

**Community Planning and Economic Development
Planning Division Report
Planning Commission Waiver Approval Request**

Date: February 7, 2005

Project Name: Planning Commission Waiver Approval Request and Resolution

Wards: ALL

Neighborhood Organizations: ALL

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Minnesota Statutes Section 462.356, subdivision 2, requires planning agency review of all City real estate acquisitions, dispositions and capital improvements for consistency with the Comprehensive Plan. At the City, the planning agency review is provided by the Planning Commission. Many City real estate acquisitions and dispositions are conducted in coordination with a redevelopment plan that is reviewed by the Planning Commission. There are occasional transactions that occur outside of a redevelopment plan which must also be presented to the Planning Commission for review. However, the previously referenced state law makes the following provision for waiver of the planning agency review requirement:

The governing body may, by resolution adopted by two-thirds vote dispense with the requirements of this subdivision when in its judgment it finds that the proposed acquisition or disposal of real property or capital improvement has no relationship to the comprehensive municipal plan.

The Planning Department is requesting that the Planning Commission support a request to the City Council to waive planning agency review for the following categories of real estate acquisitions and dispositions that are not included in redevelopment plans:

1. Right-of-way transfers from the State of Minnesota to the City when there will be no change in the use of the right-of-way.
2. Acquisitions for the purpose of blight removal when the purchase/acquisition price of the property is less than \$150,000.
3. Dispositions of Non-Buildable Parcels where a "Buildable Parcel" is a parcel of real property that has enough frontage width and/or area either by itself or when combined with other adjacent City-owned property to accommodate at least a single family home under the Minneapolis zoning ordinances after taking into consideration any variances or other relief available under such zoning ordinances.

The reasons for such waivers is that either the purpose of the transaction has no relationship to the Comprehensive Plan (categories 1 and 2) or that such transactions are so insignificant that they have no effect on the Comprehensive Plan (category 3). Approving the waiver of the Planning Commission review step for the above categories will simplify the identified real estate transactions without jeopardizing the strength of the Comprehensive Plan and will save unnecessary staff time.

The City Attorney's Office has advised that this proposal to prospectively waive review of certain "classes" of land acquisitions and dispositions appears to be authorized by the waiver provision in the statute. However, an argument could be made that the intent of the statute is to allow the City Council to authorize waiver of planning agency review only on a case-by-case basis and that waiver resolutions must identify each acquisition or disposition individually. The courts have not addressed this question regarding interpretation of the statute.

Finally, we note that, like the statute, Chapter 13, Section 4 of the Minneapolis City Charter requires Planning Commission review of the location and design of public improvements. The Charter does not, however, require the Planning Commission to review land acquisitions and dispositions. Thus, although the Charter does not provide for waiver of Planning Commission review, it is not in conflict with this proposal which is limited to waiver of review of certain classes of land acquisition and disposition.

Recommendation of the Planning Division of CPED:

Staff recommends that the City Planning Commission forward a **recommendation of approval** to the City Council to adopt the attached resolution.

Attachment:
Resolution

RESOLUTION

Waiving Planning Commission review of certain real estate transactions.

Whereas, the City of Minneapolis (the "City") enters into a great number of real estate transactions on a regular basis; and

Whereas, Minnesota Statutes Section 462.356, subdivision 2, requires planning agency review of all City of Minneapolis real estate acquisitions, dispositions and capital improvements for consistency with the Minneapolis Comprehensive Plan ("Comprehensive Plan Review"); and

Whereas, the planning agency for the City is the Minneapolis Planning Commission (the "Planning Commission"); and

Whereas, the afore-referenced statute provides that the City Council may, by resolution adopted by two-thirds vote dispense with said planning agency review when in its judgment it finds that the proposed acquisition or disposal of real property or capital improvement has no relationship to the Comprehensive Plan; and

Whereas, the requirement in Chapter 13, Section 4 of the City Charter for Planning Commission review is applicable only to public improvements and does not require review of land acquisitions and dispositions; and

Whereas, the City has an interest in saving unnecessary staff time on Planning Commission review of those real estate transactions that have no relationship to the Comprehensive Plan; and

Whereas, the Planning Commission has reviewed and recommended approval of this Resolution;

Now Therefore, Be It Resolved by The City Council of The City of Minneapolis:

1. That right-of-way transfers from the State of Minnesota to the City are not required to have Comprehensive Plan Review when there will be no change in the use of the right-of-way because such transfers involve a transfer of operational responsibility rather than a change in land use and have no relationship to the Comprehensive Plan.
2. That City acquisitions of real property for the purpose of blight removal when the purchase/acquisition price of the property is less than \$150,000 are not required to have Comprehensive Plan Review because such transactions are undertaken to achieve a public purpose not related to the Comprehensive Plan and any subsequent improvement or disposition of such real property will undergo the requisite Comprehensive Plan Review.
3. That City dispositions of Non-Buildable Parcels are not required to have Comprehensive Plan Review because such transactions are so insignificant that they have no effect on the Comprehensive Plan. For purposes of this Resolution, a "Buildable Parcel" is any parcel of real property that has enough frontage, width and/or area either by itself or when combined with other adjacent City-owned property to accommodate at least a single family home under the City's zoning ordinances after taking into consideration any variances or other relief available under such zoning ordinances, and a "Non-Buildable Parcel" is any parcel of real property that is not a "Buildable Parcel."