



PLANNING COMMISSION STAFF REPORT

PC MEETING DATE: JUNE 28, 2010

ITEM FOR PLANNING COMMISSION CONSIDERATION:

Continued consideration of changes to the Richfield Zoning Ordinance to bring properties into conformance with the Richfield Comprehensive Plan.

I. RECOMMENDED ACTION:

By motion: Recommend approval of the attached ordinance amending Richfield City Code Appendix 1 rezoning certain properties from Single-Family Residential (R) to Multi-Family Residential (MR-2).

II. BACKGROUND

Preparation of the Comprehensive Plan

Minnesota State Statute (473.864 Subd. 2) requires that cities prepare and review a comprehensive plan at least once every 10 years. The plan is required to meet certain numerical requirements related to overall population growth and the provision of affordable housing. These requirements are based on forecasts prepared by the Metropolitan Council. The City of Richfield was required to provide a plan that would provide for 4,427 new housing units by 2030 (2,297 new households are estimated to be needed by 2020). Of these new households, 765 units must be affordable (for comprehensive planning purposes, multi-family housing is considered to be affordable).

On June 23, 2009, the Richfield City Council adopted a final Comprehensive Plan to guide future growth within the City. This Plan was the result of over two years of work and public communication. A series of informational newsletters were mailed to all residents and property owners in the City (February 2007, May 2007, September 2007, October 2007, June 2008) and open houses were held at locations throughout the community (February 2007, May-June 2007, November 2007) to solicit input from residents. In addition, a public hearing for which notice was published was held before the Planning Commission on June 23, 2008 to consider a final draft of the updated Plan. The final draft was reviewed by the City Council, the Metropolitan Council and finally adopted last June.

The Plan contains information regarding the City's vision and provides specific recommendations for future land use, housing, parks, utilities and transportation. It provides for between approximately 2,800 and 6,700 new units of housing by 2030 (calculated using the upper and lower density ranges allowed in each land use category). Typically, the Metropolitan Council requires that new household numbers be met using the lowest density number only, e.g., if a district allows between 7 and 12

units per acre, calculations would be based on 7 units per acre. In this case, the Metropolitan Council has accepted the City's proposed range calculation. Given this somewhat unusual acceptance, it is anticipated that any units "lost" through reclassification to a lower density will need to be replaced elsewhere in the Community. At the previous meeting it was discussed that Richfield potentially had some flexibility in terms of the number of affordable units. In fact, the City well exceeds affordability requirements (765 required, minimum of 2,800 provided); however, there is no flexibility in the overall household numbers.

Comprehensive Plan Implementation Requirements

In addition to the requirement to prepare and periodically update a comprehensive plan, State Law requires that cities amended zoning regulations to comply with that plan (MN § 473.865). In Richfield's case, there are approximately 600 properties that must be rezoned to meet this requirement. The properties are located throughout the entire City. Some of these changes are related to the newly adopted Plan, but many changes are related to the previous update of the Comprehensive Plan in 1997. Properties were not rezoned at that time because nonconforming buildings and uses could not be rebuilt if destroyed. This prohibition could have made it difficult for property owners to secure insurance. Since that time, State Laws regarding legal nonconformities have greatly increased the protections of property owners. Even if destroyed, so long as a property owner applies for a building permit within 180 days, cities must allow the legally nonconforming building (or use) to be replaced.

Proposed Rezoning

The first group of properties to be rezoned is generally bounded by 66th Street and 70th Street on the north and south and by Xerxes and Washburn Avenues on the west and east. These properties are currently zoned Single-Family Residential (R). The Comprehensive Plan designates these properties as Medium Density Residential. This change was made in response to the higher intensity development that is allowed along the eastern boarder of Edina. In order to correspond to the designation of the Comprehensive Plan, these properties are proposed to be rezoned to Multi-Family Residential (MR-2).

A Public Hearing regarding this rezoning was held on May 24, 2010. At the Hearing, representatives of nine (9) properties proposed to be rezoned spoke against the proposal. Representatives of three (3) properties within the 350-foot mailing area also spoke against the proposed rezoning. In response to questions raised at the Hearing, the Planning Commission requested additional information about the housing stock and building permits in this area in comparison to the single-family homes in the remainder of the City.

