

ROSEVILLE
REQUEST FOR CITY COUNCIL ACTION

DATE: **04/21/2014**
ITEM NO: 9.b

Department Approval



City Manager Approval

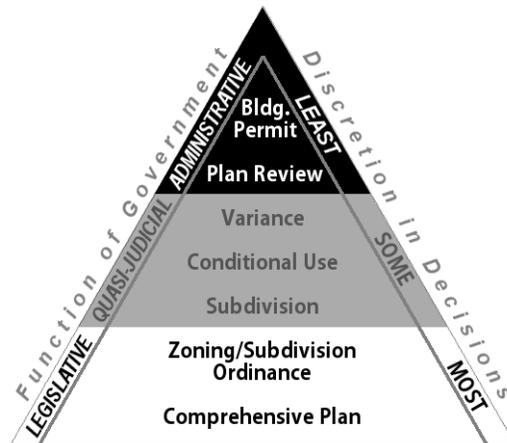


Item Description: Adopt an Ordinance amending the definition of Community Mixed Use in Chapter 4, Land Use of the Comprehensive Plan and the Statement of Purpose in Section 1005.07.A of the Zoning Ordinance

Application Review Details

- RPCA prepared: March 18, 2014
- Public hearing: April 10, 2014
- City Council action: April 21, 2014
- Statutory action deadline: n/a

Action taken on text amendments to either a Comprehensive Plan or Zoning Ordinance is **legislative in nature**; the City has broad discretion in making land use decisions based on advancing the health, safety, and general welfare of the community.



1 **1.0 REQUESTED ACTION**

2 Planning Division seeks a Text Amendment to Chapter 4, Land Use, of the
3 Comprehensive Plan and Section 1005.07.A, Statement of Purpose, of the Zoning
4 Ordinance, to address ambiguities and inconsistencies between the two Community
5 Mixed Use definitions.

6 **2.0 SUMMARY OF RECOMMENDATION**

7 The Planning Division recommends approval of the proposed Text Amendments; see
8 Section 5 of this report for the detailed amendments.

9 **3.0 SUMMARY OF SUGGESTED ACTION**

10 Adopt an Ordinance amending the definition of Community Mixed-Use (CMU) in
11 Chapter 4, Land Use, of the Comprehensive Plan and Section 1005.07.A, Statement of
12 Purpose, of the Zoning Code; see Section 8 of this report for the detailed action.
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14 **4.0 CMU LAND USE/ZONING HISTORY**

15 On October 26, 2009, the City Council adopted the Roseville 2030 Comprehensive Plan
16 and on December 13, 2010, the City Council adopted a newly updated (and much
17 different than in the past) Zoning Ordinance. Over the next few years, the Planning
18 Division proceeded as if these two documents were consistent with one another.

19 In the summer of 2011, however, the Planning Division began discussions with
20 representatives from Wal-Mart Stores, Inc. regarding their desire to develop in Twin
21 Lakes at the northeast corner of County Road C and Cleveland Avenue, issues arose
22 concerning the consistency between the Community Mixed Use (CMU) land use
23 definition and Zoning Ordinance Statement of Purpose

24 In the fall of 2011, Mayor Roe sought clarification regarding the CMU in the
25 Comprehensive Plan and Zoning Ordinance. Specifically, concerns/issues were raised
26 regarding whether a Walmart store was a “regional” or “community” business and how
27 that fit within the CMU definition within Chapter 4, Land Use, of the Roseville
28 Comprehensive Plan. On December 9, 2011, the City Attorney provided an opinion
29 regarding three questions pertaining to CMU designations under the Roseville
30 Comprehensive Plan and Zoning Ordinance (Attachment A).

31 While there was a lot of discussion on the City Attorney’s opinion during the Wal-Mart
32 approval process on how it impacted that development, it is clear that inconsistency
33 and/or ambiguity in the current Comprehensive Plan and Zoning definitions needs to be
34 rectified. To that end, since September of 2012, the Community Development
35 Department has been seeking modifications to many of the nuances controlling Twin
36 Lakes, including the land use and zoning definitions to advance a “plan” so that
37 development can occur.

38 **5.0 STAFF ANALYSIS/DISCUSSION**

39 Land use definitions in comprehensive plans by nature are not supposed to be specific
40 and detailed, especially in the area of use; rather they should be broad and nondescript to
41 provide guidance for the desired future rather than dictate specific uses. Such broadness
42 allows for the details and specifics to be addressed by the Zoning Ordinance. In order to
43 avoid varying interpretations, it is vital that the land use definition in the Comprehensive
44 Plan and a zoning statement of purpose in the Zoning Ordinance are consistent.

