

C. Clerk

JOINT CITY COUNCIL/PLANNING COMMISSION MEETING
JUNE 18, 1991
MAPLEWOOD ROOM
7:00 P.M.
1830 EAST COUNTY ROAD B
MAPLEWOOD, MINNESOTA

The Planning Commission requested the following agenda:

1. Group Home Spacing
2. Code Change: Single and Double Dwellings
3. Planned Unit Developments
4. Conditional Use Permits for Commercial Zoning Districts
5. Open Space
6. Long-Range Vision of the City
7. Other items?

MEMORANDUM

TO: City Manager
FROM: Director of Community Development
SUBJECT: **Group Homes**
DATE: June 13, 1991

The City Council, on February 14, asked staff to determine if the City can require a minimum separation between group homes.

State law states that a group home licensed for six or fewer persons is a permitted use in a single family zoning district. The law also states that a group home licensed for seven to sixteen persons is a permitted use in a multiple dwelling district. The law allows a city to require a conditional use permit in multiple dwelling districts. A city cannot require more restrictive conditions for group homes than they do for other conditional uses in the same district.

Staff is trying to determine whether the law allows cities to require a separation between group homes and what the State licensing requirements require for a separation. The law gives special rights to cities of the first class, such as St. Paul. St. Paul requires a minimum of 1320 feet between group homes. The Attorney General's office believes that other cities cannot require separation between group homes.

go/grouphom (5.1)

MEMORANDUM

TO: City Manager
FROM: Director of Community Development
SUBJECT: Code Change: Single and Double Dwellings
DATE: June 11, 1991

INTRODUCTION

The City Council and Planning Commission requested that staff investigate several issues about the location of single and double dwelling homes on a lot. These included:

1. Home orientation with the front of the house not facing the street.
2. Homes set further back than the adjacent homes.
3. Too much lot coverage and house size.

BACKGROUND

The City does not regulate home orientation, maximum setbacks or maximum house sizes. The City does limit the lot area that accessory buildings can cover, such as garages and sheds. The City also regulates minimum setbacks. The minimum front yard setback is 30 feet or whatever the predominant setback in the neighborhood is. The minimum side yard setback is at least ten feet on a habitable side and five feet on a nonhabitable side. The City also requires a rear yard setback of at least 20 percent of the lot depth.

DISCUSSION

We receive about two or three complaints a year on the placement or size of dwellings, similar to the examples in the introduction above. These complaints fall into three categories - home orientation on the lot, setbacks and lot coverage.

Home orientation on the lot

96% of the new homes built in the last year faced the street. There have been a few problems though. The Council brought up the problem of a house not facing the street because of the home at 3069 Bellaire Avenue. (See the plan on page 8.) There are some unique building restrictions on this lot that prevented the usual home placement on it - the powerline easement and the City's pipeline setback requirement. Another example is the house at 1860 Sterling Street, owned by Mrs. Welch. This house faces the side lot line. (See the maps on pages 9 and 10.) The builder thought a future street would be constructed in front of the house from Sterling Street. The street plans did not work

out. The neighbors to the south, on the north side of Knoll Circle, have complained that the house intrudes on their privacy.

Staff surveyed nineteen other suburbs about their site location requirements for single-dwellings. Only three of the nineteen cities require a house to face the street.

Requiring that the house be parallel to the street may cause some problems. Some of the Councilmembers thought this was a problem when they saw the group home at 1362 Cope Avenue. This building would not fit on the lot if it was parallel to the street because of the lot's unusual shape. The house was slightly rotated to fit on the lot. (See the plan on page 15.) Builders of homes on corner lots may also have a problem. Homes on these lots have sometimes been placed at an angle to both streets. (Refer to the plan on page 18 as an example.) Another difficult situation is when the home is not rectangular or when a person wishes to set the garage at an angle to the rest of the house. The map on page 19 shows examples of this. The City could not allow such site designs if builders had to place homes parallel to the street. Since these homes have not caused any complaints, we have not included a requirement for a house to be parallel to a street.

The attached ordinances require that the front of dwellings face the street, unless there is not an apparent front side. These ordinances also a house to rotate up to 30 degrees from the street line. Staff could approve a different orientation if any of several conditions are met.

Homes set back further than the adjacent homes

The City's front yard setback requirement is a minimum. A builder can construct a house further back if it does not go into the rear yard setback. We occasionally get a complaint that the house set further back detracts from the privacy of adjacent homes. The houses at 2616 Clarence Street and 882 Conner Court are examples of this. (See the maps on pages 11 - 12.)

The attached ordinance recommended by staff (starting on page 20) requires that all homes be set back at least 30 feet, but not more than 35 feet, from the front property line. 81% of the homes built in the last year have a setback between 30 and 35 feet. Staff could approve a greater setback if any of several conditions are met. I have included the usual appeal procedures to the Design Review Board and Council.

The ordinance recommended by the Planning Commission (starting on page 26) is not clear about what the front setback must be. It says that it must be at least 30 feet back and/or at the predominant setback. Does a builder use the 30-foot minimum or the predominant setback or both as the requirement?

Too much lot coverage and house size

The City regulates the minimum size of homes in the City. The City does not directly regulate the maximum size of homes. A person may build as large of a home as they wish if they meet all setbacks. A way to control the maximum size of homes is to have a maximum lot coverage requirement. Setting a standard for a reasonable maximum lot coverage is difficult.

A Staff survey of nineteen other cities showed that only four have a maximum lot coverage. Those cities use a maximum lot coverage for single dwellings of 30 to 35 percent. The group homes at 1362 Cope Avenue and 1685 Howard Street are the only complaints about this problem that I know of. (See the maps on pages 14 through 17.) These buildings have about 4,050 square feet of building coverage. The lot at 1362 Cope Avenue is the smallest lot of the five that the developers built these group homes on. It has about 13,495 square feet. The 4050-square-foot building covers 30 percent of this lot. This is shown on the site plan on page 15. The group homes would meet the lot coverage requirements used in other cities.

Limiting the house size would limit its value. The City should encourage and not discourage higher value homes in a neighborhood. For these reasons, Staff is not recommending that the City adopt a maximum lot coverage standard.

RECOMMENDATIONS

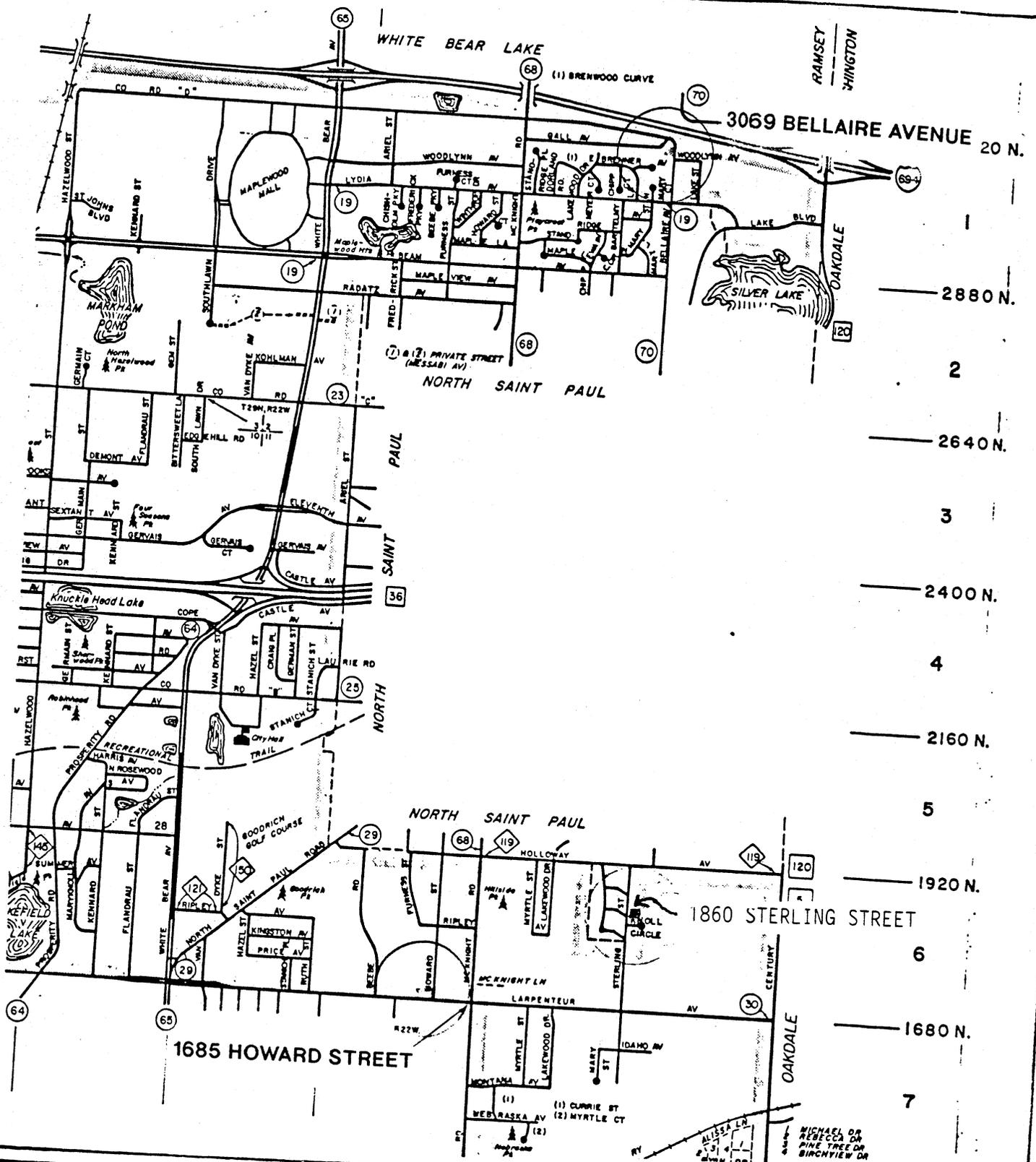
Adopt the ordinance on page 20. This ordinance does the following:

1. It would require builders to build these structures with:
 - (1) A 30 - 35 foot front yard setback or at the predominant front yard setback on that street. Staff could allow a greater setback if any of several conditions are met.
 - (2) The front of the dwelling facing the street. The home could be rotated up to 30 degrees from the front lot line without staff approval. Staff could allow a further rotation if any of several conditions are met. Corner lots are excluded.
2. It would allow Staff to send any house plan to the Community Design Review Board if there is a question about meeting the ordinance. It also would allow anyone to appeal Staff's decision to the Board and eventually to the Council.

go/memo25.mem (5.1)

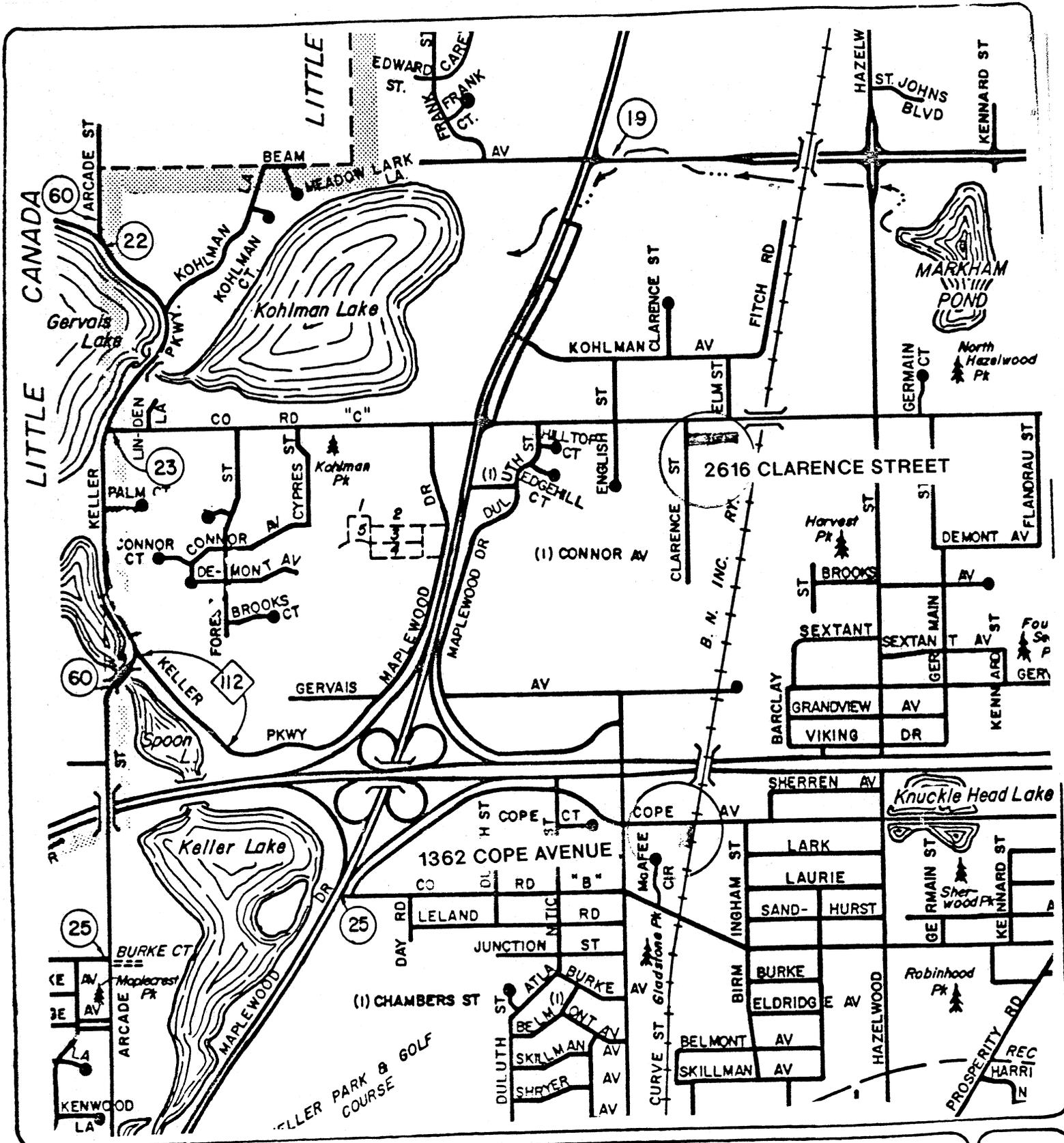
Attachments

1. Location Map
2. Location Map
3. Property Line/Zoning Map
4. Site Map (3069 Bellaire Avenue)
5. Property Line/Zoning Map (1860 Sterling Street)
6. Site Plan (1860 Sterling Street)
7. Property Line/Zoning Map
8. Site Map (2616 Clarence Street)
9. Property Line/Zoning Map (882 Conner Court)
10. Property Line/Zoning Map (1362 Cope Avenue)
11. Site Map (1362 Cope Avenue)
12. Property Line/Zoning Map
13. Site Map (1685 Howard Street)
14. Site Map (1113 South Lakewood Drive)
15. Site Map (1100 and 1190 Frank Court)
16. Ordinance (staff recommendation)
17. Ordinance (Planning Commission recommendation)