Area statistics:

	CITY	PROPOSAL AREA
Average Estimated Market Value (2008 Henn Co. Data)	\$198,979	\$190,833
Average Construction Year	1943	1952
Average Value of Building Permit (2000-2010)	\$8,871	\$7,339

Facts about rezoning:

- Rezoning does not impact the current use of the property.
- Property owners may continue to use the property in the current manner indefinitely.
- Owners may sell their property and the buyer may use the property in the same manner.
- The City Attorney has confirmed that the nonconforming status of the property would not affect a buyer's ability to qualify to a Federal Housing Administration (FHA) Loan.
- Taxes - The Hennepin County Assessor's Office stated that they designate a property's Class (and thereby its Class Rate) by the current use rather than the zoning. As long as a given property continues to be used as a single-family home, the Class Rate would not increase.
- Home Values – City staff spoke with two appraisers regarding the issue of valuation. Both appraisers stated that the value of a property is based on the “highest and best use” that is allowed and economically viable on the property. If appraising multiple lots as an assembled property, they would likely consider the highest and best use as multi-family housing which is worth more per-square-foot than land for single-family homes. If appraising only a single property, then it would be appraised as a single-family home and the rezoning should have no effect on the property value.
- The new zoning designation impacts the future use of the property IF it is redeveloped or IF the use changes.
- The City has no plans to redevelop or purchase these properties, nor has the City heard of any interest from a private developer to do so.
 - Rules regarding the use of eminent domain have significantly changed in recent years. Eminent domain is the power of government to take private property for public purpose.
 - In 2006, the Minnesota Legislature amended State Law to define “public purpose” as follows:
 - a) “Public use” or “public purpose” means, exclusively:
 - (1) The possession, occupation, ownership, and enjoyment of the land by the general public, or by public agencies;
 - (2) The creation or functioning of a public service corporation; or
 - (3) Mitigation of a blighted area, remediation of an environmentally contaminated area, reduction of abandoned property, or removal of a public nuisance.
 - b) The public benefits of economic development, including increase in tax base, tax revenues, employment, or general economic health, do not by themselves constitute a public use or public purpose.
 - Consequently, property cannot be taken by the City through eminent domain for anything other than the narrowly defined public use or public purpose listed above.

The zoning of these parcels must be amended to agree with the Comprehensive Plan. If not, the Comprehensive Plan must be amended so that the two do not conflict. If the Plan is amended, target household numbers must still be met, therefore an increase in density will be required elsewhere.

III. BASIS OF RECOMMENDATION

A. POLICY

- Subsection 507.03 of the Zoning Code states as its foremost purpose, “to assist in the implementation of the City’s Comprehensive Plan.”

- Current zoning regulations do not adequately regulate development to be in conformance with the Comprehensive Plan.
- MN § 473 requires that cities amend their zoning ordinance so as to not conflict with the comprehensive plan.

B. CRITICAL ISSUES

- State Law requires that the City's Zoning and Comprehensive Plan be in agreement. These parcels must be rezoned or the Comprehensive Plan must be amended.
- The Plan must allow for the creation of 4,427 new dwelling units by 2030. If units are decreased in this area, they must be accommodated elsewhere in the Community.
- The proposed change does not impact the current use of the properties.
- The City has no plans to redevelop or purchase these properties.
- Taxes and home values are not anticipated to change based on staff discussions with the Hennepin County Assessing Office and two independent appraisers.
- The proposed change will not prevent buyer's of the properties from qualifying for Federal Housing Administration (FHA) Loans.
- Failure to comply with Metropolitan Council requirements could impact the City's ability to receive funding provided by the Council and/or leave the City open to litigation to enforce State requirements.

C. FINANCIAL

- N/A

D. LEGAL

Notification: Notification of the public hearing held on May 24, 2010 was sent to all property owners and residents within 350 feet of the subject properties.

Other Actions:
Council: The City Council will consider the proposed amendments at a first and second reading. If the Council adopts the recommended changes, they will take effect 30 days after the approved Council resolution is posted in the Sun Current newspaper.

