

**CITY OF PLYMOUTH
AGENDA
Special City Council
Medicine Lake Room
3400 Plymouth Boulevard, Plymouth, MN
March 25, 2025, 4:30 PM**

1. CALL TO ORDER

2. TOPICS

- 2.1** Interview Planning Commission candidates
- 2.2** Annual training on ethics, code of conduct, conflict of interest, and open meeting law
 - 1. Training Materials
- 2.3** Set future study sessions
 - 1. Calendar

3. ADJOURNMENT

To: Dave Callister, City Manager

Prepared by: Jodi Gallup, City Clerk

Reviewed by: Maria Solano, Deputy City Manager

Item: **Interview Planning Commission candidates**

1. Action Requested:

Interview Planning Commission candidates and select top candidate to fill vacant at-large seat.

2. Background:

Staff solicited applicants to fill the vacant at-large seat on the planning commission with an application deadline of February 28. On March 13, council selected candidates to be interviewed on March 25.

3. Budget Impact:

Not applicable.

4. Attachments:

To: Dave Callister, City Manager

Prepared by: Jodi Gallup, City Clerk

Reviewed by: Maria Solano, Deputy City Manager

Item: **Annual training on ethics, code of conduct, conflict of interest, and open meeting law**

1. Action Requested:

Receive annual training on ethics, code of conduct, conflict of interest, and open meeting law.

2. Background:

City Attorney Soren Mattick will provide the council with the annual training on ethics, code of conduct, conflict of interest, and open meeting law.

3. Budget Impact:

Not applicable.

4. Attachments:

1. Training Materials



CAMPBELL KNUTSON
PROFESSIONAL ♦ ASSOCIATION

TRAINING MATERIALS

For

Plymouth City Council

March 2025

GENERAL CONSIDERATIONS FOR PUBLIC BODIES

I. CONFLICTS OF INTEREST.

- A. **Contracts.** Under Minn. Stat. § 471.87, with limited exceptions, a Council member may not have a personal financial interest in a sale, lease, or contract with the City. This law applies to all public officers who are "authorized to take part in any manner in making any sale, lease, or contract in official capacity." Exceptions and special approval procedure may be available in a given fact situation. Simply abstaining from voting is not enough. Violation of this prohibition is a crime.
- B. **Non-Contracts.** The general rule is that any official who has a personal financial interest in a non-contract action is disqualified from participating in the action. Courts evaluate certain factors to determine when a conflict requires disqualification. These include:
- the nature of the decision being made
 - the nature of the financial interest
 - the number of interested officials
 - the need, if any, for the interested official to make the decision
 - other means available, if any, such as an opportunity for review of the decision, that serves to ensure that the officials will not act arbitrarily to further their selfish interests.
- C. **Sale or Purchase of City Property.** Council members may not purchase any City property except in very limited circumstances specified in Minn. Stat. § 15.054. Violation of this prohibition, either by Council selling City property to council members or individual council members purchasing City property, is a crime.
- D. **Best Practice.** If you have an actual or potential financial interest in a decision to be made, disclose the conflict, abstain from voting, and don't participate in the discussion. If you have any concerns, discuss them with the city attorney. Avoid even the appearance of a conflict.
- E. **Abstaining.** Abstaining means to refrain from a vote. In this case, a member of a body would be present at the meeting but would not partake in discussion or voting of the issue before the body.

II. GIFT LAW.

- A. Pursuant to Minn. Stat. § 471.895, "An interested person may not give a gift or request another to give a gift to a local official. A local official may not accept a gift from an interested person."
- "Local Official" means an elected or appointed official of a city.
 - "Interested Person" means a person who has a direct financial interest in a decision that a local official is authorized to make.
 - "Gift" means money, real or personal property, a service or loan, forgiving a debt or a promise of future employment without the giver being paid equal value.
- B. Exceptions include:
- campaign contributions
 - plaques or mementos recognizing service
 - trinket or memento of insignificant value
 - food if you appear to make a speech
 - gifts given because of your membership in a group, a majority of whose members are not local officials
 - gifts by a member of your family
- C. When the City receives a gift/donation, it must be accepted by a two-thirds vote of the City Council. Minn. Stat. § 465.03.