LOCATION MAP





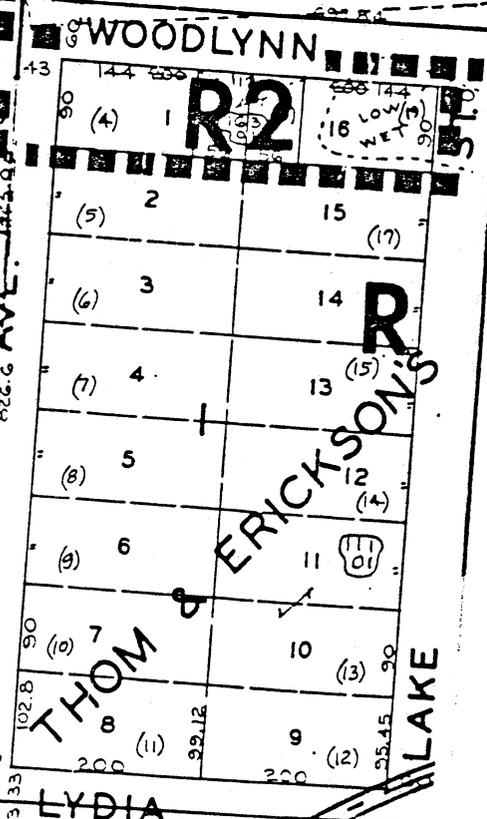
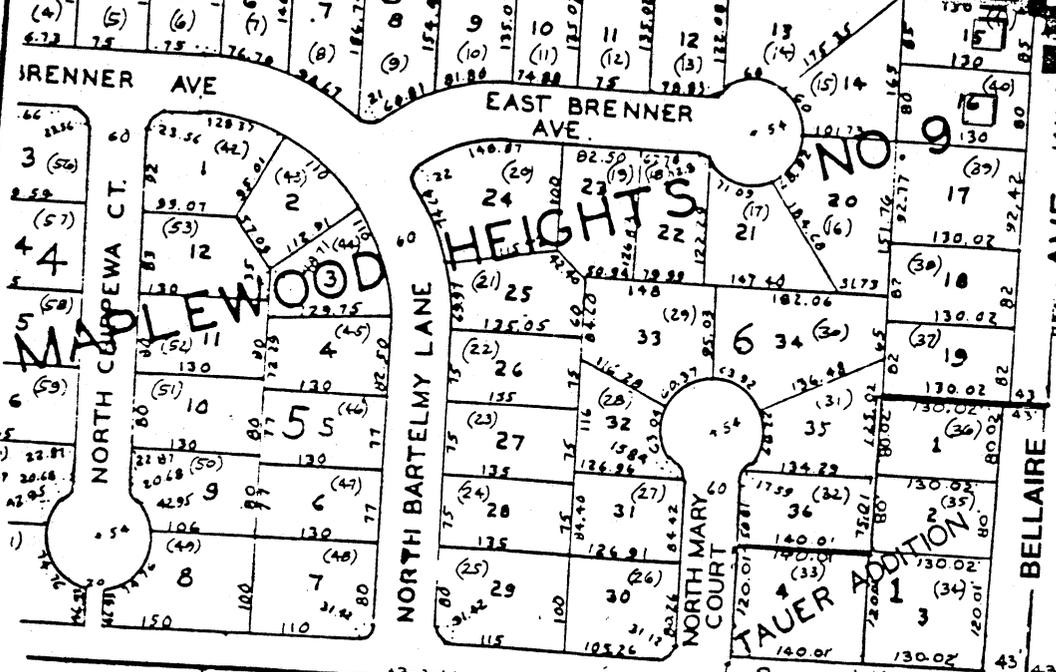
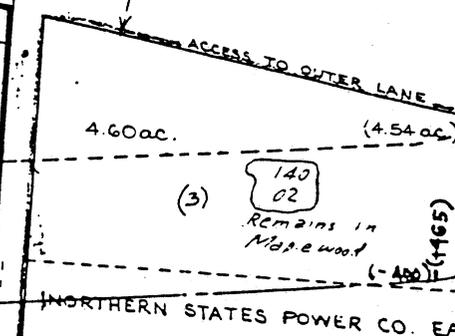
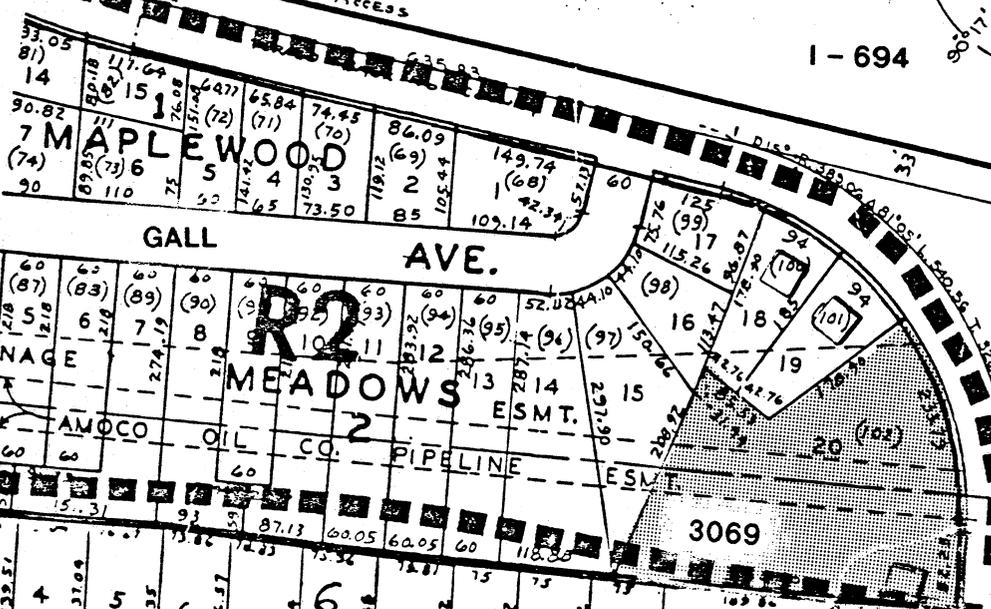
LOCATION MAP