IV. ALTERNATIVE RECOMMENDATION(S)

- Recommend denial of the proposed rezoning

V. ATTACHMENTS

- Ordinance
- Map of properties to be rezoned
- City-wide map of properties to be rezoned
- Resident letter to policy makers
- Neighborhood petition

VI. PRINCIPAL PARTIES EXPECTED AT MEETING

- Property owners in and around the subject area

ORDINANCE NO. _____

AN ORDINANCE RELATING TO ZONING; AMENDING APPENDIX 1 TO THE RICHFIELD CITY CODE BY REZONING PROPERTIES GENERALLY LOCATED BETWEEN 66TH AND 70TH STREETS; AND XERXES AND WASHBURN AVENUES FROM SINGLE-FAMILY RESIDENTIAL (R) TO MULTI-FAMILY RESIDENTIAL (MR-2)

THE CITY OF RICHFIELD DOES ORDAIN:

Section 1. Section 12 of Appendix 1 of the Richfield Zoning Code is amended by adding new paragraphs 33 through 36 as follows:

- (33) M-10 (66th to 67th, Xerxes to Washburn) Lots 6-23, Block 8, Tingdale Bros. Lincoln Hills Addn.
- (34) M-10 (67th to 68th, Xerxes to Washburn) Lots 1-24, Block 9, Tingdale Bros. Lincoln Hills Addn.
- (35) M-10 (68th to 69th, Xerxes to Washburn) Lots 1-24, Block 8, Tingdale Bros. Lincoln Hills Addn.
- (36) M-10 (69th to 70th, Xerxes to Washburn) Lots 1-24, Block 9, Tingdale Bros. Lincoln Hills Addn.

Sec. 2. This ordinance constitutes a rezoning of the following properties: 6613 Xerxes Ave, 6617 Xerxes Ave, 6621 Xerxes Ave, 6625 Xerxes Ave, 6629 Xerxes Ave, 6633 Xerxes Ave, 6637 Xerxes Ave, 6641 Xerxes Ave, 6645 Xerxes Ave, 3015 67th St W, 6705 Xerxes Ave, 6709 Xerxes Ave, 6713 Xerxes Ave, 6717 Xerxes Ave, 6721 Xerxes Ave, 6725 Xerxes Ave, 6729 Xerxes Ave, 6733 Xerxes Ave, 6737 Xerxes Ave, 6741 Xerxes Ave, 6745 Xerxes Ave, 6801 Xerxes Ave, 6805 Xerxes Ave, 6809 Xerxes Ave, 6813 Xerxes Ave, 6817 Xerxes Ave, 6821 Xerxes Ave, 6825 Xerxes Ave, 6829 Xerxes Ave, 6833 Xerxes Ave, 6837 Xerxes Ave, 6841 Xerxes Ave, 6845 Xerxes Ave, 6901 Xerxes Ave, 6905 Xerxes Ave, 6909 Xerxes Ave, 6913 Xerxes Ave, 6917 Xerxes Ave, 6921 Xerxes Ave, 6925 Xerxes Ave, 6929 Xerxes Ave, 6933 Xerxes Ave, 6937 Xerxes Ave, 6941 Xerxes Ave, 6945 Xerxes Ave, 6612 Washburn Ave, 6616 Washburn Ave, 6620 Washburn Ave, 6624 Washburn Ave, 6628 Washburn Ave, 6632 Washburn Ave, 6636 Washburn Ave, 6640 Washburn Ave, 6644 Washburn Ave, 6700 Washburn Ave, 6704 Washburn Ave, 6708 Washburn Ave, 6712 Washburn Ave, 6716 Washburn Ave, 6720 Washburn Ave, 6724 Washburn Ave, 6728 Washburn Ave, 6732 Washburn Ave, 6736 Washburn Ave, 6740 Washburn Ave, 6744 Washburn Ave, 6800 Washburn Ave, 6804 Washburn Ave, 6808 Washburn Ave, 6812 Washburn Ave, 6816 Washburn Ave, 6820 Washburn Ave, 6824 Washburn Ave, 6828 Washburn Ave, 6832 Washburn Ave, 6836 Washburn Ave, 6840 Washburn Ave, 6844 Washburn Ave, 6900 Washburn Ave, 6904 Washburn Ave, 6908 Washburn Ave, 6912 Washburn Ave, 6916 Washburn Ave, 6920 Washburn Ave, 6924 Washburn Ave, 6928 Washburn Ave, 6932 Washburn Ave, 6936 Washburn Ave, 6940 Washburn Ave, and 6944 Washburn Ave.

Sec. 3. This ordinance is effective in accordance with Section 3.09 of the Richfield City Charter.

Debbie Goettel, Mayor

ATTEST:

Nancy Gibbs, City Clerk