III. RULES OF ORDER.

- A. **Robert's Rules.** While not the best set of Rules of Order, Robert's Rules of Order are the most commonly adopted set of rules. Cities should review the Mayor's Handbook or The Standard Code of Parliamentary Procedure.
- B. **Motions.** All formal council actions must be by motion.
1. The language to make a motion must be similar to, "I move to ____."
 2. Motions must be seconded and the council may consider only one motion at a time.
 3. Once a motion is duly made and seconded, the Mayor shall state the question before the council and open the matter for debate.
 - a. The maker of the motion shall be permitted to speak first.
 - b. Everyone who wishes to speak on the motion must be allowed to do so before any member may speak a second time.

IV. OPEN MEETING LAW.

A. **Open Meetings.** Pursuant to Minnesota Statutes § 13D.01 - .07, almost all meetings of the City Council must be open to the public. A meeting exists when a quorum of the city council is together and:

1. Make a decision concerning city business; or
2. Discuss city business; or
3. Obtain information on city business.

Be wary of serial communications: do not use the “reply all” function in emails. If a discussion occurs on social media, then that discussion must be open for participation by the public. Councilmembers should be careful to separate their personal and government-associated social media.

B. **Other Electronic Communication.** Serial communication occurs when one councilmember consults another, who consults another, and so forth. This is not permitted under the Open Meeting Law. One of the main goals of the Open Meeting Law is to ensure that deliberations take place in a public setting.

1. It is not advisable to substantively discuss City matters via text message even with one other councilmember. Text message and/or other electronic communication to other councilmembers during a meeting about City matters is also not permitted. Be careful about engaging in discussion on your personal devices. Discussions about city matters are generally public data, subject to mandatory retention periods and accessible to the public upon request, even if such discussions take place on personal devices. Deliberations and discussions must occur in a public forum.
2. Similarly, a quorum of members having a discussion about public business on social media, such as in the comment section of a private Facebook page, could constitute a meeting in violation of the Open Meeting Law. Minn. Stat. § 13D.065.

C. **Notice Requirements.** The City Council must give the following notices:

1. A schedule of the regular meeting shall be kept on file at the Council’s primary offices. Regularly scheduled meetings on your adopted meeting schedule require no additional notice.
2. Special meetings require mailed & posted or published notice at least three days before the day of the meeting.

3. Emergency meetings – as soon as reasonably practicable. However, what constitutes an “emergency” is narrowly defined and this provision is rarely used.

D. Closed Meetings. Notice of the meeting is required stating why the meeting will be closed and the subject of the meeting. The meeting is still recorded. Closed meetings are allowed in limited circumstances:

1. Labor negotiations.
2. Pending litigation (not the same as anticipated litigation).
3. Preliminary consideration of charges against an employee.
4. Evaluation of a person subject to its authority.
5. To determine the asking price of property being sold.
6. To review confidential appraisal data.
7. To develop counteroffers for the purchase or sale of property.
8. To discuss active investigative data.
9. If it would identify victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors.

Closed meeting must be reopened once the discussion of voting exceeds the scope of the topics identified above. **DPO 23-005.**

E. Procedure for Closing a Meeting.

1. Start at open meeting
 2. Announce basis for closing meeting
 3. Describe subject to be discussed
 4. Close by majority vote
 5. Record closed meeting
- Except for meetings closed for Attorney-Client privilege

F. Penalties. If the court finds that an individual intentionally violated this open meeting law, penalties include:

1. Individual fine of \$300.00 per occurrence for an intentional violation, which may not be paid by the City.
2. Three intentional violations in three separate actions can result in removal from office.
3. Additional costs and attorney’s fees may be imposed up to \$13,000.00. The City may pay this amount.