TOWNSHIP 30 NORTH
TOWNSHIP 29 NORTH

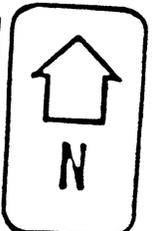
TURNER BANK & Co.
No Access

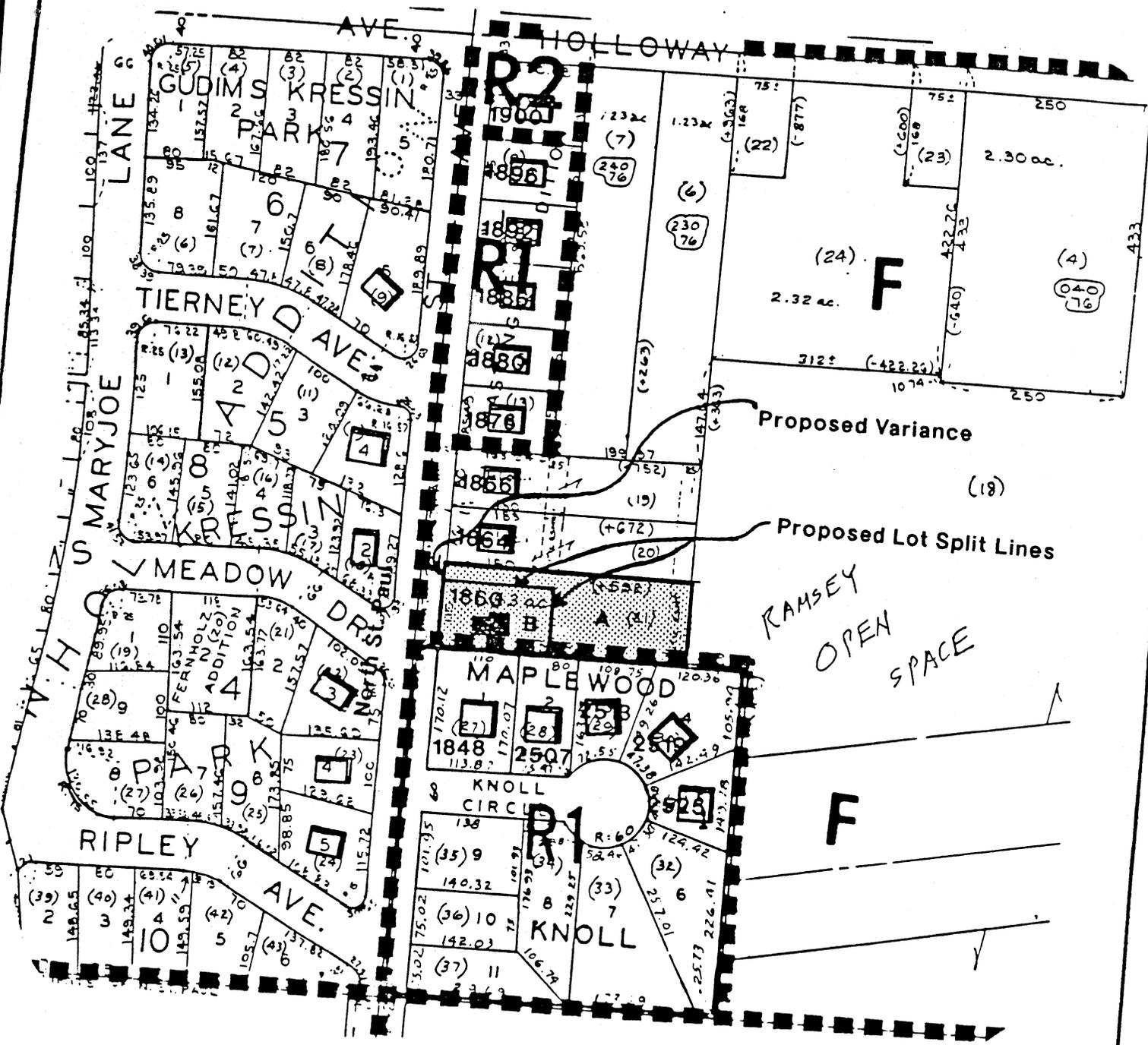
1-694



PROPERTY LINE/ZONING MAP

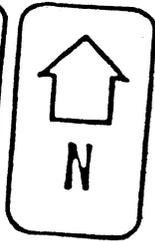
3069 BELLAIRE AVENUE

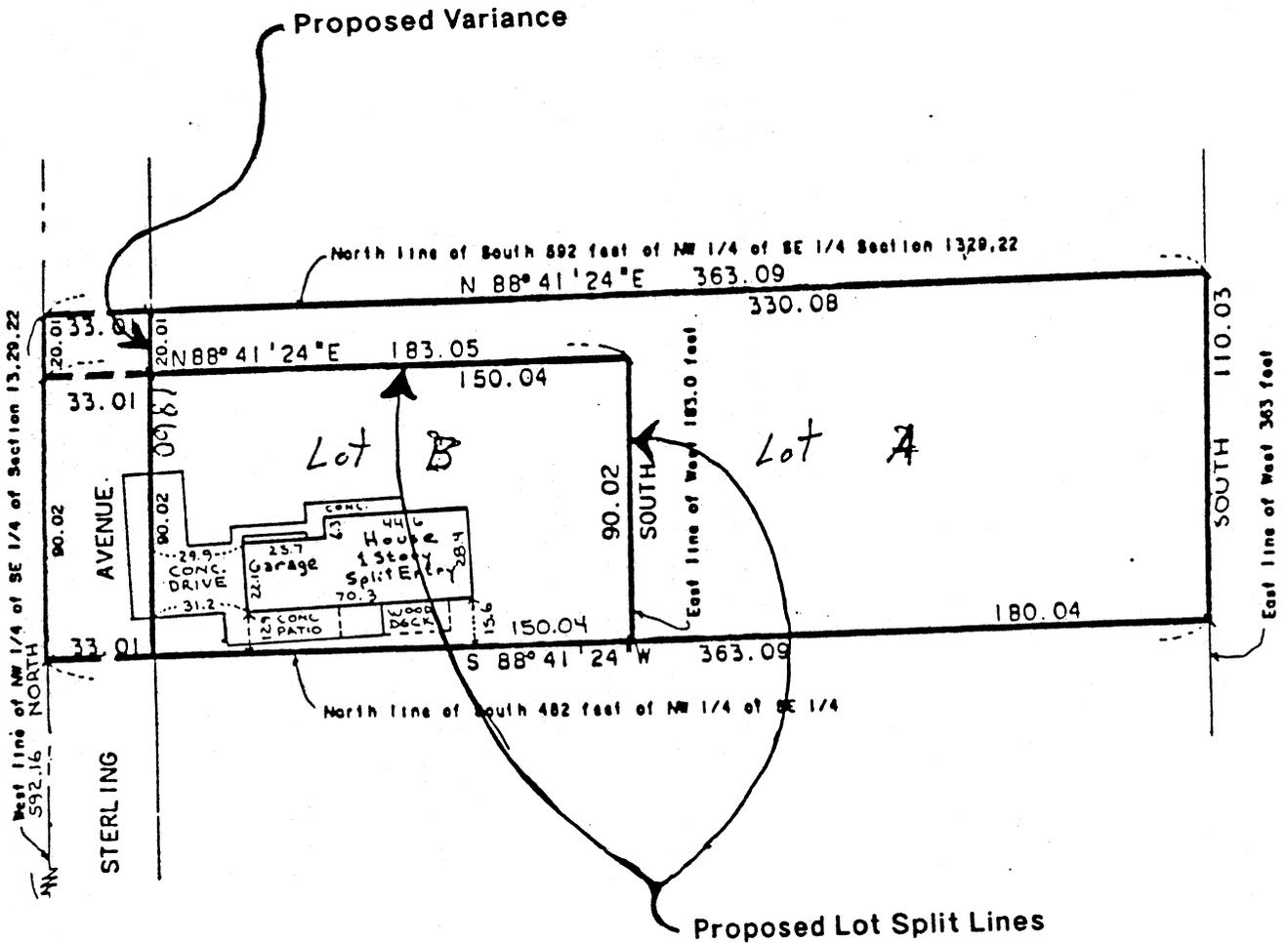




PROPERTY LINE/ZONING MAP

1860 Sterling Street

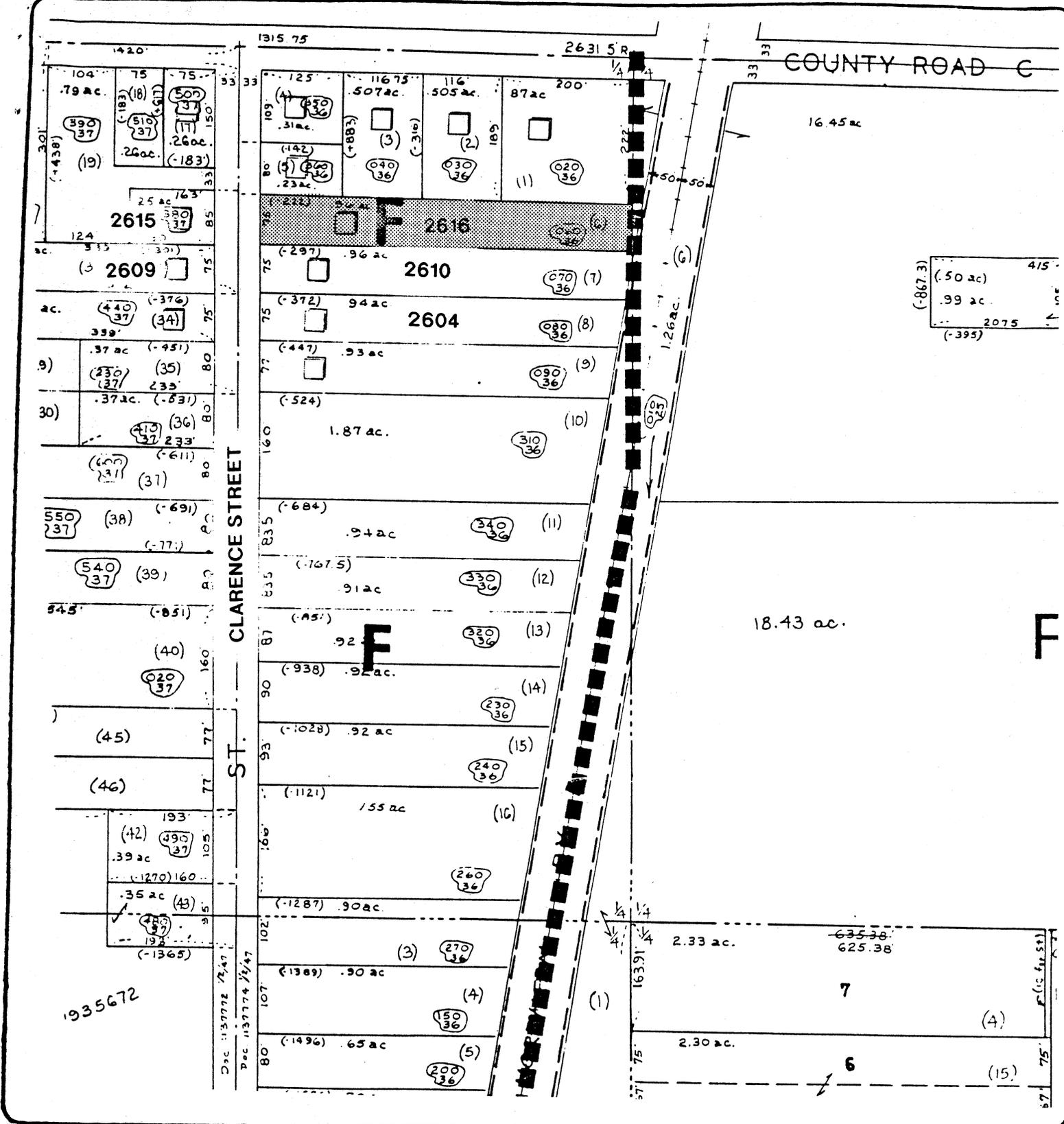




SITE PLAN

1860 Sterling Street





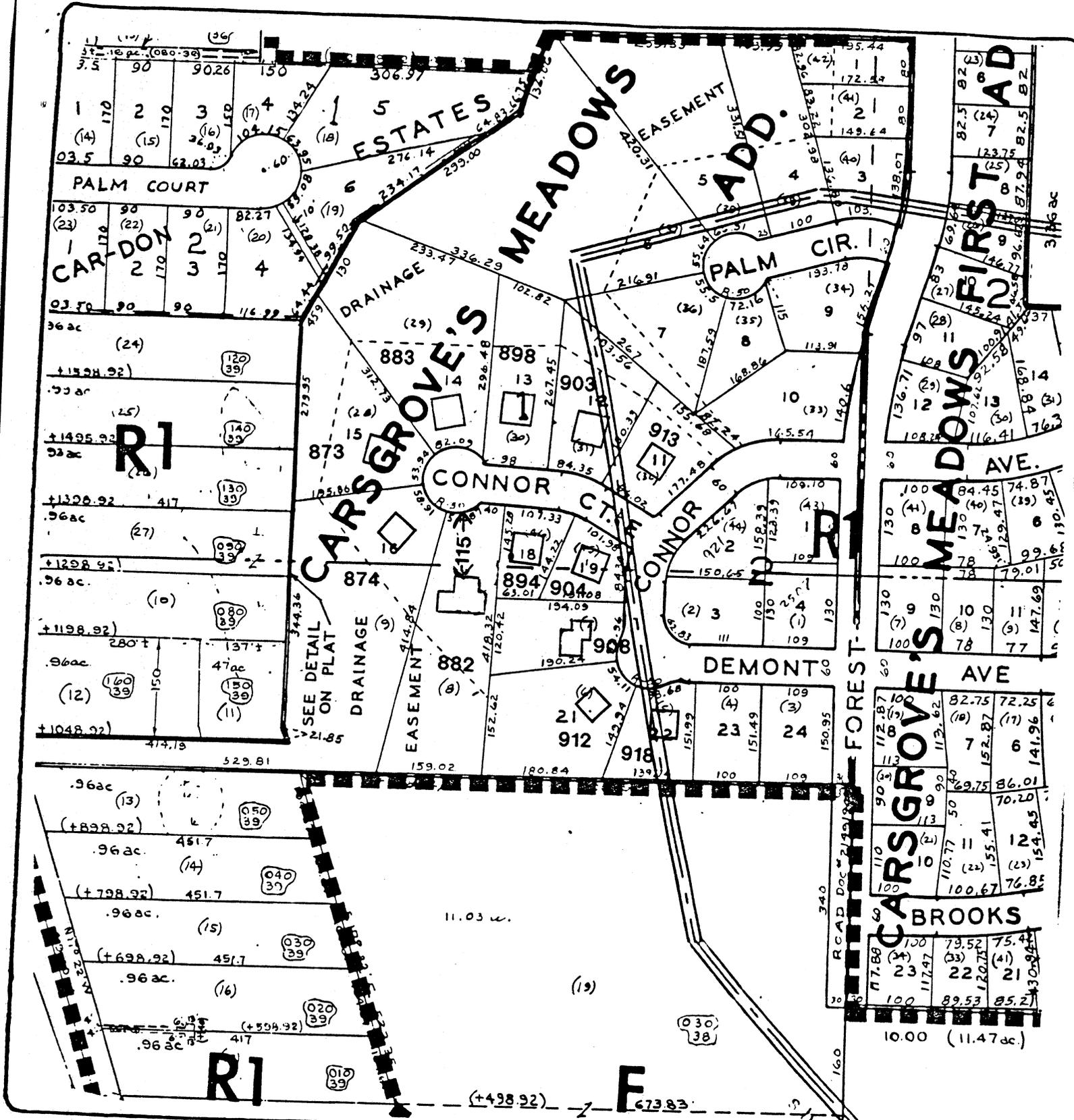
PROPERTY LINE/ZONING MAP



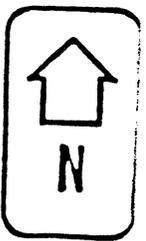
2616 CLARENCE STREET

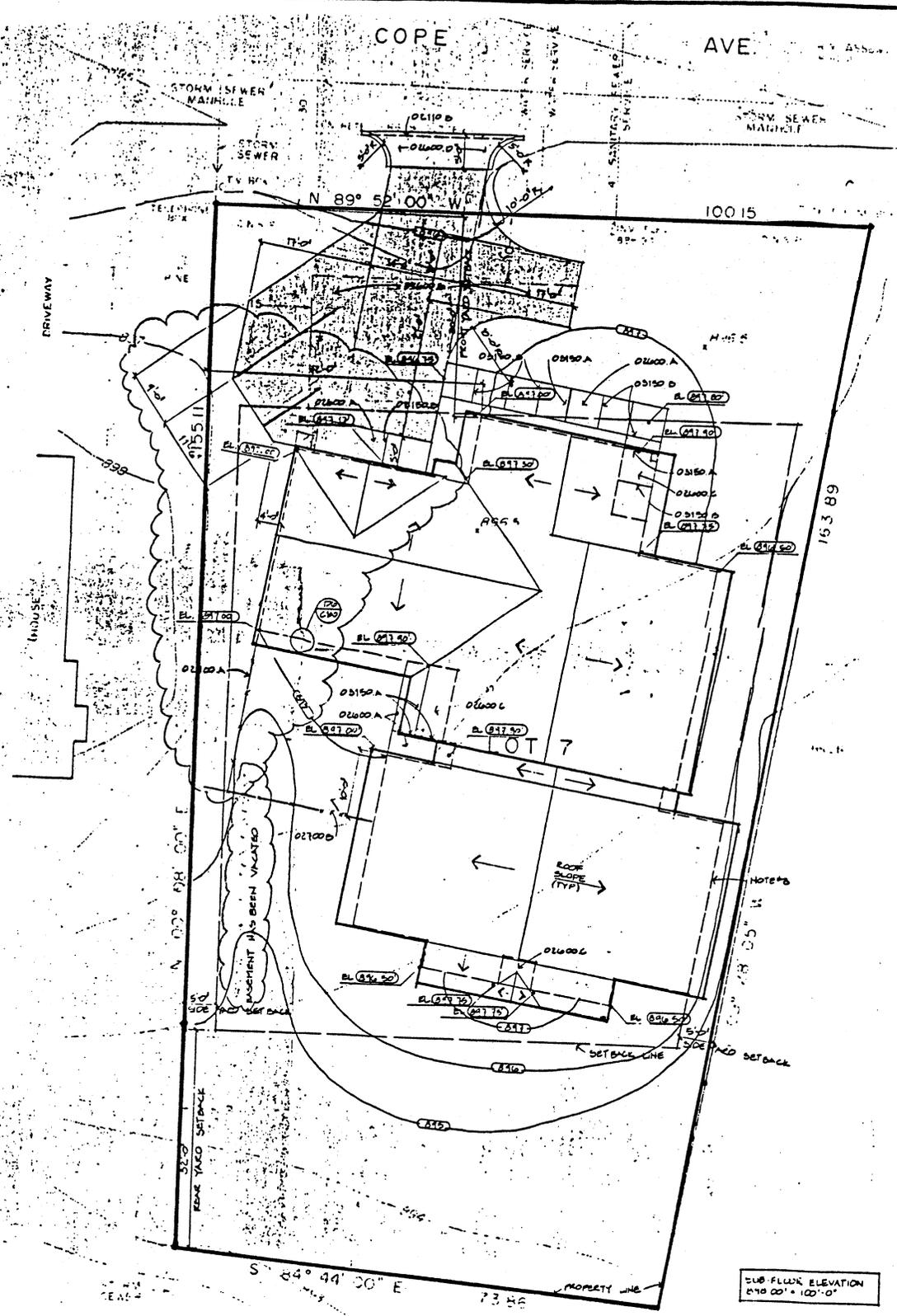


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PROPERTY LINE/ZONING MAP





SITE MAP

1362 COPE AVENUE





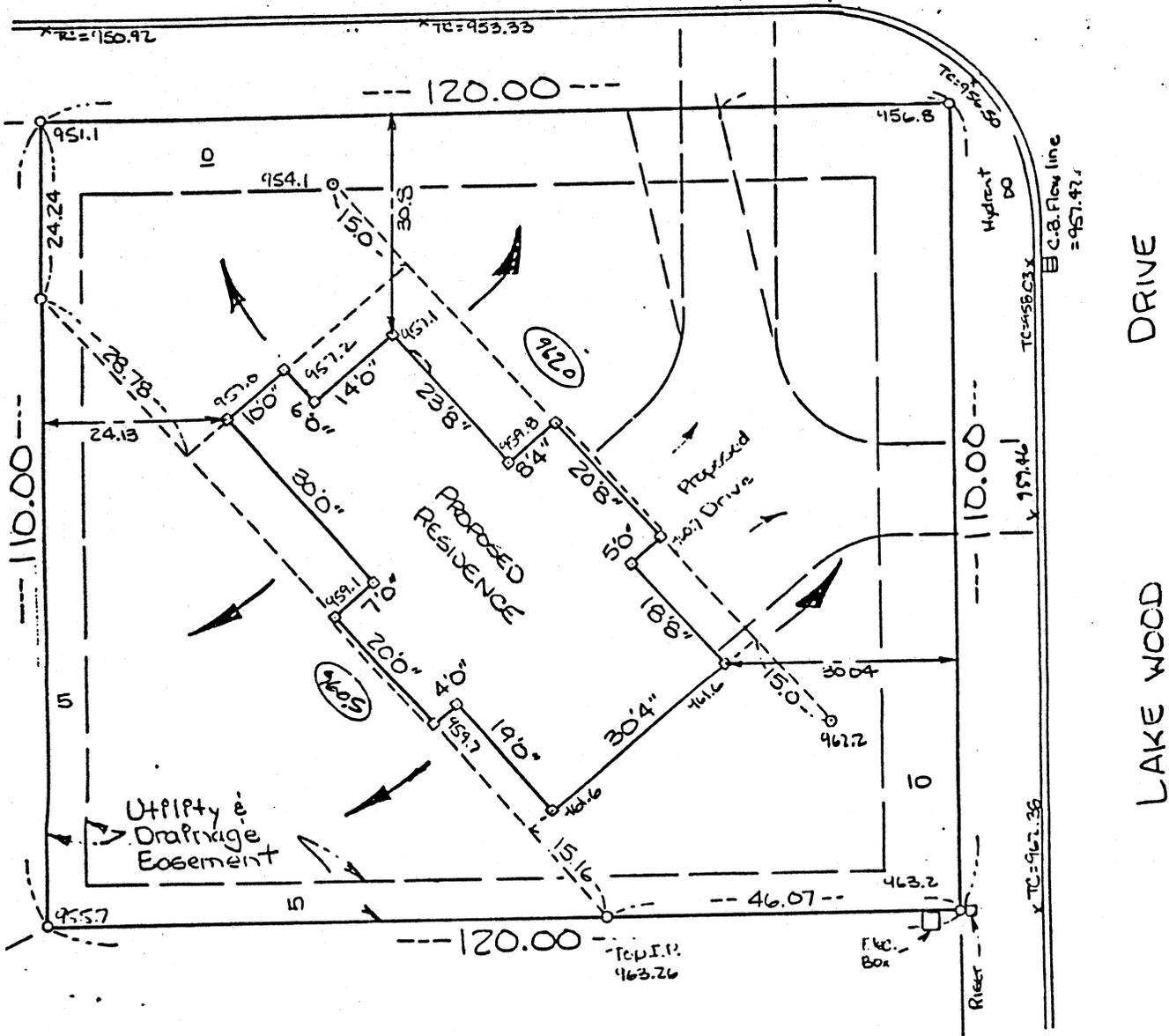
Wood Hub Set
 vation Only
 Surface Drainage
 s Proposed Elevation
 as Existing Elevation

Minneapolis, Minnesota 55428

Surveyors Certificate

Type of Building - Full Basement

OAK HEIGHTS COURT



SITE MAP

1113 SOUTH LAKEWOOD DRIVE



FRANK COURT

1100 FRANK CT.

LOT 14

LOT 15

LOT 16

1190 FRANK CT.

FRANK STREET

SITE PLAN



STAFF RECOMMENDATION
ORDINANCE NO.

**AN ORDINANCE ABOUT THE FRONT YARD SETBACK REQUIREMENTS AND
BUILDING LOCATIONS FOR SINGLE AND DOUBLE DWELLINGS**

THE MAPLEWOOD CITY COUNCIL HEREBY ORDAINS AS FOLLOWS
(additions are underlined and deletions are crossed out):

Section 1. Section 25-65 is changed as follows:

Sec. 25-65. Approval of plans.

(a) The Director of Community Development shall review all plans for single dwellings or minor construction. The City Council shall define minor construction by dollar valuations set by resolution from time to time. Before approving the plans, the Director must determine that the plans meet all City ordinances and policies, including the design standards in Section 25-70(b). The Director may send any single dwelling or minor construction to the Community Design Review Board.

(b) Anyone may appeal the director's decision to the Community Design Review Board within fifteen (15) days after the director's decision. The Board's decision shall be final, unless someone appeals it to the City Council within fifteen (15) days after the Board's decision.

(c) The Community Design Review Board shall review all other plans. The Board's decision shall be final, unless someone appeals it to the City Council within fifteen (15) days after the Board's decision. However, no person shall revise a plan that the City Council originally approved without their approval.

Section 2. Section 25-66 (1) of the Design Review Board Ordinance is changed as follows:

- (1) To review all building plans, except ~~single dwellings and their accessory structures, and except those~~ proposals excluded from review under Section 25-65. Sign applications shall be reviewed as stated in article III of Chapter 36.

Section 3. Section 36-70 in the R-1 Residence District (single family) is changed as follows:

Sec. 36-70. Front yards.

Each ~~lot in an R-1 Residence District~~ dwelling shall have a front yard setback of at least thirty (30) feet, but not more than thirty-five (35) feet, in depth. Except that, if the majority of the dwellings on the same street and within three

hundred and fifty (300) (350) feet of the lot to be built on have a predominant front yard setback, from the street that is different than thirty (30) feet, then all buildings dwellings or additions on that lot thereafter erected, altered or moved on that street shall conform to that predominant setback, as a minimum. The Director of Community Development may allow a larger setback if it would not adversely affect the drainage of surrounding properties and if any of the following conditions apply:

1. The proposed setback would not affect the privacy of adjacent homes.
2. The proposed setback would save significant natural features, as defined in section 9-188.
3. The setback is necessary to meet City, State or Federal regulations, such as the pipeline setback or noise regulations.
4. The proposed orientation is necessary for energy-saving, health or safety reasons.

The City shall consider the front yard setback as a minimum for accessory buildings. The City may approve a conditional use permit may be given to construct an a building addition, to a single dwelling when such addition, or part thereof, extends into a minimum required setback. (Code 1965, 904.040; Ord. No. 576, 1, 1-14-85)

Section 4. Section 36-78 in the R-1 district is added as follows:

Sec. 36-78. Dwelling orientation on interior lots.

The front of a dwelling on an interior lot shall face a public street and shall be allowed to be positioned up to a thirty (30) degree angle from the line of the street, unless the dwelling does not have an apparent front side. The front is generally the longer side of the building and has a front door. This section shall not apply to corner lots. The Director of Community Development may allow a different orientation if the proposed orientation would not adversely affect the drainage of surrounding properties and if any of the following conditions apply:

