

Community Planning and Economic Development -- Planning Division Report

Zoning Code Map Amendment 38th Street LRT Station Area Rezoning Study – East of Hiawatha Avenue

Date: May 21, 2012

Initiator of Amendment: Councilmember Schiff

Date of Introduction at City Council: April 2, 2004

Wards: 9 & 12

Neighborhood Organizations: Longfellow Community Council

Planning Staff and Phone: Paul Mogush, Principal City Planner, 612-673-2074

Intent of the Ordinance:

The intent of the ordinance is to implement Transit Station Area policies of *The Minneapolis Plan for Sustainable Growth* as articulated in the adopted 38th Street Station Area Plan.

Appropriate Section(s) of the Zoning Code:

Chapter 521: Zoning Districts and Maps Generally

Chapter 551: Overlay Districts

Existing Zoning: Various primary and overlay districts

Proposed Zoning for Map Amendment: See attached map and parcel listing

Zoning Plate Numbers: 27, 33, and 34

Study Background:

State statute requires municipalities to develop consistency between zoning and its comprehensive plan. The City has amended its comprehensive plan, *The Minneapolis Plan for Sustainable Growth*, to designate the areas around each of the six neighborhood stations of the Hiawatha LRT line as Transit Station Areas. Further, extensive public involvement has resulted in detailed plans for neighborhood station areas. On April 2nd, 2004, the City Council adopted a formal resolution directing the Planning Division to undertake a rezoning study to implement these plans. Councilmember Schiff introduced the subject matter of an ordinance relating to rezoning in the vicinity of the 38th Street LRT station on August 17, 2007.

Zoning amendments in the Hiawatha Corridor outside of downtown are occurring in two phases. The first phase established a Pedestrian Oriented (PO) Overlay zoning district within neighborhood LRT station areas. This was adopted by the Council on January 6th, 2005. This created additional regulations

and incentives for development in these areas (such as the prohibition of expanding or establishing new automobile service uses). The second phase involves a comprehensive review of primary and overlay zoning districts in the context of adopted city policy documents. The eastern portion of the 38th Street LRT Station Area is the final area to be reviewed for changes to primary and overlay district zoning in this second phase of rezoning along the Hiawatha Corridor. The extent of the area analyzed for potential zoning changes is the area east of Hiawatha Avenue for which the 38th Street Station Area Plan provides future land use guidance, as well as any land within one-half mile of the 38th Street LRT station that is also in the Pedestrian Oriented (PO) Overlay District. The western portion of the station area was the subject of a rezoning study in 2008.

38th Street Station Area Planning and Public Process:

Parcels were evaluated against various city documents to determine whether or not current zoning is appropriate. Primary considerations were *The Minneapolis Plan for Sustainable Growth* and *The 38th Street Station Area Plan*.

The Minneapolis Plan for Sustainable Growth

The Minneapolis Plan for Sustainable Growth, the City's Comprehensive Plan, provides overarching land use policy guidance for the area. The 38th Street LRT station is designated as a Transit Station Area (TSA) and an Activity Center in *The Minneapolis Plan for Sustainable Growth*. Other land use features in and near the study area are:

- 38th Street: Community Corridor
- Minnehaha Avenue: Community Corridor
- East 38th Street and Minnehaha Avenue: Neighborhood Commercial Node

Detailed policies and implementation steps can be found in the required findings below.

38th Street Station Area Plan

The 38th Street Station Area Plan was part of a series of long-range plans completed for transit-oriented development (TOD) around Hiawatha LRT stations. Adopted by the City Council on October 20, 2006, the Plan was developed with public participation and guidance from both community and technical advisory committees. The area of study included the neighborhoods of Standish and Howe. It focused on land uses, urban design, public infrastructure, and amenities located within a 1/2-mile of the station. It serves as an amendment to and articulation of the City's Comprehensive Plan.

