1. Call to Order – Roll Call

Chair Eckholm called the meeting to order at 6:15 p.m. immediately following the board of zoning appeals meeting adjournment.

2. Approval of Minutes: May 15, 2019

Commissioner Johnston-Madison made a motion to approve the minutes. Commissioner Robertson seconded the motion. The motion was approved on a vote of 7-0.

3. Public Hearings

3a. Comprehensive plan related zoning map amendments

   Applicant: City of St. Louis Park
   Case Nos: 19-09-ZA

Mr. Sean Walther presented the staff report. It was reported that the city held an open house in the beginning of May 2019 to provide information and answer any questions or concerns regarding the proposed rezoning. Letters were mailed to every property that is proposed to be rezoned, as well as any property within 350 feet of the proposed changed for that open house. The city also utilized social media, the website and email contacts for neighborhoods leaders.

Mr. Walther summarized the proposed rezoning of the properties.
Commissioner Robertson asked if all the properties that are proposed to be changed were addressed tonight, or if some properties have been left out because of questions or concerns.

Mr. Walther responded that no changes have occurred since the initial notice for the open house was mailed.

Commissioner Kraft asked about the existing properties and if their current usage would stay with the property following the rezoning.

Mr. Walther explained the rezoning does not require an immediate change of use. Existing uses could remain and operate as they do today. They may become legal non-conforming uses, and they are allowed to continue, but they are not allowed to expand or intensify their use. They would only lose their legal nonconforming status if the use is abandoned and ceases for a full year.

If the use were to cease, then the city would expect new uses that enter the building to meet the current standards of the ordinance. Also, any additions or redevelopment of the property would be required to comply with the new ordinance.

Commissioner Johnston-Madison questioned the statement in the staff report about the comprehensive plan increasing the density allowed in a low-density residential zoning district and the exploration of allowing accessory housing units and duplexes through changes to the zoning ordinance. Clarification was requested regarding this statement, as previous discussions regarding duplexes had not yet made a determination.

Mr. Walther said those are notable changes that were adopted in the comprehensive plan which do not relate to the actions this evening. Mr. Walther stated that the comprehensive plan clearly states that the city intends to allow accessory dwelling units, how we allow them has yet to be determined, and will be incorporated through a zoning ordinance amendment. Those amendments will be brought to the planning commission for review and discussion in the coming months. The comprehensive plan states that the city will explore allowing duplexes in low density residential areas. While it was not as definitive as the language for accessory dwelling units, it will be explored further in the coming months.

Commissioner Erwin asked about the difference between the general commercial and office zoning districts.
Mr. Walther explained that the office zoning district is one the most intense zoning districts in the city. It allows the tallest buildings, the highest floor area ratios, its generally geared toward employment uses, and it does allow some commercial and high-density residential uses use as part of an office development.

Mr. Walther then explained that the general commercial is the most permissive of the commercial districts and is geared toward regional shopping centers. Examples include: Knollwood, Miracle Mile and the Costco and Home Depot properties which are all zoned C2. The C-1 neighborhood commercial zoning district is designed for smaller scale, and more service-oriented businesses that generally serve a smaller market area.

Commissioner Robertson asked about the legal non-conforming status related to the site on Louisiana Avenue, south of the Burlington Northern railroad tracks and Cedar Lake Road and 26th Street West. He noted Area 4 has multiple smaller lots. What would happen if one of those building were inactive, as it doesn’t seem logical to make it a mixed-use area?

Mr. Walther said it would be unlikely for one of those sites to redevelop on its own. He noted that in past study sessions leading up to the comprehensive plan amendment, the commission had difficulty choosing the appropriate land use designation for this site and eventually landed on the mixed-use category.

The Chair opened the public hearing.

Mark Abramovitz, 7525 Wayzata Blvd., stated that he is the owner of the property being rezoned. He stated he has questions about the properties being grandfathered in and becoming legal non-conforming. He asked what happens if they cannot replace their tenant, DaVita Dialysis, when it’s a medical building. Are all the current uses under C2 grandfathered in or only the medical use.