1. The proposed orientation would not affect the privacy of adjacent homes.
2. The proposed orientation would save significant natural features, as defined in section 9-188.

3. The proposed orientation is necessary to meet City, State or Federal regulations, such as the pipeline setback or noise regulations.

4. The proposed orientation is necessary for energy-saving, health or safety reasons.

Section 5. Section 36-81 in the RE Residence Estate District is changed as follows:

Sec. 36-81. Permitted and conditional uses.

Any permitted or conditional use permitted in an R-1 Residence District (single dwelling) is permitted in a R-E Residence Estate District. Such uses are subject to the R-1 regulations, except as stated in sections 36-82 and 36-83.

Section 6. Section 36-84.4 in the R-1S Small-Lot Single-Dwelling District is changed as follows:

Sec. 36-84.4. Front yards.

Each ~~lot dwelling~~ shall have a front yard setback of at least ~~not less than~~ thirty (30) feet, but not more than thirty-five (35) feet, in depth facing any street. Except that, if ~~if~~ ~~fifty (50) percent or more~~ the majority of the dwellings on the same street and within three hundred and fifty (350) feet of the lot to be built on have a predominant front yard setback different than from thirty (30) feet, then all buildings ~~dwellings or additions on that lot thereafter erected, altered or moved on that street~~ shall conform to that predominant front yard setback. The Director of Community Development may allow a larger setback if it would not adversely affect the drainage of surrounding properties and if any of the following conditions apply:

1. The proposed setback would not affect the privacy of adjacent homes.
2. The proposed setback would save significant natural features, as defined in section 9-188.
3. The setback is necessary to meet City, State or Federal regulations, such as the pipeline setback or noise regulations.
4. The proposed orientation is necessary for energy-saving, health or safety reasons.

The City shall consider the front yard setback as a minimum for accessory buildings. The City may approve a conditional use permit to construct a building addition, or part thereof, into a

required setback. (Code 1965, 904.040; Ord. No. 576, 1, 1-14-85) depth.

Section 7. Section 36-84.11 in the R-1S District is added as follows:

Sec. 36-84.11. Dwelling orientation.

The front of a dwelling on an interior lot shall face a public street and shall be allowed to be positioned up to a thirty (30) degree angle from the line of the street, unless the dwelling does not have an apparent front side. The front is generally the longer side of the building and has a front door. This section shall not apply to corner lots. The Director of Community Development may allow a different orientation if the proposed orientation would not adversely affect the drainage of surrounding properties and if any of the following conditions apply:

1. The proposed orientation would not affect the privacy of adjacent homes.
2. The proposed orientation would save significant natural features, as defined in Section 9-188.
3. The proposed orientation is necessary to meet City, State or Federal regulations, such as the pipeline setback or noise regulations.
4. The proposed orientation is necessary for energy-saving, health or safety reasons.

Section 8. Section 36-89 in the R-2 Double Dwelling District is changed as follows:

Sec. 36-89. Front yards.

Each lot in an R-2 Residence District dwelling shall have a front yard setback of at least not less than thirty (30) feet, but not more than thirty-five (35) feet, in depth, facing any street or road. Except that, if fifty (50) percent or more of the then existing the majority of the dwellings having frontages on the same street or road have a predominant front yard setback different from that specified herein, and within three hundred and fifty (300) (350) feet of the lot to be built on have a predominant front yard setback from the street that is different than thirty (30) feet, then all buildings dwellings or additions on that lot thereafter erected, altered or moved on that street or road shall conform to that predominant setback. The Director of Community Development may allow a larger setback if it would not adversely affect the drainage of surrounding properties and if any of the following conditions apply:

1. The proposed setback would not affect the privacy of adjacent homes.
2. The proposed setback would save significant natural features, as defined in Section 9-188.
3. The setback is necessary to meet City, State or Federal regulations, such as the pipeline setback or noise regulations.
4. The proposed orientation is necessary for energy-saving, health or safety reasons.