Recommendations regarding rezoning are the product of staff work applying the policies of the above documents. These recommendations are intended to implement the 38th Street Station Area Plan and *The Minneapolis Plan for Sustainable Growth* as adopted, and are not intended to amend or create new land use policy. Property owners, residents, and taxpayers were notified of the public process through a direct mailing sent to 1,752 recipients prior to the 45-day public comment period. The recommended changes have been available for public review on the City's web site since March 23, 2012. A public open house on the draft changes was held at the Longfellow Recreation Center on April 16, 2012.

Map Amendment

Adopted Policy and Recommended Zoning

The *38th Street Station Area Plan*, adopted by the City Council in 2006, provides future land use guidance for nine geographic districts as defined in the plan – three west of Hiawatha Avenue and six east of Hiawatha. The districts west of Hiawatha were the subject of a rezoning study in 2008. The future land use map in the adopted plan (attached) offers eight land use categories east of Hiawatha. For five of these designations, the existing zoning applied to those parcels is already appropriate for the envisioned land uses. Properties in three future land use designations require rezoning to best match the intent of the adopted plan, as shown in the table below.

Future Land Use	Zoning District
Single & two-family residential	No change
Townhomes/stacked flats	R5
Neighborhood commercial	No change
Neighborhood mixed use	No change
High density mixed use	C3A, R5 and OR3
Public/institutional	No change
Industrial	I1, I2, or I1/ILOD
Landscape focal points and buffers	No change

Townhomes/stacked flats – The plan graphics and text refer to this residential-only category mostly as a desired building type, which is helpful in shaping individual development proposals. Several zoning districts allow these building types, but only R5 zoning allows both the planned building type and the high level of residential density (in terms of units per acre) envisioned in the plan text associated with this future land use category. *The Minneapolis Plan for Sustainable Growth* calls for a range of 50-120 dwelling units per acre in the high density category, which fits well with the density allowed in the R5 district. The R6 district also falls into the high density category, but the as-of-right height and bulk allowed is beyond the scale envisioned by the Townhomes/stacked flats category.

High density mixed use – The adopted plan calls for 38th Street to be a “main street” corridor lined by mixed-use buildings with retail on the first floor and housing above and behind. This is to be a high-density area with active land uses, and as such is designated as an Activity Center in the Comprehensive Plan. The zoning district that is typically applied in an Activity Center is C3A, because of the mix of uses allowed, the permitted residential density and building bulk, and the hours of operation for businesses. The parcel fragmentation north and south of 38th Street along Snelling and Dight Avenues raised concern among staff that applying C3A to the entire area designated as High-Density Mixed Use might result in outcomes that are not consistent with the adopted plan vision. The plan intent is to concentrate retail along 38th Street, and if parcels nearly one block away from 38th Street are zoned for mixed-use the desired retail concentration could be diluted. Staff is therefore proposing C3A zoning for a depth sufficient for a mixed-use development along 38th Street, with R5 zoning for the remainder of those blocks. The zoning code does not allow split zoning, so large parcels fronting along 38th Street are recommended for C3A in their entirety. It is likely that parcel configuration for new development will differ from existing conditions and will not line up with the proposed zoning map, requiring further

adjustment of the zoning district boundaries via individual land use applications. R6 may also be an appropriate zoning district for the non-C3A parcels in this category because the allowed density matches that of C3A, but staff is recommending R5 to avoid allowing more height as-of-right off of 38th Street than fronting 38th Street.

The area between 35th Street and 37th Street is also designated High-Density Mixed Use. The plan intent is for this to be a second phase of redevelopment, taking place subsequent to development along 38th Street. The plan recognizes that redevelopment of the grain milling and storage facilities in this area will require substantial residential density in order to recover the costs of demolition and/or conversion, and allows for new buildings similar in scale to the existing grain elevators. These considerations led staff to recommend the OR3 district, which allows a residential density of 145 dwelling units per acre.