He then asked if a property is vacant for a year or more and it loses its previous zoning, does this still happen if the owner is the same but the leasing tenant is the one changing.

Mr. Abramovitz, stated that changing the current zoning requirements to the proposed requirements could be detrimental to his area of businesses and asked for his property to be left alone during the rezoning if at all possible.

Mr. Walther responded first to the existing use on the site and said that it is allowed to continue as a legal non-conforming use, even if it were to be rezoned.
This does not preserve the array of uses that were allowed in the previous zoning district category, so new uses would be limited to the new zoning district.

Mr. Walther then responded to the questions about when non-conforming uses are no longer allowed to continue and said only if the use is abandoned for one year does the site lose its nonconforming status. If the property is being actively marketed and the property owner and can demonstrate that, then it is not considered abandoned even if it stretches beyond 12 months of being vacant. Mr. Walther also addressed Mr. Abramovitz’s concern regarding the existing sign on the property. Any signs that exceed the sign area limit in the new zoning district also become legal, nonconforming structures when the property is rezoned. A sign is also allowed to continue, and the sign face could be changed and the owner is allowed to continue to maintain the sign. If the sign were to be completely removed, the sign could not be replaced unless it is in full compliance with the new rules.

Commissioner Dumalag asked if the building were sold to another user, would that trigger the change in zoning requirements.

Mr. Walther explained that a change in ownership or a change in business, for example, a change from one daycare to another daycare, do not impact the legal non-conforming use status. The change in ownership is not a trigger that would eliminate the legal non-conforming status.

David Saad, 5727 West 36th Street, wanted to confirm his current zoning and the status of his use.

Mr. Walther confirmed the current zoning is industrial and is proposed to change to mixed-use. The existing use as a luggage retail store is already a legal non-conforming use in the present industrial zoning district.

Mr. Saad asked if he were to sell the building to his child down the line, if they would be able to continue to operate as is.

Chair Eckholm responded that as long as there isn’t a gap of more than a year where it’s vacant, then the sale to a family member would still qualify it for a legal non-conforming use and the business would be able to continue to operate as is.

Commissioner Johnston-Madison asked for clarification on which property Mr. Abramovitz was discussing.
Mr. Walther explained that the property is within Area 1 and the cross streets are Pennsylvania Avenue South and Wayzata Boulevard, it is on the southeast corner.

William Mason, 4330 Hwy 7 (Co. Rd. 25), wanted to ask about the current zoning for his property as he was unsure.

Mr. Walther explained the property is currently zoned RC high density residential and is not within the scope of zoning map amendments being considered this evening and was not advertised to change, so we would not be able to affect a zoning change on that parcel. This would need to be accomplished through a separate process with a separate application.

Randy Johnson and Joel Libor, 4700 Park Glen Rd, are both owners of the property being proposed to change.

Mr. Libor explained they have two buildings and one of them is proposed to change to mixed-use and said he and Mr. Johnson’s current tenants are a combination of office, warehouse or light assembly. One of the tenants would also be considered a studio space. Under the new ordinance it doesn’t mention any of the current uses that are present now would be allowed in the future, which can make it hard to find new leasing tenants.

Mr. Walther responded that the owners are correct and that if a medical office or studio use in the building went away after the rezoning to mixed use occurred, a new use of the property would need to be a use that is allowed in the mixed-use district. The mixed use district does not allow industrial manufacturing and warehousing, so they would not be able to re-tenant that medical office or studio space with a manufacturing use.

Mr. Libor asked about the office warehouse use.

Mr. Walther responded office is allowed, but warehousing is more strictly limited to small scale accessory use related to the principal use of the property and generally not more than 20% of the tenant space under the mixed use district.

Mr. Johnson said that’s what would be constricting for them as owners.