The City shall consider the front yard setback as a minimum for accessory buildings. front yard depth, unless a different setback is approved in writing by owners of not less than fifty-one (51) percent of all the then existing buildings on that street or road within three hundred (300) feet of the proposed building location. The City may approve a conditional use permit to construct a building addition, or part thereof, into a required setback. (Code 1965, 904.040; Ord. No. 576, 1, 1-14-85)

Section 9. Section 36-95 in the R-2 district is added as follows:

Sec. 36-95. Dwelling orientation.

The front of a dwelling on an interior lot shall face a public street and shall be allowed to be positioned up to a thirty (30) degree angle from the line of the street, unless the dwelling does not have an apparent front side. The front is generally the longer side of the building and has a front door. This section shall not apply to corner lots. The Director of Community Development may allow a different orientation if the proposed orientation would not adversely affect the drainage of surrounding properties and if any of the following conditions apply:

1. The proposed setback would not affect the privacy of adjacent homes.
2. The proposed setback would save significant natural features, as defined in Section 9-188.
3. The setback is necessary to meet City, State or Federal regulations, such as the pipeline setback or noise regulations.
4. The proposed orientation is necessary for energy-saving, health or safety reasons.

Section 10. This ordinance shall take effect upon its passage.

Passed by the Maplewood City Council on

, 1991.

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PLANNING COMMISSION
ORDINANCE NO.

**AN ORDINANCE ABOUT THE FRONT YARD SETBACK REQUIREMENTS AND
BUILDING LOCATIONS FOR SINGLE AND DOUBLE DWELLINGS**

THE MAPLEWOOD CITY COUNCIL HEREBY ORDAINS AS FOLLOWS
(additions are underlined and deletions are crossed out):

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Sec. 25-65. Approval of plans.

(a) The Director of Community Development shall review all plans for single dwellings or minor construction. The City Council shall define minor construction by dollar valuations set by resolution from time to time. Before approving the plans, the Director must determine that the plans meet all City ordinances and policies, including the design standards in Section 25-70(b). The Director may send any single dwelling or minor construction to the Community Design Review Board.

(b) Anyone may appeal the director's decision to the Community Design Review Board within fifteen (15) days after the director's decision. The Board's decision shall be final, unless someone appeals it to the City Council within fifteen (15) days after the Board's decision.

(c) The Community Design Review Board shall review all other plans. The Board's decision shall be final, unless someone appeals it to the City Council within fifteen (15) days after the Board's decision. However, no person shall revise a plan that the City Council originally approved without their approval.

Section 2. Section 25-66 (1) of the Design Review Board Ordinance is changed as follows:

- (1) To review all building plans, except ~~single dwellings and their accessory structures, and except those~~ proposals excluded from review under Section 25-65. Sign applications shall be reviewed as stated in article III of Chapter 36.

Section 3. Section 36-70 in the R-1 Residence District (single family) is changed as follows:

Sec. 36-70. Front yards.

Each ~~lot in an R-1 Residence District~~ dwelling shall have a front yard setback of at least thirty (30) feet and/or shall be set to the existing predominant setback on that street. ~~The existing predominant setback shall be determined by in-depth.~~

Except that, if the majority of the dwellings on the same street and within three hundred and fifty (300) (350) feet of the lot to be built on. The setback shall apply to all dwellings and/or additions on that lot. have a setback from the street that is different than thirty (30) feet, then all buildings thereafter erected, altered or moved on that street shall conform to that predominant setback as a minimum. The Director of Community Development may allow a deviation from the predominant setback if the proposed setback would not adversely affect the drainage of surrounding properties and if any of the following conditions apply:

1. The proposed setback would not affect the privacy of adjacent homes.
2. The proposed setback would save significant natural features, as defined in section 9-188.
3. The proposed setback is necessary to meet City, State or Federal regulations, such as the pipeline setback or noise regulations.
4. The proposed setback is necessary for energy-saving, health or safety reasons.

The City shall consider the front yard setback as a minimum for accessory buildings. The City may approve a conditional use permit may be given to construct an a building addition, to a single dwelling when such addition, or part thereof, extends into a minimum required setback. (Code 1965, 904.040; Ord. No. 576, 1, 1-14-85)

Section 4. Section 36-78 in the R-1 district is added as follows:

Sec. 36-78. Dwelling orientation on interior lots.

The front of a dwelling on an interior lot shall face a public street and shall be allowed to be positioned up to a thirty (30) degree angle from the line of the street, unless the dwelling does not have an apparent front side. The front is generally the longer side of the building and has a front door. This section shall not apply to corner lots. The Director of Community Development may allow a different orientation if the proposed orientation would not adversely affect the drainage of surrounding properties and if any of the following conditions apply:

1. The proposed orientation would not affect the privacy of adjacent homes.

2. The proposed orientation would save significant natural features, as defined in section 9-188.
3. The proposed orientation is necessary to meet City, State or Federal regulations, such as the pipeline setback or noise regulations.
4. The proposed orientation is necessary for energy-saving, health or safety reasons.

Section 5. Section 36-81 in the RE Residence Estate District is changed as follows:

Sec. 36-81. Permitted and conditional uses.

Any permitted or conditional use permitted in an R-1 Residence District (single dwelling) is permitted in a R-E Residence Estate District. Such uses are subject to the R-1 regulations, except as stated in sections 36-82 and 36-83.

Section 6. Section 36-84.4 in the R-1S Small-Lot Single-Dwelling District is changed as follows:

Sec. 36-84.4. Front yards.

Each lot dwelling shall have a front yard setback of at least not less than thirty (30) feet and/or shall be set to the existing predominant setback on that street. The existing predominant setback shall be determined by in-depth facing any street. If fifty (50) percent or more the majority of the dwellings on the same street and within three hundred and fifty (350) feet of the lot to be built on. The setback shall apply to all dwellings and/or additions on that lot. have a predominant front yard setback different than thirty (30) feet, then all buildings thereafter erected, altered or moved on that street shall conform to that predominant front yard. The Director of Community Development may allow a deviation from the predominant setback if the proposed setback would not adversely affect the drainage of surrounding properties and if any of the following conditions apply:

1. The proposed setback would not affect the privacy of adjacent homes.
2. The proposed setback would save significant natural features, as defined in Section 9-188.
3. The proposed setback is necessary to meet City, State or Federal regulations, such as the pipeline setback or noise regulations.

4. The proposed setback is necessary for energy-saving, health or safety reasons.

The City shall consider the front yard setback as a minimum for accessory buildings. The City may approve a conditional use permit to construct a building addition, or part thereof, into a required setback. (Code 1965, 904.040; Ord. No. 576, 1, 1-14-85) depth.

Section 7. Section 36-84.11 in the R-1S District is added as follows:

Sec. 36-84.11. Dwelling orientation.

The front of a dwelling on an interior lot shall face a public street and shall be allowed to be positioned up to a thirty (30) degree angle from the line of the street, unless the dwelling does not have an apparent front side. The front is generally the longer side of the building and has a front door. This section shall not apply to corner lots. The Director of Community Development may allow a different orientation if the proposed orientation would not adversely affect the drainage of surrounding properties and if any of the following conditions apply:

1. The proposed orientation would not affect the privacy of adjacent homes.
2. The proposed orientation would save significant natural features, as defined in Section 9-188.
3. The proposed orientation is necessary to meet City, State or Federal regulations, such as the pipeline setback or noise regulations.
4. The proposed orientation is necessary for energy-saving, health or safety reasons.

Section 8. Section 36-89 in the R-2 Double Dwelling District is changed as follows:

Sec. 36-89. Front yards.

Each lot in an R-2 Residence District dwelling shall have a front yard setback of at least not less than thirty (30) feet and/or shall be set to the existing predominant setback on that street. The existing predominant setback shall be determined by in depth facing any street or road. if fifty (50) percent or more of the then existing the majority of the dwellings having frontages on the same street or road have a predominant front yard setback different from that specified herein, and within three hundred and fifty (300) (350) feet of the lot to be built

on. The setback shall apply to all dwellings and/or additions on that lot. have a setback from the street that is different than thirty (30) feet, then all buildings thereafter erected, altered or moved on that street or road shall conform to that predominant The Director of Community Development may allow a deviation from the predominant setback if the proposed setback would not adversely affect the drainage of surrounding properties and if any of the following conditions apply:

1. The proposed setback would not affect the privacy of adjacent homes.
2. The proposed setback would save significant natural features, as defined in Section 9-188.
3. The proposed setback is necessary to meet City, State or Federal regulations, such as the pipeline setback or noise regulations.
4. The proposed setback is necessary for energy-saving, health or safety reasons.

The City shall consider the front yard setback as a minimum for accessory buildings. front yard depth, unless a different setback is approved in writing by owners of not less than fifty-one (51) percent of all the then existing buildings on that street or road within three hundred (300) feet of the proposed building location. The City may approve a conditional use permit to construct a building addition, or part thereof, into a required setback. (Code 1965, 904.040; Ord. No. 576, 1, 1-14-85)

Section 9. Section 36-95 in the R-2 district is added as follows:

Sec. 36-95. Dwelling orientation.

The front of a dwelling on an interior lot shall face a public street and shall be allowed to be positioned up to a thirty (30) degree angle from the line of the street, unless the dwelling does not have an apparent front side. The front is generally the longer side of the building and has a front door. This section shall not apply to corner lots. The Director of Community Development may allow a different orientation if the proposed orientation would not adversely affect the drainage of surrounding properties and if any of the following conditions apply:

1. The proposed orientation would not affect the privacy of adjacent homes.
2. The proposed orientation would save significant natural features, as defined in Section 9-188.

3. The proposed orientation is necessary to meet City, State or Federal regulations, such as the pipeline setback or noise regulations.

4. The proposed orientation is necessary for energy-saving, health or safety reasons.

Section 10. This ordinance shall take effect upon its passage.

Passed by the Maplewood City Council on _____, 1991.

go\memo25.mem

The motion was not voted on since it was noted that the hearing had not been opened to the public.

The hearing was opened to the public, but there were no comments.

Commissioner Cardinal moved the Planning Commission recommend that the Council approve the 1992-1996 Capital Improvement Program as presented by the city manager, Mike McGuire.

Commissioner Sigmundik seconded Ayes--Axdahl, Cardinal, Fischer, Frost, Gerke, Martin, Rossbach, Sigmundik, Sinn

The motion passed.

5. UNFINISHED BUSINESS

a. Code Change: Single and Double Dwellings

Secretary Olson presented the staff report for reconsideration by the Commissioners, since this item was tabled at the last meeting in order to discuss drainage issues with the city engineer.

Ken Haider, Director of Public Works, said drainage and site elevation plans are reviewed at the time a building permit application is received.

Commissioner Rossbach suggested that the front yard setback be established to at least 30 feet and/or shall be set to the existing predominant setback to be determined by the majority of the existing setbacks on the same street and within 350 feet of the lot to be built on. Mr. Rossbach suggested the orientation of the house on the lot should include the wordage that the front of the dwelling face the street and be allowed to be positioned up to a thirty degree angle from the line of the street. Mr. Rossbach suggested that the front of the dwelling be defined as the side which has the front door and a higher grade of materials, which is usually designated on the front of the dwelling.

Commissioner Fischer said she is not in agreement with Commissioner Rossbach's wordage regulating the front yard setback using the majority of the existing predominant setbacks, because many times there is not a predominant setback or there may be a better drainage pattern established if the dwelling is not set at the same setback as the existing homes.

Commissioner Rossbach moved the Planning Commission recommend adoption of the ordinance regulating front yard setback requirements and building locations for single and double dwellings, that each dwelling shall have a front yard setback of

at least thirty (30) feet and/or shall be set to the existing predominant setback on that street. The existing setback shall be determined by the majority of the dwellings on the same street and within 350 feet of the lot to be built on. The setbacks shall apply to all dwellings and additions on that lot. The Director of Community Development may allow deviation from the predominant setback if it would not affect the drainage of surrounding properties and if any of the following conditions apply:

1. The proposed setback would not affect the privacy of adjacent homes.
2. The proposed setback would save significant natural features as defined in Section 9-188.
3. The setback is necessary to meet City, State or Federal regulations, such as the pipeline setback or noise regulations.

I would further recommend that we reword the dwelling orientation ordinance to read: the front of a dwelling shall face a public street and will be allowed to be positioned up to a thirty degree angle from the line of the street, unless the dwelling does not have an apparent front side. The front is generally the longer side of the building and has a front door. The Director of Community Development may allow a different orientation if it would not adversely affect the drainage of surrounding properties and if any of the following conditions apply:

1. The proposed orientation would not affect the privacy of adjacent homes.
2. The proposed orientation would save significant natural features as defined in Section 9-188.
3. The orientation is necessary to meet City, State or Federal regulations, such as the pipeline setback or noise regulations.

Commissioner Martin seconded

Commissioner Fischer questioned whether permitting a larger setback for health or safety reasons should be included in the above motion, which could allow a larger setback from the street for a turnaround driveway on a high traffic street.

Commissioner Rossbach moved to amend the motion, adding to the front yard setback conditions:

4. The setback is necessary to allow for energy-saving, health and safety reasons;

and excluding corner lots from the conditions of the dwelling orientation part of the ordinance.

