 to 15 feet. The ordinance proposes that buildings with ground level retail and service uses have at least one public entrance within 20 feet of a public or private street or major pedestrian way.

**19.29 (h) (2)** The proposed minimum site area of 120,000 square feet is identical to the existing minimum lot sizes in the CO-1 and CS-1 zoning districts currently applying in the area. Individual platted parcels could be smaller than 120,000 square feet but would need to be included in an integrated site of at least 120,000 square feet. All existing parcels in the area are over 120,000 square feet with the exception of the Embassy Suites proof of parking area (79,000 sq. ft.), which is currently an unbuildable outlot. The HX-R zoning district would allow this unbuildable outlot to be developed under a number of scenarios. One promising scenario would be for structured parking to be constructed over a portion of the existing Embassy Suites surface parking south of the hotel. That structured parking could then serve both the hotel and a new residential or mixed use structure on what is currently the proof of parking area/outlot.

**19.29 (h) (3)** Maximum structure heights in the area are effectively set by the MSP Airport Zoning limitations (see attached graphic). For most of the area, the maximum height is 991 feet above mean sea level, which is generally 160 to 170 feet above existing grades.

#### ***Parking***

**19.29 (i)** As virtually every other city reviewed has done in their transit oriented districts, parking requirements are proposed to be substantially reduced in the HX-R district. The base requirement would be set at 70% of the citywide requirement, with further reductions available if justified through a parking study or through a “proof of parking” approach. As many other cities also do, a parking cap is proposed, namely 130% of the citywide standard. Again that standard could be exceeded if justified by a parking study accepted and approved by the City.

**19.29 (i) (2)** As most cities reviewed have done, surface parking is highly limited. Many cities allow no surface parking whatsoever. In the HX-R district, at grade parking is proposed to be limited to spaces parallel with and adjacent to low volume streets and to very small visitor parking lots (one visitor space allowed per 20,000 square feet of floor area in the associated structure). Actual visitor parking needs will likely exceed this threshold and could be accommodated underground or in structured parking ramps.

### ***Building Design***

**19.29 (j)** To create a pedestrian oriented environment and to ensure that buildings do not turn their back on public streets, several standards are proposed, including entrance requirements, requirements for street level windows, anti-blank façade requirements, canopy and awning limitations, and parking structure aesthetic requirements. These requirements are very common among the ordinances reviewed.

**19.29 (j) (4)** For exterior materials, the HX-R district is proposed to have the same requirements as most other commercial and high density residential districts including the RM-50, RO-50, B-2, CB, CS-1 and CO-1 districts. Given that the Airport South Mixed Use area is currently zoned CS-1 and CO-1, no changes would result with respect to exterior materials requirements.

### ***Noise Insulation***

**19.29 (m)** Staff sees a need to have noise insulation requirements for residential and possibly some types of non-residential uses given forecast aircraft noise levels. The need for these requirements extends beyond the Airport South Mixed Use area into the remainder of the Airport South District and areas under the Runway 4-22 centerline. Staff proposes to address this issue through a separate, consultant-assisted Code amendment process to create citywide noise insulation standards that would apply in those areas where higher aircraft noise levels are forecast. Section 19.29 (m) would then become a reference to this new citywide standard. In the interim period, noise insulation requirements will need to be handled through condition of approval, the process used for all previous noise insulation for new development in Bloomington, including the first phase of the Central Station development.

### ***Travel Demand and Parking Management***

**19.29 (n)** To further reduce peak period vehicle trips in the area, travel demand management (TDM) and parking management plans would be required in conjunction with final development plans for any office uses developed within the district. Bloomington has in recent years required TDM plans through condition of approval on larger office developments within the City.

### ***Public Art***

**19.29 (o)** The proposed standards do not require the inclusion of public art. They do, however, require that project designers think about where public art would be appropriate within a project and formally designate potential spots for public art on their plans. The interim standards required designation of one public art location per site or phase thereof. The proposed permanent standards would modify this approach by requiring designation of one potential location per 2.5 acres of site area (the size of a typical downtown block). The proposed standards also provide floor area ratio bonuses for projects that install public art (see 19.29 (g) (4) (E)).

### ***Signs***

**19.29 (p) and 19.115.01** Given the anticipated unique sign needs of the area, staff has created a new set of sign standards that will apply only to this district. Highlights of the proposed sign standards include:

- Freestanding signs are limited in height (8 feet maximum) and overall size. The twenty foot high signs allowed in other areas are auto oriented and do not convey a pedestrian scale.
- Wall sign standards vary by use type in recognition of varying needs.
- Awning and canopy signs are encouraged as a way to convey a pedestrian feel.
- Projecting and suspended signs are allowed as a way to convey a pedestrian feel. Such signs are prohibited in other parts of the City.
- As in other districts, large wall signs on the topmost floor (as currently exists for Health Partners) are allowed for hotels and taller office buildings.

***Height Limits***

**19.40.06 to 19.40.09** As a “cleanup” amendment unrelated to HX-R standards, the proposed ordinance removes airport related height limit language in several zoning districts where the existing limits do not correspond with the updated MSP Airport Zoning height limits.

**RECOMMENDATION**

In Case #10000B-05, staff recommends approval of an ordinance to establish permanent HX-R Zoning District standards and modify height restrictions in the CX-2, CS-0.5, CS-1, CO-0.5, CO-1, CO-2 and RO-50 Zoning Districts.

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