V. DATA PRACTICES.

- A. **Data.** The Data Practices Act (Minnesota Statutes, Chapter 13) presumes that all government data are public. The Data Practices Act obligates all levels of state and local government besides the legislature and the courts to preserve created data and respond to data requests.

“Government data” means all data collected, created received, maintained or disseminated by state or local government, regardless of its physical form, storage media, or conditions of use. Data includes: paper documents, emails, CDs, video tapes, computer files, texts, etc. Official work on a personal device still constitutes government data. **DPO 12-019; DPO 10-023.**

- B. **Classification.** To balance the need for transparency with the need to protect individual rights, state and federal law provide for classifications to limit access for private or confidential data.

Requests for data can come from the subject of the data (such as an employee) or a member of the public. Responses to data requests depend on how the data is classified.

C. The Life Cycle of a Request.

1. A person submits a data request to the Responsible Authority in the City. If the request is for private information, the City may ask for proof of identity. It is impermissible to request for a member of the public’s identity when fulfilling a request for public data.
2. If the request is from the member of the public, the City must respond within a “reasonable amount of time.”
3. If the request is from the data subject, meaning the data is about the requesting individual, then the City is required to respond within ten business days.
4. The City staff then retrieves the data responsive to the request, if there is any.
5. Then the City review the data and determines if there is a justification to deny access to some or all of the data. If responsive data is withheld the City must inform the requestor and cite to the specific law that allows the redaction.
6. The City provides access to the data and collects copy costs, if requested.

LAND USE PLANNING AND ZONING

I. ROLE OF THE PLANNING COMMISSION

The Municipal Land Use Planning Act provides the authority and uniform procedures for conducting and implementing municipal planning for all cities. The Act was adopted by the legislature in 1965. Comprehensive plans and zoning ordinances must comply with both the substantive and procedural requirements under the Act. City Code and the Municipal Land Planning Act imposes several duties on a Planning Commission:

- A. PREPARATION AND REVIEW OF COMPREHENSIVE PLAN.** The planning commission creates the comprehensive plan and coordinates planning activities with other departments, typically with the help of a planning staff, outside planning consultants and the input of the public through neighborhood meetings and/or public hearings.
- B. COORDINATION AND REVIEW WITH OTHER LOCAL UNITS OF GOVERNMENT.** Planning Commissions must consider the planning activities of adjacent units of government and other affected public agencies.
- C. PERIODIC REVIEW.** The Planning Commission must periodically review the Comp Plan and recommend amendments when necessary.
- D. ADOPTION OF THE COMP PLAN.** The Planning Commission recommends adoption of the Comp Plan or amendments after a hearing preceded by 10 days' publication of notice in the official newspaper. The City Council may not act upon a Comp Plan or amendment until receipt of recommendation by the Planning Commission or until 60 days have elapsed from date amendment was submitted to Planning Commission by Council. After approval by the Planning Commission, the Comp Plan is submitted to the Council for final review and approval by 2/3 vote of the Council.
- E. RECOMMENDATION OF THE PLANNING COMMISSION.** The Planning Commission must study and propose the means of putting the Comp Plan into effect, including zoning, subdivision regulations, official maps, a program of public improvements and services, city renewal and redevelopment, and a capital improvement program.

- F. REVIEW OF LAND ACQUISITIONS AND CAPITAL IMPROVEMENTS.** Once a Comp Plan is adopted, all proposed land acquisitions and capital improvements of the City must go to the Planning Commission for its review and recommendation to Council. The Planning Commission will then submit a written report describing its findings. However, the Council may dispense with this requirement by a 2/3 vote, if it feels no planning issues are involved.
- G. REVIEW OF LAND USE CONTROL MEASURES.** The Planning Commission is responsible for reviewing land use control measures. The Municipal Land Planning Act requires the Planning Commission to review zoning ordinance amendments, subdivision plats and official maps. Public hearings may be held before the Planning Commission, but the Council will make the final determination.