Commissioner Martin seconded

The Commissioners discussed whether this ordinance should be reconsidered at the next meeting after the above revisions are made. The consensus was to vote on the amended motion at this time.

Ayes--Axdahl, Cardinal, Frost, Gerke, Martin, Rossbach, Sigmundik, Sinn

Abstentions--Fischer

The motion passed.

Commissioner Fischer said she abstained from voting because she would prefer to review the revised document before voting.

6. NEW BUSINESS

- a. Conditional Use Permit Revision: 1255 Cope Avenue (Northern Hydraulics)

Ken Roberts, Associate Planner, presented the staff report. A representative was present from Northern Hydraulics, but had no comments. There were no comments from the public on this proposal.

Commissioner Rossbach said the area by the loading dock has no grass and this area should be addressed as well. The representative of Northern Hydraulics said there is a problem with the sprinkler system they are in the process of resolving and, when that is accomplished, they will sod this area as well as the old entrance area.

Mr. Roberts said the City is holding escrow for completion of site work and a portion of that money is for sod.

Commissioner Gerke said there are many weeds on this site which make it unsightly and it should be cleaned up. Commissioner Gerke also objected to any change in the hours of operation on Sundays.

MEMORANDUM

TO: City Manager
FROM: Director of Community Development
SUBJECT: **Planned Unit Developments**
DATE: June 12, 1991

The Planning Commission has been discussing changes to the planned unit development ordinance. I have attached a report from a subcommittee of the Commission that met to study this issue. I had previously mailed a copy of this report to the Council. The Commission decided not to proceed any further unless the Council is interested in making changes.

go/pud (5.1)

MEMORANDUM

TO: Planning Commissioners
FROM: PUD Subcommittee
SUBJECT: Planned Unit Developments
DATE: May 2, 1991

INTRODUCTION

On April 26, 1991 Lorraine Fischer, Geoff Olson and Will Rossbach met in a subcommittee meeting. This meeting was to discuss the updating and changing of the Planned Unit Development (PUD) ordinance. We tried to first identify what problems would require a change in the existing ordinance. We then discussed what changes the City would need make to solve the problems.

DISCUSSION

The Problem

In Maplewood most the land which developers have built on was easy to develop. We are starting to develop some of the land that falls into the problem group. During our meeting, we identified three problem areas that we believe a revised PUD ordinance could serve. They are:

1. Land with natural features that the City should require owners to preserve. Among these features are wetlands, drainage areas, steep slopes, and mature trees of value. Several areas in the south leg of the City are examples of this.
2. Transitional land, or land that is between incompatible zonings. That is, land between BC zoning and R-1 zoning, or land between a freeway corridor and residential.
3. Land that has unique development challenges. This could include land which has a configuration which would make development too expensive using existing zoning or construction standards. This might also include areas where a wide buffer area would be preferable to maintaining standard zone setbacks or density. The Oswald property is an example of this.

The first problem area (natural features), is one that is in front of us almost daily. It is also important because of new legislation dealing with wetlands and environmental issues in general. The trend is towards the preservation of natural features, and the City should be looking to further strengthen our control in this area.

Transitional land is an on-going problem. There is land in Maplewood that falls into this area now. As the City rezones

some of the remaining commercial corridor or as they develop, we will create new areas of transition. This is difficult land to zone with traditional zonings. This is because these areas have commercial or industrial uses on one side and residential uses on the other side. Carefully planned, compatible projects as needed to bridge these areas and keep everyone happy.

Land with unique development challenges is admittedly somewhat of a catch-all phrase. There is land that comes before us that presents its own problems and challenges. We feel that the City could handle these sites better with a planning tool that has some flexibility for design

The Solution

After looking at the problem, we thought that it may not be necessary to start over to solve it. Maplewood has on the books an overlay zoning district and an existing PUD ordinance. We would use these existing planning tools with some changes to solve the problems.

The first step to take is to designate any land that the City feels the owner should develop with a PUD. This could be done by rewriting our existing overlay zoning district to make it an overlaying PUD zone. The City would then apply this zoning to specific properties. The original, underlying zone would still be in place for the property. The City, however, would, in effect, change the property's zoning with the overlay zone. This would be similar in application to the shoreland district. The overlay district would impose additional conditions that the owner or developer would have to meet to develop the property. One of those conditions would be that development would have to be a PUD.

Maplewood's existing PUD is a conditional use permit. We can use the existing ordinance with some changes. First, the City should remove the current five-acre requirement. The acreage requirement could be a problem, particularly with transitional land. This is because many undeveloped properties in Maplewood are less than five acres. If one of the City's goals is to preserve natural features, the minimum acreage requirement in the PUD ordinance could cause the City to lose natural features. This is because the City could not use the PUD ordinance on properties that are less than five acres.

Second, we should remove the requirement in the PUD ordinance for two or more uses or buildings. Most of the transitional land will only have one building and one use. If the City can condition and control this land, we cannot have this requirement. Furthermore, if we are going to remove the five-acre requirement, we will be dealing with smaller areas. Requiring two uses or

buildings on the smaller properties might conflict with preserving natural features.

Another important change is about the PUD review process. The City should make the PUD review process a clear, step-by-step process. This should involve the city planning staff, the Planning Commission, and possibly the City Council in the site development from the start. This will help both the developer and the Commission. The developer will not have to invest large sums of money in a plan to have it ripped apart by the staff or Commission. It would also allow the Commission to be a part of the site planning process instead of reacting to the developer's ideas.

One additional thought is about the movement toward leaving more open space in the City. The current budget problems will make it difficult for the City to buy land for open space. Most individuals are not willing to pay additional money for this purpose either. The clustering of developments was the first main use of PUD's in zoning by the City and developers. This was done by concentrating the construction part of the development on part of a property. The developer would leave the remaining land as open space. This could be a compromise that all could live with.

Conclusion

These steps are just an outline to updating our PUD ordinance. It is going to take some real thought and effort on everyone's part to make sure we get as much insight into this as possible. There may be additional reasons for making this change, or additional changes that the City should make to the existing ordinances. This, I hope, will help to focus everyone on the task at hand.

kr\rossbac2.mem

MEMORANDUM

TO: City Manager
FROM: Director of Community Development
SUBJECT: Conditional Use Permits for Commercial Zoning
Districts
DATE: June 13, 1991

The Council tabled this item to a Council-Manager meeting. The Planning Commission asked to have it on the agenda for the joint meeting.

MEMORANDUM

TO: City Manager
FROM: Ken Roberts, Associate Planner
SUBJECT: Conditional Use Permits for Commercial Zoning
Districts
DATE: May 7, 1991

INTRODUCTION

The City Council directed Staff to develop criteria for commercial sites adjacent to residential sites. The Council suggested requiring a conditional use permit for commercial uses within 350 feet of residential districts.

BACKGROUND

July 22, 1985: The City Council made a change to the M-1 (light manufacturing) zoning district. This change requires a conditional use permit for all buildings and exterior uses, except parking, within 350 feet of a residential district. Before this change, the distance standard was 200 feet.

February 25, 1991: The City Council considered a change for the zoning of the vacant lot on the north east corner of White Bear and Radatz Avenues. The applicant requested a change from LBC (limited business commercial) to BC-M (business commercial modified). This is so the owner could construct a commercial building and operate a printing business. The Council tabled the decision on the zone change until May 13, 1991. This is so staff could develop criteria for commercial sites next to residential areas.

DISCUSSION

Requiring a conditional use permit for uses in some commercial districts near residential areas should be a benefit to the City and the nearby residents. The conditional use permit gives the City more control over the types of uses which might occur on a site. The CUP also gives the City more control about the construction and operation of uses on a site.

The City wrote and intends several of the commercial zoning districts to be compatible with nearby residential zones. The NC (neighborhood commercial), CO (commercial office) and LBC (limited business commercial) are examples of this. I discuss them below.

NC (Neighborhood Commercial)

Section 36-126 of the City Code lists the intent of the NC (neighborhood commercial) district. It says, "the intent of this district is to preserve land for the use of businesses that are

compatible and adjacent residential land uses. Uses are limited to offices and smaller retail uses that cater to convenience shopping."

CO (Commercial Office)

Section 36-136 gives the purpose and intent of the CO (commercial office) district. It says, "the CO district is established primarily to provide areas for the development of professional and administrative offices, related uses together with supportive, low intensity commercial uses in locations in close proximity to residential areas . . ." It also says, "this district is intended to be located primarily on heavily traveled streets or adjacent to commercial or industrial districts, and is designed to lessen the impact of these uses on residential areas."

LBC (Limited Business Commercial)

The City approved the LBC (limited business commercial) district so it is compatible with nearby residential uses. Offices, medical or health clinics, and day care centers are the only uses that the City allows in the LBC district.

Requiring a conditional use permit for any use in the NC, CO or LBC districts within 350 feet of a residential district is not necessary. These three districts provide a balance of possible commercial land uses while giving some protection to nearby residential properties.

BC-M (Business Commercial-Modified)

The City added the BC-M (business commercial modified) to the City Code in 1982. Section 36-155 of the City Code gives the intent of the BC-M zoning district. It says "the BC(M) district is intended to provide for the orderly transition between more intensive commercial uses and low or medium density residential areas. Restrictions on, but not limited to, building height, setbacks, orientation, parking lot location, or location of building entrances may be required to ensure compatibility with abutting residential uses." As the intent says, the City intended the BC-M district to be near residential areas.

The commercial uses in the BC-M zoning district are fairly broad. The City should not require all proposed uses in the BC-M district within 350 feet of a residential district to have a conditional use permit. All the property that the City has zoned BC-M is next to residentially-zoned property. Thus, any proposed development or changes to an existing project in an BC-M district would need a conditional use permit if the City adopts the 350-foot rule. The Council should change the permitted or

conditional uses in the BC-M district if they have concerns about the possible land uses in it.

BC (Business Commercial)

The BC (business commercial) zoning district is the City's most permissive commercial zoning district. The City allows a wide-range of commercial uses in the BC zoning district.

SC (Shopping Center)

The SC (shopping center) zoning district also allows many types of commercial land uses. The Plaza 3000 Shopping Center is the only place in the City that has this zone.

350-foot Rule

Requiring a conditional use permit for all uses within 350 feet of residential areas in the BC (business commercial) and SC (service commercial) districts is appropriate. The permitted uses in these commercial zoning districts could have a negative effect on nearby residential properties. The conditional use permit review and approval process should help to lessen any negative impacts on the residential properties. The Council must decide, however, if the "350-foot" rule is necessary in the NC, CO, LBC and BC-M zoning districts.

The attached code amendment has several changes to the permitted and conditional uses in the six commercial zoning districts. I have updated the types of permitted and conditional uses in each district to reflect current land uses and business activities. I have also added the "350-foot rule" in the conditional use portion of each zoning district. The Council must decide if there is a need for this rule in every commercial zoning district.

The City has used the conditional use permit requirement for commercial developments near residential areas to regulate several items in recent projects. These include approving specific site and landscaping plans, having a one-year review of the development and the types of uses in a development. The City has also used conditional use permits to regulate the hours of operation, and to limit outside storage, outside activities and outside lighting in developments.

Setbacks from residential property

The design standards that the City adopted in 1990 has minimum setback requirements for all buildings except single- and double dwellings. They include a setback of 50 feet from property that has a residential use or is shown on the City's land use plan for residential use. The City Code requires a developer to increase

this setback to a maximum of 75 feet for buildings exceeding 25 feet in height. The Code also requires an increased setback for those buildings with an exterior wall with more than of 2000 square feet of area that faces a residentially-zoned property. These setback requirements prevent developers from placing buildings near a property line that they share with a residential property. This helps to protect the residential property from the intrusiveness of a commercial building on an adjoining property. The Code does allow the City Council to approve a conditional use permit for additions within a required setback subject to findings for approval. A copy of the ordinance is attached as the last page of this memo.

Community Design Review Board

A conditional use permit is not needed to regulate the design of commercial buildings or site plans. The Community Design Review Board already has this authority. Any decision by the Board can be appealed to the Council.

RECOMMENDATION

Decide whether to make no changes, approve the attached ordinance for some commercial districts or approve the ordinance for all commercial districts. If the Council decides on an ordinance change, they should refer it the Planning Commission.

kr\memo27.mem

Attachments

1. Code Amendment
2. Setback Ordinance

ORDINANCE NO.

AN ORDINANCE ABOUT LAND USES IN THE COMMERCIAL ZONING DISTRICTS

THE MAPLEWOOD CITY COUNCIL HEREBY ORDAINS AS FOLLOWS
(Additions are underlined and deletions crossed out):

Section 1. Section 36-127, in the NC Neighborhood Commercial District, is changed to read as follows:

Sec. 36-127. Permitted uses.

The City only permits the following uses in the NC district if the floor area of all buildings in an NC zone does Any of the following uses, provided that the floor area of all buildings in any one NC zone shall not exceed three thousand (3,000) square feet:

- (1) Bakery or candy shop which produces for the production of goods sold only at retail on the premises.
- (2) Beauty ~~parlor~~ or barber shop, tanning salon or personal care business barbershop.
- (3) Dry cleaner or laundromat. The owner or operator shall control all odors so nearby residents cannot detect them. ~~All odors must be controlled so as not to be noticeable to adjacent residents.~~
- (4) Offices, medical, health related or dental clinics.
- (5) Repair shop, except for motorized equipment and vehicles. No work shall be performed outside ~~of the~~ building.
- (6) Drug, hardware or grocery store.
- (7) Studio.
- (8) Tailor or sewing dressmaker ~~shop.~~
- (9) Veterinary ~~or grooming~~ clinic where there are no outside kennels or storage.
- (10) Video tape or home electronic games sales or rental shop rentals.
- (11) Printing, publishing or photocopying shop.
- (12) Pet store or pet grooming shop where there are no outside kennels or storage.