Mr. Libor added that the building is built with the idea you have office in front and warehouse in the back, there are overhead doors that were built for FedEx drop offs. He feels it could take a long time, possibly years to find a tenant to fit.

Chair Eckholm asked if this situation could apply for a conditional use permit.
Mr. Walther responded, no, and stated that he has had past conversations with this owner about the level of flexibility the city may have to accommodate certain changes in use under the non-conforming use ordinance, and that he had also spoken to the city attorney who advised that the city could not allow a change from a studio use to all the other uses that were allowed in the business park district if the property is rezoned to mixed-use district and that use is not allowed in the new district.

As no one else was present wishing to speak the Chair closed the public hearing.

Commissioner Johnston-Madison stated she has concerns regarding areas 7, 8, 9 being switched at this time and said the conversation should go on.

Mr. Chair asked what the timeline is, as far as, when everything had to be conformed to the comprehensive plan and if it is possible to approve a big portion of the rezoning but leave a few to allow for time to go over some of the issues brought up.

Mr. Walther said the commission may recommend amendments to the proposal. All the changes would proceed to city council for their consideration, with the benefit of the planning commission recommendations.

Commissioner Robertson asked if there is potential to add a text amendment adding some possible uses to the mixed-use designation that might be desirable for the area.

Mr. Walther responded that the city would be open to exploring more uses to allow in the mixed use zoning district through a future zoning code text amendment, and any new uses added would need to be suitable and appropriate in the mixed use district throughout the city.

Another option that is more complex is to look at amendments the city’s non-conforming use ordinance or looking at creating an interim use ordinance that provide more flexibility.

Commissioner Robertson mentioned wanting to be respectful of the current landowners and instead of taking away potential uses that are there now, to start opening doors for more exciting and lucrative uses that aren’t currently allowed.

Mr. Walther explained that in regards to some of the questions that were asked, the city will try to be flexible and entertain potential uses to the ordinance that
The city has no interest in perpetuating vacancies, but we do want properties to eventually comply with the ordinance.

Commissioner Johnston-Madison asked if there is a way to review what is allowed in C2 and compare it to the allowed in office district and see if we can approve some of the uses that otherwise wouldn’t be allowed under office zoning.

Mr. Walther said that if there are uses that were overlooked that would be suitable in the office district throughout the city, the city can consider adding uses at any time.

Commissioner Dumalag remarked to the audience that commissioners have heard their concerns and encouraged owners to work with the city staff to address specific concerns and that the city can accommodate and address some of the issues that come up in the interim and transitional period between the uses in the building now and the longer-term future of the property.

Commissioner Robertson said this is a good conversation to have and one that should continue. He reminded the audience that the Commission is just a recommending body to the council and that he feels comfortable with what is being presented so far.

Chair Eckholm agreed with the other Commissioners and their statements and also said the commission and city is trying to make the best decision for the future of the city.

Commissioner Johnston-Madison added that city council will have to carefully review everything that has been presented, and hopes they will consider the comments from commissioners and the people that attended the public hearing.

Commissioner Robertson made a motion recommending approval of the ordinance amending the zoning map. Commissioner Kraft seconded the motion, and the motion passed on a vote of 7-0.

4. Old Business: None.

5. New Business: None.

6. Communications

Mr. Walther noted there will be no meeting on July 3, 2019, it is cancelled. The comprehensive plan was reviewed by Metropolitan Council’s Community
Development Committee and was recommended for approval. He noted that there is also an Environment Committee that will consider the plan on their consent agenda and then the Metropolitan Council will formally authorize the plan on July 10, 2019. There is a survey posted on the city’s website, under the planning studies page, for the Texa Tonka Small Area Plan. This will allow an opportunity for input, and a community workshop is planned for June 27, 2019 from 6:00 – 7:30 p.m. at Lennox Community Center.

7. Adjournment

The meeting adjourned at 7:50 p.m. The advertised study session was not held following the meeting and the planned discussion item was postponed until July 17, 2019.

Respectfully submitted,

Elena Roberts
Recording Secretary