45 To attain this consistency, the Community Development Department has reviewed and
46 considered changes to each definition so as to alleviate any ambiguity. In addition, it is
47 believed that this approach will reduce or eliminate the City’s need to analyze use
48 consistency between the Comprehensive Plan and Zoning Ordinance each time a building
49 permit is submitted for a development within the CMU District. Such analysis, no matter
50 how well intentioned, can be subjective and thus challenged if the outcome is not
51 favorable to the desired end-user.

52 It is the Planning Division’s position that the broad land use categories listed in the land
53 use definition were never intended to limit possible uses in the manner discussed in the
54 Attorney’s opinion or by Council Members, both of whom hold that Regional Business
55 cannot be developed under the CMU District and that only those uses generally thought
56 of as Community Business can be allowed. Further, it is the belief of the City Planner
57 that such a position would make any development/redevelopment in Twin Lakes difficult
58 at best, since most uses that this area has been designed to accommodate are of a regional

59 nature. A corporate office campus/complex for example, has been a use desired by the
60 City Council for Twin Lakes. Such a uses is clearly a regional use when using the City
61 Attorney’s analysis. Hotels, restaurants, a fitness center, and/or an office/showroom,
62 would also be considered regional uses when applying the sort of analysis the City
63 Attorney has suggested.

64 **6.0 PROPOSED AMENDMENTS**

65 Over the course of the past six months, the City Planner has presented for discussion a
66 number of thoughts and ideas regarding the CMU District and specifically the land use
67 and zoning definitions. On February 20, 2014, the City Council supported moving
68 forward through the formal amendment process to modify the Comprehensive Plan CMU
69 Land Use Definition and the CMU Zoning Statement of Purpose so that they are
70 consistent.

71 The proposal (below) incorporates a set of broad uses that is predicated on the general
72 zoning categories of Table 1005-1 of the Zoning Ordinance, eliminates the cross
73 reference of other land use definitions to eliminate confusion and ambiguity, and
74 eliminates a perceived flaw in a mandate for a specific housing percentage.

75 **CMU (COMPREHENSIVE PLAN) LAND USE CATEGORY DEFINITION**

76 Community Mixed Use areas are intended to contain a mix of complementary uses that
77 may include ~~housing,~~ **residential**, office, commercial, civic **and institutional, utility**
78 **and transportation**, park, and open space uses. Community Mixed Use areas organize
79 uses into a cohesive district, neighborhood, or corridor, connecting uses in common
80 structures and with sidewalks and trails, and using density, structured parking, shared
81 parking, and other approaches to create green space and public places within the areas.
82 ~~The mix of land uses may include Medium and High Density Residential, Office,~~
83 ~~Community Business, Institutional, and Parks and Open Space uses. Residential land~~
84 ~~uses should generally represent between 25% and 50% of the overall mixed-use area. The~~
85 ~~mix of uses may be in a common site, development area, or building. Individual~~
86 ~~developments may consist of a mix of two or more complementary uses that are~~
87 ~~compatible and connected to surrounding land-use patterns. To ensure that the desired~~
88 ~~mix of uses and connections are achieved, a more detailed small area plan, master plan,~~
89 ~~and/or area-specific design principles is required to guide individual developments within~~
90 ~~the overall mixed-use area.~~

91 **CMU (ZONING) STATEMENT OF PURPOSE:**

92 The **Community Mixed-Use District** is designed to encourage the development or
93 redevelopment of mixed-use centers that may include ~~housing,~~ **residential**, office,
94 commercial, civic **and** institutional, **utility and transportation**, park, and open space
95 uses. Complementary uses should be organized into cohesive districts in which mixed-
96 or single-use buildings are connected by streets, sidewalks and trails, and open space to
97 create a pedestrian-oriented environment. The CMU District is intended to be applied to
98 areas of the City guided for redevelopment or intensification.