Section 2. Section 36-129 in the NC Distric is changed to read as follows:

Sec. 36-129. Conditional uses ~~(requires council approval).~~

~~Any of the following uses, provided that the floor area of all buildings in any one NC zone shall~~ The City Council may issue conditional use permits for the following uses in the NC (neighborhood commercial) zoning district if the floor area of all buildings in any one NC zone do not exceed eight thousand (8,000) square feet:

- (1) Any permitted use listed in section 36-127.
- ~~(2) Club, lodge or assembly hall.~~
- (3) Private school, daycare center or community service use.
- ~~(4) Taxi stand or bus stop.~~
- (4) (5) Restaurant, where there are no drive-up order windows or serving food to patrons in their automobiles. All cooking odors must be controlled so as to not be noticeable to adjacent residents. The owner or operator shall control all cooking odors so nearby residents cannot detect them.
- (5) (6) Any other use that the City Council finds is ~~Other uses, where the city council finds that the use would be compatible with the neighborhood and the intent of this division.~~
- (6) Any building or exterior use, except parking, within three hundred fifty (350) feet of a residential building.

Section 3. Section 36-137 in the CO Commercial Office District is changed to read as follows:

Sec. 36-137. Permitted uses.

The City only permits the following land uses in the CO district: In a commercial office district, unless otherwise provided in this chapter, no building or use of land shall be erected, structurally altered or expanded, except for one or more of the following uses:

- ~~(a) Professional offices;~~ Offices.
- ~~(b) Administrative offices;~~
- (b) (e) Medical, health-related or and dental offices and clinics.

~~(c) (d) Financial offices, stock or investment brokerages, banks and savings and loans, credit unions. real estate offices and other general business offices.~~

~~(e) Related commercial uses:~~

~~Incidental services, such as restaurants, pharmacies and retail sales which serve primarily the occupants and patrons of the permitted office use, when conducted within the same building. Related commercial uses shall not exceed twenty-five percent of the total net floor area of the building.~~

~~(d) The City may allow restaurants, pharmacies or retail sales in the CO district, subject to the following conditions:~~

~~(1) These uses must be in the same building as an office use.~~

~~(2) The floor area of all such uses in an office building shall not exceed twenty-five percent of the gross floor area of the building.~~

~~(3) These uses shall primarily serve the occupants and patrons of the building in which they are located.~~

~~(f) Supportive commercial uses:~~

~~The following free standing uses may be permitted upon approval by the city council of a special exception: Specialty or gift stores, office supply, ticket agency, travel service, opticians and similar uses. The uses provided for in this paragraph may be the sole use of a particular property or building, or may be combined with any permitted or conditional uses allowed in this district, upon compliance with the necessary special exception or special use procedures. (Ord. No. 380, 101, 1-16-75)~~

Section 4. Section 36-138 in the CO district is changed to read as follows:

Sec. 36-138. Conditional uses.

The City Council may issue conditional use permits for the following uses in the CO District: The following uses are permitted in a CO District subsequent to review and approval of a special use permit:

(a) Medical and dental laboratories. Such laboratories shall not including the manufacturing of manufacture

pharmaceutical or other products for general sales and distribution.

~~(b) Public and quasi-public uses appropriate to the district, such as hospitals, convalescent hospitals, and professional, business and technical schools;~~

~~(c) Public utility and service buildings, structures and uses appropriate to the district.~~

~~It is the intent of this paragraph to provide for uses which supply public or quasi-public services which are of a substantially automated nature or require only periodic maintenance, such as water pumping stations, telephone relay or switching facilities and similar uses. It is not intended that office facilities, maintenance dispatching depots or any use which generates regular daily use or traffic would fall within this definition.~~

~~(d) Restaurants:~~

~~In keeping with the intent and purpose of the CO District, a restaurant use does not include a drive-in or any restaurant commonly referred to as "fast food" or "franchise" wherein the emphasis is on automobile-oriented clientele or where any sizeable proportion of the total activity is involved in takeout orders intended for consumption other than within the building. Questions of the applicability of this definition to an individual proposal shall be reviewed by the planning commission, which shall forward a recommendation to the city council for final determination.~~

(b) Restaurant, where there are no drive-up order windows or serving of food to patrons in automobiles.

~~(c) Any other office use which is determined to be the same general character as the above uses. (Ord. No. 380, 102, 1-16-75)~~

(c) Specialty or gift store.

(d) Office supply store.

(e) Ticket agency or travel service or agency.

(f) Optical, hearing or other medical or dental instrument sales.

(g) Any building or exterior use, except parking, within three hundred fifty (350) feet of a residential building.

Section 5. Section 36-151 in the BC District is changed to read as follows:

Sec. 36-151. Use regulations.

(a) Permitted uses. ~~Only the following uses are permitted by right in a BC district: The City only permits the following uses in the BC district:~~

- (1) A dwelling unit for one family in combination with a business use.
- (2) Hotel, motel or tourist cabins.
- (3) Retail store, restaurant, office, medical, health-related or dental clinics, agency, performing or creative arts studio, bank, savings and loan, credit union, personal service, craftsmen's shop or mortuary.
- (4) Automobile sales agency that sells new cars or new and used cars.
- (5) ~~Newspaper publishing~~ Publishing, photocopying or job printing establishment.
- (6) Theater.
- (7) Self-service laundry or dry cleaner.
- (8) Bakery or candy confectionery shop, which produces goods for the production of articles to be sold only at retail on the premises.
- (9) Parking lot as a principal use.
- (10) Motor vehicle accessory installation center.
- (11) CNG (compressed natural gas) and LPG (liquid petroleum gas) dispensing facilities, ~~except~~ The City exempts those whose primary purpose is to produce power and light for nonvehicle uses, such as at 3M, NSP's facility on Century Avenue, or for temporary use on construction sites. Tanks shall not exceed a water capacity of one thousand five hundred (1,500) gallons. The owner and operator shall follow the licensing requirements in Chapter 17.3 shall be complied with.
- (12) Video tape or home electronic game sales or rental shop.
- ~~(12) Any use of the same general character as any of the above uses, provided that no use which noxious or hazardous shall be permitted.~~

(13) Repair shop, except for motorized equipment and vehicles. The owner or operator shall not perform work outside the building.

(14) Any use that the City Council determines to be of the same character as any of the above uses. Such use shall not be noxious or hazardous.

~~(b) Conditional uses. The following uses are permitted, subsequent to approval of a conditional use permit:~~

(b) The City Council may issue conditional use permits for the following uses in the BC district:

~~(1) All uses permitted in the R-3 district.~~

(1) All uses that the City permits in the R-3 district.

(2) Processing and distributing station for milk or other beverages.

(3) An indoor place ~~Place~~ of amusement, recreation or assembly, other than a theater, ~~when conducted indoors.~~

(4) The exterior storage, display, sale or distribution of goods or materials, but not including a junkyard, salvage automobile, or other wrecking yard. The City may require screening of such uses.

(5) Used car lot.

(6) Automobile rental or leasing facility.

(7) ~~(6)~~ Metal storage buildings, subject to the City Council determining that the building meets the findings for a conditional use permit and the findings below: provided that in addition to the general findings required for a conditional use, the following additional findings must be made:

a. The building would be substantially screened so as to be eighty (80) percent opaque as viewed from streets or land that is residentially developed or designated on the city's land use plan for residential use.

b. The building would not be of lesser quality than surrounding development.

If the screening is removed or it dies and the owner does not replace it, is not replaced, the city council may require removal of the building. If the value of the building exceeds twenty-five

thousand dollars (\$25,000), the city council shall allow at least a five-year amortization period.

~~(8) (7) Heliport.~~

~~(9) (8) Car wash.~~

~~(10) (9) Motor fuel stations or public garages, subject to the City Council determining that it will meet the findings for a conditional use permit and the findings below: provided that in addition to the general conditions for a conditional use, the following conditions must be met:~~

(Conditions a - p remain unchanged.)

~~(10) Any use of the same general character as any of the above uses, provided that any use which is noxious or hazardous shall not be permitted.~~

~~(11) Any use that the City Council determines to be of the same character as any of the above uses. Such use shall not be noxious or hazardous.~~

~~(12) Any building or exterior use, except parking, within three hundred fifty (350) feet of a residential building.~~

Section 6. Section 36-154 in the LBC Limited Business Commercial District is changed to read as follows:

~~(a) Permitted uses. Offices, medical or health related clinics, and day care centers.~~

(a) Permitted uses. The City only permits the following uses in the LBC district:

(1) Offices.

(2) Medical, dental or health related clinics.

(3) Veterinary clinics, where there are no outside kennels or storage.

(4) State-licensed day care centers.

Section 7. Section 36-155 (b) in the BC(M) business commercial modified district is changed to read as follows:

~~(b) Permitted uses. Only the following uses are permitted by right in this district:~~

(b) Permitted uses. The City permits only the following uses in the BC-M district:

- (1) Retail store, office, agency, performing or creative arts studio, bank, savings and loan, credit union, personal service, craftsmen's shop, or mortuary.
- (2) Hotel or motel.
- (3) Walk-in theater. theatre.
- (4) Publishing, photocopying or Job printing shop.
- (5) Bakery or candy shop which produces producing goods for on-premises retail sales.
- (6) Motor vehicle accessory installation center.
- ~~(7) Any use of the same general character as any of the above uses, provided that no use which is noxious or hazardous shall be permitted.~~
- (7) Any use that the City Council determines to be of the same character as any of the above uses. Such use shall not be noxious or hazardous.

Section 8. Section 36-155 (c) in the BC(M) district is changed to read as follows:

~~(e) Conditional uses. The following uses are permitted, subsequent to approval of a conditional use permit:~~

(c) The City Council may issue conditional use permits for the following uses in the BC-M district:

- ~~(1) All uses permitted in R-3, multiple dwelling districts, except single and double dwellings.~~
- (1) All uses that the City permits in the R-3 district, except single and double dwellings.
- (2) Laundromat or similar automatic self-service laundry.
- (3) Restaurant, where there are no drive-up order windows or serving of food to patrons in their automobiles. ~~All cooking odors must be controlled so as not to be noticeable to adjacent residences.~~ The owner or operator shall control all cooking odors so nearby residents cannot detect them.
- (4) An indoor place ~~Place~~ of amusement, recreation, or assembly, other than a theater, ~~where there are no outdoor activities.~~
- (5) Minor motor fuel station, subject to the requirements in section 36-151(b) (9).

- ~~(6) Any use of the same general character as any of the above uses, provided that any use which is noxious or hazardous shall not be permitted.~~
- (6) Any use that the City Council determines to be of the same character as any of the above uses. Such use shall not be noxious or hazardous.
- (7) Any building or exterior use, except parking, within three hundred fifty (350) feet of a residential building.

Section 9. Section 36-173, use regulations, is changed to read as follows:

~~In an SC Shopping Center District in the city, a building or combination of buildings may be erected or used, and the lot area may be used or occupied for any of the following purposes, and no other, but in no case shall a building be used for living quarters:~~

(a) Permitted uses. The City only permits the following uses in the SC (shopping center) district:

- ~~(1) Retail store, including retail outlet showroom for uses permitted in subparagraph (9) hereof, but not including automobile sales agency; provided that, no goods shall be displayed on the exterior of the premises.~~
- (1) Retail store. The owner or operator of a store shall not store or display goods or materials outside the building.
- (2) Restaurant, ~~tea room~~ or cafeteria.
- (3) Office, agency or performing or creative arts studio.
- ~~(4) The following personal service shops dealing directly with customers; beauty parlor, barber shop, clothes cleaning agency, automatic self-service laundry, dressmaking, millinery or similar shop; provided that all repair or processing work is conducted in accordance with subparagraph (9) below.~~
- (4) Personal service or care businesses that deal directly with the customer. Examples include:
 - a. Beauty or barber shop or tanning salon.
 - b. Dry cleaners or self-service laundromat.
 - c. Tailor or sewing shop.
 - d. Upholstering shop.