Industrial – Parcels designated Industrial fall into two categories. The first category is a collection of parcels in the northern portion of the study area that are within the boundary of a designated Industrial Employment District in *The Minneapolis Plan for Sustainable Growth*. These are areas that the comprehensive plan has set aside as priority areas for job growth, and where new housing is discouraged. The staff recommendation is to leave the existing mix of Industrial zoning in these areas. The second category of properties guided Industrial by the adopted plan is at the south end of the study area, along Hiawatha Avenue between 40th and 42nd Streets. Here, the text of the plan allows for light industrial, office, or housing. The staff recommendation is to rezone this area to I1 for consistency with the light industrial and office text of the plan, and adds the Industrial Living Overlay District to allow the possibility of housing.

In addition to changes to primary zoning districts, staff is proposing a contraction of the existing Pedestrian Oriented (PO) Overlay District. The PO overlay district was applied to a large portion of the Hiawatha corridor in 2005, prior to the completion of the *38th Street Station Area Plan*. The staff recommendation proposes to remove the PO district in areas meeting two criteria.

First, staff proposes to remove the PO overlay district from parcels that are guided Industrial in the adopted plan. The PO overlay district in Transit Station Areas requires a minimum floor area ratio of 1.0 for new development in Industrial, Commercial, and Office Residence districts. This essentially translates to a two-story minimum, which is a substantial barrier to achieving industrial redevelopment. Further, these properties are at the outer reaches of the station area and could serve as relocation sites for auto-oriented uses that are currently in higher-priority TOD locations near LRT stations. The current PO overlay district prevents this from happening.

Second, the PO overlay district was applied to several parcels along Minnehaha and Snelling Avenues in areas where the subsequently-adopted *38th Street Station Area Plan* does not envision new TOD. On these parcels, the regulations of the PO overlay district do not help achieve the TOD vision in the plan and are proposed for removal.

Public Comment

Staff presented the proposed zoning changes at an open house at the Longfellow Recreation Center on April 16, 2012. Written comments received at that meeting and via email are attached to this report.

Nonconforming Uses

Staff estimates that existing uses will become nonconforming on approximately 15 properties as a result of the proposed zoning map. This number will vary based on details such as date of establishment, whether or not each use was established legally, and the exact nature of the land use (which cannot always be determined without gaining entry to the building). It should be noted that several other existing land uses in the study area became legally nonconforming when the PO overlay district was applied in 2005, and others have been nonconforming for many years as a result of earlier zoning changes.

Following are some important considerations regarding nonconforming uses:

- Nonconforming uses may continue indefinitely as long as the use does not cease for longer than one year.
- Nonconforming uses may be rebuilt if damaged or destroyed, in accordance with state statute.
- Nonconforming rights stay with the property. Property owners can sell to someone else and the new owner inherits any nonconforming rights.
- Property owners can ask the City Planning Commission to change to a different nonconforming use or expand an existing nonconforming use.
- Becoming a nonconforming use can be somewhat of a hassle for a property owner, but that has to be weighed against the long-term goals of the adopted plan, including allowing more people the choice of living near light rail transit and increasing the tax base.
- A zoning change to residential is not an attempt to force businesses out of the city. The City values businesses and the jobs they provide to residents. The zoning change simply allows property owners to choose residential redevelopment if and when market conditions are favorable.

Residential to Commercial

The Planning Division proposes rezoning 16 parcels from a Residence district to a Commercial district. State statute requires that written consent be obtained from the owners of two-thirds of the properties within 100 feet of any property being changed from residential to either commercial or industrial zoning unless the amendment is based on a 40-acre survey/planning study AND the Planning Commission determines that the number of properties affected by the proposed amendment(s) renders obtaining of such written consent impractical. The City Planning Commission, therefore, must make a formal finding of impracticality. If the finding is made by the City Planning Commission that obtaining consent signatures is impractical, the City Council voting requirement to approve the rezoning is two-thirds (with consent signatures obtained, the voting requirement is a majority).

Obtaining consent from the owners of properties within 100 feet of the 16 properties would require a substantial amount of staff time. In addition, there is a level of impracticality of contacting these property owners when the zoning changes are intended in part to comply with another part of state statute requiring consistency between adopted land use policy and zoning.