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- 102 **7.0 PUBLIC COMMENT**
103 As of the time this report was prepared, Planning Division staff has not received any
104 comments of concerns regarding the proposed Text Amendment.
- 105 **8.0 PLANNING COMMISSION ACTION**
106 At the duly noticed public hearing on April 10, 2014, the Roseville Planning Commission
107 reviewed the proposed text modifications. No persons were in the audience to address
108 the Commission and Commissioners had no questions of staff regarding the proposed
109 amendment (Attachment A).
110 The Planning Commission voted 7-0 to recommend approval of both proposed text
111 amendments.
- 112 **9.0 SUGGESTED ACTION**
113 **By motion, Adopt a Resolution amending** Chapter 4, Land Use, of the Comprehensive
114 Plan;
115 **Adopt an Ordinance amending** Section 1005.07.A, Statement of Purpose, of the Zoning
116 Ordinance;
117 Both as provided in Section 6 of this staff report and on the attached Draft Resolution and
118 Ordinance (Attachments B and C).
- 119 **10.0 OPTIONAL COUNCIL ACTIONS**
120 **Pass a motion to table the item for future action.** Tabling this item does not affect the
121 60-day action deadline established in Minn. Stat. §15.99, since it does not apply to City
122 initiated items. The Planning staff, however, would seek specific direction of such an
123 action.
124 **Pass a motion, to deny the requested approvals.** Denial should be supported by
125 specific findings of fact based on the City Council’s review of the application, applicable
126 zoning regulations, and the public record.

Prepared by: City Planner Thomas Paschke | 651-792-7073 | thomas.paschke@ci.roseville.mn.us
A. Draft PC Minutes
B. Draft Resolution
C. Draft Ordinance

Extract of the April 10, 2014 Roseville Planning Commission Minutes

a. **PLANNING FILE 0017 – PROJECT 0021**

Request by the City of Roseville for TEXT AMENDMENTS to Chapter 4, Land Use of the COMPREHENSIVE PLAN and Section 1005.07.A, Statement of Purposes, of the ZONING ORDINANCE, regarding the Community Mixed Use definition

Chair Gisselquist opened the Public Hearing for Planning File 14-007 at approximately 7:59 p.m.

City Planner Thomas Paschke reviewed the request as detailed in the staff report dated April 10, 2014, as a result of the City Council's request to address ambiguities and inconsistencies between the Comprehensive Plan, Section 1005.07/a, Statement of Purpose, and the current Zoning Ordinance, specific to Community Mixed Use definitions. Mr. Paschke advised that this review was a direct result of issues that came up during the Walmart Development project, as well as at the expiration of the AUAR formerly addressing and regulating development or redevelopment in the Twin Lakes Redevelopment Area. Mr. Paschke advised that part of this review included cross-referencing other land use designations to assist in that guidance and as applicable uses came forward; and upon the advice of the City Attorney (Attachment A), some reference were eliminated and a mix of uses and connections were achieved in smaller area development plans rather than depending on or referencing a broader Master Plan, particularly as some of those were no longer relevant and had been predicated from the old zoning code.

At the prompting of Member Boguszewski, Mr. Paschke clarified that the intent was to avoid any perception of ambiguity or inconsistencies, and the legal opinion from the City Attorney was requested by Mayor Roe to address any misconceptions that had come up during the Walmart proposal. Mr. Paschke further clarified that the key was to focus on cleaning up the land use definitions to eliminate any components that are or could be problematic in the future; and from that standpoint, he was not overly concerned that the current Statement of Purpose language was actually inconsistent, but in an effort to ensure it wasn't, consistent language was suggested.

At the request of Member Boguszewski, Mr. Paschke assured the Commission that the City Attorney had been involved in the proposed language revisions and their development throughout the process and was involved in the City Council discussions as text revisions were continuing to evolve as the City Council sought to re-envision the Twin Lakes Redevelopment Area.

Member Keynan pointed out several typographical errors and inconsistencies in the staff report and agenda, and suggested they be corrected for future reference.

In his review of these proposed text revisions, Member Keynan questioned whether it was more prudent to make these changes in a piecemeal fashion or to hold them all for a broader and systematic review for revision all at one time.

Mr. Paschke advised that, as review continued or as issues came up, it seemed more prudent to make changes at that time for those items that may have an impact versus holding them to avoid any inconsistencies in development proposals continuing to come forward during that time.

As part of the original Zoning Ordinance review committee, Chair Gisselquist noted the intent to address every issue, with considerable time spent over a number of months reviewing the Code in mind-numbing detail. While the committee felt everything had been addressed, Chair Gisselquist observe that in reality and as circumstances come along, questions were raised and inadvertent inconsistencies found. Chair Gisselquist opined that he would advocate that as they came up or were found, they be addressed at that time rather than waiting for a wholesale refinement process.

Mr. Paschke concurred, noting that often the issues were based on interpretation as well as the complexities of an actual project were identified or potential uses considered and the Comprehensive Plan and Zoning Code practically applied to that use or how either document was

impacted or be perceived to be impacted in the future. Mr. Paschke opined that he found it to be more based on a particular instance as part of the review process, and should be considered for resolution at that time; with the City Attorney and City Council participating in those discussions and evaluations; and as clarification is indicated.