- e. Repair shop, except for motorized equipment and vehicles. The owner or operator shall not perform work outside the building.
- f. Any similar use involving repair or processing.
- (5) Indoor theater, Theater, not including outdoor motion picture establishment, assembly hall, or community building, indoor recreational establishment or library, child day care center.
- ~~(6) Bakery, confectionery or custom shop for the production of articles to be sold at retail on the premises; provided that, all baking or processing is conducted in accordance with subparagraph (9) below.~~
- (6) Bakery or candy shop which produces goods sold only at retail on the premises.
- (7) Bank, savings and loan or credit union.
- ~~(8) Passenger station.~~
- ~~(9) The following uses; provided that, if such uses are located on the ground floor, they shall not be located within twenty-five (25) feet of the building; and further provided that, they shall be effectively screened from the front portion of the building by a wall or partition:~~
- ~~a. General service or repair.~~
 - ~~b. Upholstering.~~
 - ~~c. Carpentry or woodworking.~~
 - ~~d. Electrical, radio, television repair.~~
 - ~~e. Hand laundering, dry cleaning or pressing, providing no inflammable liquids are used.~~
 - ~~f. Tailoring, dressmaking or repair.~~
 - ~~g. Millinery repair or processing.~~
 - ~~h. Baking, confectionery making or similar processing.~~
 - ~~i. Frozen food lockers.~~
 - ~~j. Any similar use involving repair, processing or storage activity.~~

- (8) ~~(10)~~ Accessory use customarily incidental to any of the above uses. This shall not include the exterior display or storage of goods or materials.
- ~~(11) Any use of the same general character as any of the above permitted uses, when authorized as a special exception by the city council; provided that, such use shall be permitted subject to such reasonable restrictions as the city council may determine; and further provided that, no trade or business shall be permitted which is either noxious or hazardous.~~
- (9) Any use that the City Council determines to be of the same character as any of the above uses. Such use shall not be noxious or hazardous.
- (10) ~~(12)~~ Signs when erected and maintained according to in accordance with article III of Chapter 36 of this Code. (Code 1965, 908.030)
- (b) The City Council may issue conditional use permits for the following uses in the SC (shopping center) zoning district:
- (1) Any building or exterior use, except parking, within three hundred fifty (350) feet of a residential building.

Section 10. This ordinance shall take effect upon its passage and publication.

Passed by the Maplewood City Council on _____, 1991.

kr\mem013.mem

Current Ordinance on setbacks from residential.

(4) Install stop signs, handicap signs and building address signs as required by the City.

(5) Construct parking lots with the following minimum setbacks:

a. Fifteen feet from a street right-of-way.

b. Five feet from all other property lines. This setback shall be increased to twenty feet if the adjacent property is used or shown on the city's land use plan for residential use.

(6) Construct all buildings, except single- and two-family homes, with the following minimum setbacks:

a. Thirty feet from a street right-of-way.

b. Fifty feet from property that is used or shown on the City's land use plan for residential use. This setback shall be increased up to 75 feet based on the more restrictive of the following requirements:

1. Building height: The building setbacks shall be increased two (2) feet for each one foot the building exceeds twenty-five (25) feet in height.

2. Exterior wall area: Where an exterior wall faces a residentially-zoned property, the wall setback shall be increased five (5) feet for each one thousand (1,000) square feet, or part thereof, in excess of two thousand (2,000) square feet.

(7) The City Council may approve a conditional use permit to allow an addition within a required setback if:

a. The required findings in Section 36-442 for a conditional use permit are met.

MEMORANDUM

To: Michael A. McGuire, City Manager
 From: Robert D. Odegard, Director of Parks & Recreation
 Ken Haider, Director of Public Works
 Geoff Olson, Director of Community Development
 Lucille Aurelius, City Clerk
 Pat Kelly, City Attorney
 Subj: Open Space
 Date: May 5, 1991

Introduction

The City Council on April 22nd discussed the acquisition of Open Space for the City of Maplewood. Mayor Bastian requested that staff prepare an outline of a plan that could be used for implementing the acquisition of Open Space and to get the question before the Council and public this Fall, or as soon next year as possible. Councilmember Rossbach indicated that he would be interested in knowing the legality or possibility of Special Taxing Districts for the acquisition of Open Space.

Background

Because the term "Open Space" has such a variety of definitions, it will be important to define the areas to be included in Maplewood's definition.

In a book published by the Department of Research and Planning for the City of Duluth called The Language of Open Space, they define Open Space, Planning and Program as "a plan whose function is to serve as a framework to guide the proper acquisition, preservation and development of Open Spaces, to meet current future needs for recreation and conservation of natural resources, thereby providing a basis for the sound evaluation of Capital Improvement decisions relating to Open Space." They go on to indicate a series of planning steps including:

- 1) An inventory and analysis of the existing supply of Open Space
- 2) A delineation of the goals, principles and policies to be used as guidelines for properly locating, developing, operating, and maintaining Open Spaces
- 3) A study of public methods of implementing and financing the programs
- 4) Legal and legislative considerations, levels of responsibility among governmental units
- 5) Coordination among concerned officials, agencies and community organizations

I believe the above process could be the basis for Maplewood's preparation of an Open Space Acquisition, Development, and Maintenance Program.

During the discussion of the Ramsey County Open Space System Plan the following information served as the basis for planning:

Open Space has often been considered as that area which is retained in a state where nature predominates - a storehouse of natural resources and natural processes.

Open Space affects our impressionable lives and is a fundamental part of our total environment. The functions of Open Space can be separated into three classifications:

- 1) Amenity Open Space which are undeveloped lands or natural landscape features which have scenic or aesthetic value. These are hills, woods, valleys, meadows, river bluffs, and lakeshore which provides a visual change from a predominantly structured urban environment.
- 2) Recreation Open Space which are lands which provide the foundation for various recreational opportunities. These are the parks, beaches, picnic area, ski hills, lakes, trails and nature centers which enable us to add excitement and enjoyment to our normal daily routine.
- 3) Protection (Conservation) Open Space which are the undisturbed lands which continue to maintain critical natural processes such as: transportation and storage of surface water runoff, expansion planes for fluctuations in water levels, absorption of runoff and recharge of ground water reservoirs, stabilization of slopes and soil, purification of air and control of air temperatures, and sustention of wildlife populations. These are the drainage ways, creeks, ponds, lakes, floodplains, wetlands, slopes, woodlands and meadows.

When the City's definition of Open Space is decided, then it will become important to establish the size or standards to be applied to acquisition.

Inventory

Staff has indicated that present workloads are very heavy, and that alternatives could be considered in gathering an inventory. It is estimated that Public Works would require 500 hours of staff time to identify, map, and prepare information on all of the ponding areas in the City. The Parks Department would need 50 hours to identify all properties publicly and privately-owned in the City that would be considered Open Space, including County, City, privately-owned cemeteries, schools, etc. To accurately present more than the general location in the Comprehensive Plan as Open Space (see attached Land Use Plans) would require a minimum of 100 hours of staff time. If an Open Space Committee is established, an additional 100 hours of staff time will be required to prepare information for the committee and to attend their meetings.

Alternatives to using staff time include the hiring of additional consultants to do the projects, adding staff to accomplish the tasks, seeking interns that could handle parts of the staff work, or postponing the project to future time when staff loads may lighten or dollars can be budgeted for the projects.

Committee Selection

If a committee to study Open Space is created, it is suggested that it be composed of one member from the Planning Commission, one member from the Park Commission, and one representative from each of the thirteen Planning Districts in the City. The goal of this committee would be to work within the Planning Guidelines, as indicated previously in this report.

Referendum Cost

The City Clerk has indicated that the cost to place a referendum upon the ballot in November of 1991 would be approximately \$850. The information to be included on the ballot would have to be available by September 13th. In the event that a separate election is necessary, the cost would be \$4,900.

Legal Opinions

Attached are the legal opinions responding to Council's questions of April 22.

Options

The options available to the Council include:

- 1) Take no action
- 2) Proceed to referendum this fall for a stated dollar amount and purpose, and if it passes allocate the time and dollars necessary to complete the task
- 3) Allocate the staff time and dollars in the 1992 budget to identify the areas and hold the referendum in the fall of 1992
- 4) Allocate the necessary dollars for consultants to complete the task and hold a referendum in 1992

With options 2, 3, and 4, the establishment of a Special Committee would be included.

MEMO

To: Robert Odegard
From: Bannigan & Kelly, P.A.
Date: May 3, 1991

Re: *Open Space*

I. Interim Ordinances and Moratoriums

Pursuant to Minn. Stat. §462.355, Subd. 4, a municipality has the power to authorize interim ordinances. It is understood if a city is conducting studies, has authorized the study, or is in the process of adopting or amending a comprehensive plan, the city council may adopt an interim ordinance applicable to all or part of its jurisdiction.

The interim ordinance allows the city to regulate, restrict, or prohibit any use, development, or subdivision for a period not to exceed one year from the date it takes effect. The city may extend it for additional periods as the council may deem appropriate, not exceeding a total additional period of 18 months. No interim ordinance may halt, delay or impede a subdivision which has had preliminary approval prior to the effective date of the interim ordinance. Interim ordinances are not subject to the procedural or extraordinary vote requirements applicable to other zoning ordinances.

The best method for utilization of interim ordinances is during the preparation of a zoning ordinance. To adopt an interim or stop gap ordinance is to preserve the status quo of the city pending the adoption of the comprehensive zoning ordinance. The rationale is based on the theory that zoning studies are time consuming, the interim ordinance allows the city to maintain some land use planning while the city is in the process of adopting the ordinance.

To support the validity of a interim land use control ordinance, the city should consider the following guidelines when drafting the ordinance.

1. The closer the procedure complies with requirements for a permanent zoning ordinance, the more likely a court will validate an interim ordinance. This means the city should use available land use information, use the planning commission, follow notice and hearing procedures, and adopt the ordinance by two-thirds vote of council members.
2. In a preamble or elsewhere, the ordinance should set out the circumstances requiring the interim procedure and show that it is part of a continuing planning effort that will result as soon as possible in a permanent ordinance.
3. The more provisions of the permanent ordinance that the interim ordinance includes, the more likely the courts will sustain it. This means that the ordinance should establish at least a minimum number of use districts and provide the regulations that are to apply to each.

The controlling case for an interim ordinances is *Almquist vs. Town of Marshan*, 308 Minn. 52, 245 N.W.2d 819 (see attached).

CONCLUSION

A general moratorium on all development within the city would in all probability not survive a court challenge. The City would have to make a commitment that once open space is designated, then in that event, the city should prepare to immediately condemn. Facts based on planning and engineering data coupled with the financial funding must be considered before initiation.

II. Funding

Minn. Stat. §412.531 addresses the issue of park funds. For the purpose of carrying out the powers of the park board, statutes allow a city to establish a special fund to be called a park fund. The council may transfer to the park funds such monies as it shall consider necessary for park purposes and any county having a population of more than 200,000 the council of any city, whether having a park board or not, may annually levy a tax not to exceed 0.01620 percent of taxable market value for tax purposes. The proceeds of this tax shall be placed in the park fund.

Pursuant to Minn. Stat. §429.021, local improvements council powers, the Council may acquire, improve and equip parks, open space areas, playgrounds and recreational facilities within or without the corporate limits. As a result, this process may utilize assessment procedures pursuant to Minn. Stat. §429.061. It is noted that park acquisition is not normally funded by the assessment procedure, however, the law does allow for said procedure. The only difficulty in establishing the procedure is to establish the benefit appraisal theories to the assessed owner.

Pursuant to Minn. Stat. §471.191, any city may issue bonds pursuant to Chapter 475, for the acquisition and betterment of land, buildings, and facilities for the purpose of carrying out a park program.

III. Special Taxing Districts

Initial research indicates that there is no authority for a special tax district. In addition, the theory of city parks and open space is for the utilization of all citizens of the city and not specific districts. Without specific statutory authority, the city is unable to proceed. The closest to a tax district would be the utilization of the assessment procedure pursuant to Minn. Stat. §429.021.

PJK

C: Michael McGuire

ORDINANCES SUPPORTING OPEN SPACE

Maplewood Ordinance 36-561 - Shoreline and Overlay District

- A) It is the purpose of this article to provide for the wise utilization of shoreland areas in order to protect water quality, the natural characteristics and visual appeal of protected waters, the local tax base . . .
- B) Enactment of this article is to provide a mechanism to reduce the negative affect of shoreland overcrowding . . .

Maplewood Ordinance 9-186 thru 9-193 - Environmental Protection and Critical Area

- 9-186 - preserve the natural character of neighborhood
- 9-186 - effect on density
- 9-190 - tree plan
- 9-193 - approval standards

Maplewood Ordinance 21-46 - Dedications by Developers

It is the intention of the city council to develop and implement a park open space acquisition and development policy which assigns a function of neighborhood park acquisition and development responsibilities to all housing dwelling units.

Maplewood Ordinance 36-499 - Permitted Uses, Standards and floodplain evaluation criteria

Maplewood Ordinance 9-2 - Outlets (preserve open space)

COMMENT: Creative platting in order to offer incentives for preserve open spaces.

MEMORANDUM

TO: City Manager
FROM: Director of Community Development
SUBJECT: **Long-Range Vision of the City**
DATE: June 13, 1991

Cities usually describe their long-range visions in their comprehensive plans. We are in the process of updating Maplewood's plan. The Planning Commission should start reviewing a draft of the update in the near future. I would appreciate knowing if the Council or Commission have any particular visions that they want included in the plan.

go/vision.mem (4.15 Plan Update)

MEMORANDUM

TO: City Manager
FROM: Director of Community Development
SUBJECT: **June 17 Planning Commission Meeting**
DATE: June 13, 1991

I have canceled the June 17 Planning Commission Meeting. I do not have enough items ready for an agenda, because of work on other projects. The Commission will meet with the City Council on June 18.

go/pc6-17.age (6.1)
cc: Planning Commission