



DATE: October 7, 2009
TO: Planning Commission
FROM: Elizabeth Shevi, Planner
RE: City Code Amendments-
Reclassification of Temporary Conditional Uses Item 4

A draft ordinance containing proposed amendments to the City Code to reclassify the land use status for multiple temporary conditional uses is attached. This proposed draft ordinance dated October 7, 2009 contains one revision (noted in highlighted text) from the version previously forwarded to the Planning Commission, which was dated October 1, 2009.

The revision pertains to City Code Section 19.40.06 Mixed Use (CX-2) District, which applies to the Mall of America (MOA) properties. After further discussions with a MOA legal representative, it is staff's recommendation to revise the proposed amendment under Section 19.40.06(b)(8) to read, "Transient merchant sales as an accessory use where incidental an clearly subordinate to permitted principal uses." In the earlier proposed draft ordinance this provision read, "Transient merchant sales as an accessory use in mixed use center interiors or hotel interiors only, where incidental an clearly subordinate to permitted principal uses."

In discussions with the Mall of America representative over the proposed amendment to the City Code, there was agreement with the revision moving from temporary conditional use status to a permitted accessory use for transient merchant sales in this zoning district, subject to the issuance of a permit through Licensing. However, there was concern by the MOA with the amendment to move from permitting transient merchant sales in interior or exterior locations, to only interior locations. In order for the City to amend the zoning in this District, the City is required by contract with the Mall of America Corporation to first obtain their written consent.

In reviewing Licensing activity for transient merchant sales in the CX-2 District, there has been very limited activity in exterior locations on the MOA property, and it has not been a source for complaint. Accordingly, staff proposes the compromise to revise the ordinance amendment to continue to permit interior or exterior transient merchant sales in the CX-2 District, but amend from the temporary conditional use status to the permitted accessory use status as indicated above.