Findings as required by the Minneapolis Zoning Code:

1. Whether the amendment is consistent with the applicable policies of the comprehensive plan.

The purpose of the proposed changes to primary and overlay district zoning in the 38th Street Transit Station Area is to implement the adopted plan for the area and achieve consistency with the City’s comprehensive plan. They address the following *The Minneapolis Plan for Sustainable Growth* policies and implementation steps relevant to zoning:

Policy 1.1: Establish land use regulations to achieve the highest possible development standards, enhance the environment, protect public health, support a vital mix of land uses, and promote flexible approaches to carry out the comprehensive plan.

- 1.1.1 Ensure that the City’s zoning code is consistent with The Minneapolis Plan and provides clear, understandable guidance that can readily be administered.
- 1.1.2 Further integrate visual quality and design considerations into review of capital improvement projects.
- 1.1.3 Encourage the use of flexible regulatory options that promote high quality development, such as the Planned Unit Development (PUD) tool.
- 1.1.4 Support context-sensitive regulations for development and land use, such as overlay districts, in order to promote additional land use objectives.
- 1.1.5 Ensure that land use regulations continue to promote development that is compatible with nearby properties, neighborhood character, and natural features; minimizes pedestrian and vehicular conflict; promotes street life and activity; reinforces public spaces; and visually enhances development.
- 1.1.6 Develop small area plans for designated land use features, particularly Activity Centers, Growth Centers, and Major Retail Centers, in consultation with neighborhood associations, residents, and other stakeholders.
- 1.1.7 Invest in targeted place-making strategies to build upon and enhance existing community assets and encourage private sector development.

Policy 1.7: Limit new and expanded auto-oriented uses in the city so impacts on the form and character of commercial areas and neighborhoods can be minimized.

- 1.7.1 Discourage new and expanded high traffic, auto-oriented uses in neighborhood commercial nodes.
- 1.7.2 Direct auto-oriented uses to locations on Commercial Corridors that are not at the intersection of two designated corridors, where more traditional urban form would be appropriate.
- 1.7.3 Auto-oriented uses should be designed with aspects of traditional urban form, to minimize the impact on the pedestrian realm.

Policy 1.11: Preserve and enhance a system of Neighborhood Commercial Nodes that includes a mix of housing, neighborhood-serving retail, and community uses.

- 1.11.1 Discourage the commercial territorial expansion of Neighborhood Commercial Nodes, except to adjacent corners of the node’s main intersection.
- 1.11.2 Support the continued presence of small-scale, neighborhood-serving retail and commercial services in Neighborhood Commercial Nodes.
- 1.11.3 Discourage new or expanded uses that diminish the transit and pedestrian character of Neighborhood Commercial Nodes, such as some automobile services and drive-through facilities.
- 1.11.4 Encourage a height of at least two stories for new buildings in Neighborhood Commercial Nodes, in keeping with

neighborhood character.

- 1.11.5 Encourage the development of medium- to high-density housing where appropriate within the boundaries of Neighborhood Commercial Nodes, preferably in mixed use buildings with commercial uses on the ground floor.
- 1.11.6 Encourage the development of medium-density housing immediately adjacent to Neighborhood Commercial Nodes to serve as a transition to surrounding low-density residential areas.
- 1.11.7 Encourage the redevelopment of vacant commercial buildings and direct City services to these areas.

Policy 1.12: Support Activity Centers by preserving the mix and intensity of land uses and by enhancing the design features that give each center its unique urban character.

- 1.12.1 Encourage a variety of commercial and residential uses that generate activity all day long and into the evening.
- 1.12.2 Encourage mixed use buildings, with commercial uses located on the ground floor and secure entrances for residential uses.
- 1.12.3 Encourage active uses on the ground floor of buildings in Activity Centers.
- 1.12.4 Discourage uses that diminish the transit and pedestrian character of Activity Centers, such as automobile services, surface parking lots, and drive-through facilities.
- 1.12.5 Encourage a height of at least two stories for new buildings in Activity Centers, in keeping with neighborhood character.
- 1.12.6 Encourage the development of high- to very-high density housing within the boundaries of Activity Centers.
- 1.12.7 Encourage the development of medium- to high-density housing immediately adjacent to Activity Centers to serve as a transition to surrounding residential areas.
- 1.12.8 Support district parking strategies in Activity Centers, including shared parking facilities with uniform signage, and other strategies.
- 1.12.9 Encourage architectural design, building massing and site plans to create or improve public and semi-public spaces in Activity Centers.

