

**Community Planning and Economic Development Planning Division Report
Zoning Code Text Amendment**

Date: December 8, 2008

Initiator of Amendment: Council Member Goodman

Date of Introduction at City Council: November 7, 2008

Specific Site: Citywide

Ward: Citywide **Neighborhood Organization:** Citywide

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Intent of the Ordinance: To amend regulations for properties with more than one primary zoning classification.

Appropriate Section(s) of the Zoning Code: Chapter 535, Article II. Lot Controls

Background: There are approximately 450 zoning lots in Minneapolis that have more than one primary zoning classification—"split zoning." There are a number of ways that split zoning has been or can be created:

- 1) Intentionally done as part of a rezoning study,
- 2) Historic anomaly/error,
- 3) Property owner purchases additional property and combines it with another property under one property identification number (PID), or
- 4) Right-of-way vacations.

The current zoning ordinance does not provide adequate guidance for split zoning situations. Multiple zoning districts on an individual lot can have differing provisions that contradict each other making it difficult for staff to determine how to apply the zoning ordinance to existing and proposed developments on individual lots with split zoning.

Purpose for the Amendment:

What is the reason for the amendment?

What problem is the Amendment designed to solve?

What public purpose will be served by the amendment?

What problems might the amendment create?

The purpose of the amendment is to provide specific guidance related to regulation of properties with multiple zoning classifications. Existing ordinances in the zoning code offer limited guidance for

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applying provisions of the zoning code to lots with more than one zoning classification. The only ordinance that specifically addresses split zoning is section 535.210.

535.210. Lots containing two or more zoning classifications. Where a lot is bisected by one (1) or more zoning district boundary lines, land in the more restrictive district shall not be included as a part of the required yards or minimum lot area for any structures or uses not allowed in said district.

The ordinance does not specify which districts are more restrictive than others. In some cases, it is clear. In others, provisions specific to a district may have more and less restrictive provisions than another district. The OR3 Institutional Office Residence District and C2 are examples of when it is unclear which district is more restrictive, as can be seen in the table below.

District Provisions	OR3	C2
Uses allowed in said district, but not the other	College or university; hospital	Commercial uses exceeding 2,000 square feet in area including an art gallery, a bank, building material sales, contractor’s office, currency exchange, pet store, photocopying, shopping center; automobile services; fast food restaurant; radio station; reception hall
Maximum lot coverage	70%	N/A
Maximum impervious surface coverage	85%	N/A
Yard requirements	Front, corner side, interior side, and rear	N/A unless adjacent to a residence or office residence district or permitted residential use
Maximum floor area ratio	3.5	1.7
Minimum lot area per dwelling unit	300 square feet	900 square feet
Maximum height	6 stories or 84 feet	4 stories or 56 feet

The subdivision ordinance does not allow a subdivision to result in more than one zoning classification on a single lot; however, there are no ordinances that address whether or not combining land and creating split zoning is allowed.

The past practice has been to require rezoning or apply the provisions of more restrictive district. Applying these practices has sometimes resulted in other issues, including difficulty in interpreting ordinances as indicated above. In some situations, rezoning to eliminate split zoning is not appropriate because it may not be consistent with comprehensive plan policies and it would allow uses not compatible with surrounding uses. The proposed ordinance would resolve these issues.

The proposed ordinance is specific to primary zoning districts and would not apply to overlay districts. Several provisions of overlay districts, such as the Shoreland Overlay District, bisect individual lots and apply only to the land within the overlay district as shown on the zoning district maps.

To limit the creation of more split zoning, zoning lots with more than one zoning classification could not be created by combining land. To combine lots with different zoning classifications under one PID, a rezoning would be required. The TP Transitional Parking Overlay District is the one exception allowed in the ordinance for creating split zoning when combining properties because the underlying primary zoning districts would remain unchanged. Regardless, the TP overlay district can only be adopted through a rezoning. Land in the TP overlay district could not be included as a part of the required yards or minimum lot area for any structures or uses not allowed in the residential or office residential district to prevent code compliance issues if the land is ever sold separate from the lot being served by the TP overlay district.

The proposed ordinance also clarifies that the most restrictive provisions would apply to lots with split zoning. If a use is a permitted use in one district and a conditional use in another district on an individual lot, a conditional use permit would be required. If a use is not allowed in all of the zoning classifications, it is not an allowed use on the lot in question. In such a case when the unpermitted use was legally established, the use would be nonconforming and would require an expansion/alteration of nonconforming use or a rezoning in order to allow an expansion. This is in keeping with section 520.70 of the zoning code, which requires that when a provision of the zoning code conflicts with any other provision of the zoning code, the Minneapolis Code of Ordinances, or with any other provision of law, the more restrictive provision applies.

In cases where a zoning district occupies a small fraction of a split zoned lot, the proposed ordinance would allow the provisions of the district occupying the majority of the lot area to be applied to the entire zoning lot. The exception is limited to 5,000 square feet of area because most 5,000 square foot parcels of land are buildable and could therefore be developed separately if the zoning lot is subdivided. Based on a review of lots with split zoning, less than 10 percent of properties with more than one zoning classification would be eligible for the exception.

The last part of the proposed ordinance would not require yards adjacent to a split zoning district boundary. Using the most restrictive provisions for the entire zoning lot could result in a use or building extending over the split zoning district boundary. If yards are required, that portion of the lot could not be built on or variances would be required.

Timeliness:

Is the amendment timely?

Is the amendment consistent with practices in surrounding areas?

Are there consequences in denying this amendment?

The amendment is timely given that the City expects to continue to encounter development proposals with more than one primary zoning classification. It is part of the continual process of updating the zoning ordinance as well. Many metropolitan cities have adopted ordinances that address split zoning; however, the ordinances that regulate split zoning vary somewhat from city to city. In Philadelphia, PA,

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the most restrictive provisions apply to the entire zoning lot unless one zoning classification covers less than 20 percent of the zoning lot where the provisions of the zoning classification occupying less area are only applied to the portion of the lot within that zoning classification. Many cities, such as Milwaukee, WI, Thunder Bay, CA and Niagara Falls, NY, apply the provisions of the zoning district that occupies most of the zoning lot. Portland's split zoning ordinance includes a provision that does not require any setbacks from a split zoning boundary. If the proposed amendment is denied, more split zoned properties could be created by combining properties and difficulty in applying zoning district provisions to properties with more than one zoning classification would continue.

Comprehensive Plan:

How will this amendment implement the Comprehensive Plan?

The following policies of the comprehensive plan apply:

- 9.18 Minneapolis will establish land use regulations, in order to achieve the highest possible development standards, enhance the environment, promote flexibility in approaches and otherwise carry out the comprehensive plan.

Recommendation of the Community Planning and Economic Development--Planning Division:

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the zoning code text amendment.