Chair Gisselquist encouraged individual commissioners to bring forward any issues they found in either document.

Chair Gisselquist closed Public Hearing at approximately 8:07 p.m.; with no one appearing for or against.

This case is scheduled for consideration by the City Council on April 21, 2014.

MOTION

Member Murphy moved, seconded by Member Cunningham to recommend to the City Council APPROVAL of the TEXT AMENDMENTS to Chapter 4, Land Use of the Comprehensive Plan and Section 1005.07.A, Statement of Purpose, of the Zoning Ordinance, as provided in Section 6 of the staff report dated April 10, 2014.

Member Murphy spoke in support of any efforts to remove ambiguities.

Ayes: 7

Nays: 0

Motion carried.

**EXTRACT OF MINUTES OF MEETING OF THE
CITY COUNCIL OF THE CITY OF ROSEVILLE**

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Roseville, County of Ramsey, Minnesota, was held on the 21st day of April 2014, at 6:30 p.m.

The following members were present:
and the following were absent:

Councilmember _____ introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

**A RESOLUTION APPROVING AN AMENDMENT TO THE DEFINITION OF
COMMUNITY MIXED-USE (CMU) IN CHAPER 4, LAND USE (PROJ0030).**

WHEREAS, the Planning Commission, at a public hearing held on April 10, 2014, pertaining to the Planning Division lead request for a Comprehensive Land Use Plan Text Amendment specific to the CMU definition; and

WHEREAS, the proposed Comprehensive Land Use Plan Text Amendment requires the definition of CMU to be clarified as follows:

CMU (COMPREHENSIVE PLAN) LAND USE CATEGORY DEFINITION

Community Mixed Use areas are intended to contain a mix of complementary uses that may include ~~housing,~~ **residential**, office, commercial, civic **and institutional, utility and transportation**, park, and open space uses. Community Mixed Use areas organize uses into a cohesive district, neighborhood, or corridor, connecting uses in common structures and with sidewalks and trails, and using density, structured parking, shared parking, and other approaches to create green space and public places within the areas. ~~The mix of land uses may include Medium and High Density Residential, Office, Community Business, Institutional, and Parks and Open Space uses. Residential land uses should generally represent between 25% and 50% of the overall mixed use area. The mix of uses may be in a common site, development area, or building.~~ Individual developments may consist of a mix of two or more complementary uses that are compatible and connected to surrounding land-use patterns. ~~To ensure that the desired mix of uses and connections are achieved, a more detailed small area plan, master plan, and/or area-specific design principles is required to guide individual developments within the overall mixed use area.~~

WHEREAS, after required public hearings, the Roseville Planning Commission recommended approval (7 - 0) of the request for a Comprehensive Land Use Plan Text Amendment; and

WHEREAS, the Roseville City Council at their meeting of April 21, 2014, was presented with the project report from the Community Development staff regarding the subject request; and

Attachment B

NOW THEREFORE, BE IT RESOLVED, that the City Council hereby approves the text amendment to the Comprehensive Plan for the definition of Community Mixed-Use (CMU) subject to the following conditions:

- a.* The review and comments of the Metropolitan Council.
- b.* Passage and publication of a Zoning Ordinance Text Amendment of the same.

The motion for the adoption of the foregoing resolution was seconded by Member _____ and upon vote being taken thereon, the following voted in favor thereof: _____ and the following voted against the same: _____

WHEREUPON said resolution was declared duly passed and adopted.

City of Roseville

ORDINANCE NO. ____

AN ORDINANCE AMENDING TITLE 10 ZONING ORDINANCE OF THE ROSEVILLE CITY CODE

THE CITY OF ROSEVILLE ORDAINS:

SECTION 1. Purpose: The Roseville City Code is hereby amended to clarify the definitions of Community Mixed-Use (CMU) to eliminate and confusion and ambiguity.

SECTION 2. Section 1005.07.A, Statement of Purpose is hereby amended as follows:

CMU (ZONING) STATEMENT OF PURPOSE:

The Community Mixed-Use District is designed to encourage the development or redevelopment of mixed-use centers that may include ~~housing~~, residential, office, commercial, civic and institutional, utility and transportation, park, and open space uses. Complementary uses should be organized into cohesive districts in which mixed- or single-use buildings are connected by streets, sidewalks and trails, and open space to create a pedestrian-oriented environment. The CMU District is intended to be applied to areas of the City guided for redevelopment or intensification.

SECTION 5. Effective Date. This ordinance amendment to the Roseville City Code shall take effect upon passage and publication.

Passed this 21st day of April, 2014