Policy 1.13: Support high density development near transit stations in ways that encourage transit use and contribute to interesting and vibrant places.

- 1.13.1 Encourage pedestrian-oriented services and retail uses as part of higher density development near transit stations.
- 1.13.2 Pursue opportunities to integrate existing and new development with transit stations through joint development.
- 1.13.3 Discourage uses that diminish the transit and pedestrian character of areas around transit stations, such as automobile services, surface parking lots, and drive-through facilities.
- 1.13.4 Encourage architectural design, building massing and site plans to create or improve public and semi-public spaces near the station.
- 1.13.5 Concentrate highest densities and mixed use development adjacent to the transit station and along connecting corridors served by bus.
- 1.13.6 Encourage investment and place making around transit stations through infrastructure changes and the planning and installation of streetscape, public art, and other public amenities.

Policy 2.4: Make transit a more attractive option for both new and existing riders.

- 2.4.1 Collaborate with regional partners to prioritize transit service and capital improvements along a network of corridors

where standards for speed, frequency, reliability, and quality of passenger facilities are maintained.

- 2.4.2 Concentrate transit resources in a manner that improves overall service and reliability, including service for seniors, people with disabilities, and disadvantaged populations.
- 2.4.3 Encourage higher intensity and transit-oriented development to locate in areas well served by transit.

2. Whether the amendment is in the public interest and is not solely for the interest of a single property owner.

The proposed map amendments reflect considerable long-range planning efforts related to light rail transit over the last several years, which have included significant public involvement. They address Minneapolis Plan policies and implementation steps, including those articulated in adopted plans. The proposed map changes the zoning on 241 parcels of land.

3. Whether the existing uses of property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification, where the amendment is to change the zoning classification of particular property.

The proposed changes to primary and overlay zoning designations are guided primarily by the adopted station area plan as well as Transit Station Area and Activity Center policies of *The Minneapolis Plan for Sustainable Growth*. These plans and policies consider the growth and evolution of the entire area, including integration with and transition between surrounding land uses.

4. Whether there are reasonable uses of the property in question permitted under the existing zoning classification, where the amendment is to change the zoning classification of particular property.

The proposed zoning identifies reasonable changes to fulfill long-term land use objectives of adopted city plans. In some cases, uses become legally non-conforming so that future uses are consistent with the plans. In most cases, zoning changes increase development potential to realize the density and/or use objectives of the plans.

5. Whether there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its present zoning classification, where the amendment is to change the zoning classification of particular property.

The advent of light rail transit changes the policy context as well as market potential of property in and around LRT station areas. The proposed changes address policy and plan objectives as expressed in *The Minneapolis Plan for Sustainable Growth* and the *38th Street Station Area Plan*.

RECOMMENDATION OF THE DEPARTMENT OF COMMUNITY PLANNING AND ECONOMIC DEVELOPMENT, PLANNING DIVISION:

The Department of Community Planning and Economic Development - Planning Division recommends that the City Planning Commission and City Council find that obtaining consent signatures for the rezoning of properties from residential to commercial in the 38th Street LRT Station Area Rezoning Study Area would be impractical and further recommends that the City Planning Commission and City Council adopt the above findings and **approve** the zoning map amendment for the rezoning of parcels in the attached exhibits.

Attachments:

- 38th Street Station Area Plan excerpt
- Comprehensive Plan map
- Map of existing and proposed primary zoning districts
- Map of existing and proposed Pedestrian Oriented Overlay District
- Proposed ordinance
- Public comments received