II. ZONING: IMPORTANT TOOL TO IMPLEMENT COMPREHENSIVE PLAN

- A. PURPOSE.** Zoning establishes a land use pattern and the orderly development of various types of districts according to the best use of particular areas of a community. Zoning ordinances may be enacted for the general purposes of preserving and protecting the public health, safety, morals and general welfare. Zoning is the most commonly used technique in implementing the goals and policies of the Comprehensive Plan. It is the legal means to ensure that the goals of the Comprehensive Plan are carried out.
- B. AUTHORITY.** M.S. § 462.351-.365.
- C. WHAT ZONING ORDINANCES MAY REGULATE.** The basic land use controls of the City are found in its zoning ordinance, which regulates among other things:
- The location, height, bulk, number of stories, size of buildings and other structure;
 - The percentage of lot which may be occupied, the size of yards and other open spaces;
 - The density and distribution of population;
 - The uses of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes;

- The uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, conservation, conservation of shorelands, access to direct sunlight for solar energy systems, flood control or other purposes, and may establish standards and may establish procedures regulating such uses;

Zoning ordinances are construed by the courts according to their plain meaning and in favor of the property owner.

- D. ZONING A LEGISLATIVE ACT.** When a City is determining whether to pass or amend a zoning ordinance provision, the City is exercising its legislative authority, in THIS capacity, the City is using its specialized knowledge to developing rules that apply throughout the entire community. When making legislative decisions, a City has broad discretion, and will be given a large amount of deference by a court, should that decision be challenged.
- E. ZONING MAP.** Zoning ordinances may divide the city into districts or zones of suitable numbers, shape and area. The zoning map will identify the boundaries of the various zoning use districts.
- F. UNIFORMITY REQUIRED WITHIN ZONING DISTRICTS.** The zoning regulations may vary across different districts, but within each district the regulations must be uniform for each class or kind of building, structure, land or use.
- G. PROCEDURES FOR ADOPTING AND AMENDING ZONING ORDINANCES.**
- 1. Similar to Amendments of the Comp Plan.** The Planning Commission may submit proposed ordinances to the Council at any time.
 - 2. Requests.** Private citizens may also submit requests for zoning amendments using an official City application form. The applicant must pay a fee and provide all materials necessary to fully explain the proposed change. If the applicant is not the fee owner of the affected property, the fee owner must also sign the application form.

3. **Studies.** After conducting studies to ascertain that the official controls or regulations necessary to implement the Comp Plan, the Planning Commission submits the proposed zoning ordinance to the Council. At this time, the Planning Commission should also consider: a) preparation of a tentative official map; b) proposed subdivision regulations; and c) capital improvement program and any other necessary official controls.
4. **Notice and Public Hearing Requirements.** After new zoning ordinances or amendments to existing ones have been proposed, the Planning Commission must hold at least 1 public hearing. Notice of the public hearing must be published at least 10 days prior to the hearing date. Written notice of this hearing generally must be mailed to all property owners within 750 feet of the property in question.
5. **Revisions.** Following the public hearing, the Planning Commission reviews the proposed zoning ordinance or amendment in light of information received at the public hearing and makes any appropriate and reasonable revisions.
6. **Submission to Council.** The Planning Commission then presents the zoning ordinance or amendment in final draft form along with a report to the Council. The Council may choose to hold another public hearing on the matter.
7. **2/3 Vote May be Required.** If the amendment changes the classification from residential to either commercial or industrial, approval requires a 2/3 vote of the Council. All other amendments require a majority vote.
6. **Publication.** After the Council adopts new zoning ordinances or amendments, the Council must publish or summarize them in the official newspaper.

H. PERMITTED, ACCESSORY AND CONDITIONAL USES

1. Permitted Uses.

- a. Defined as uses that property owners have a right to engage in as provided within the zoning district.
- b. No discretion to deny. It is generally arbitrary and unlawful to deny a building permit for a permitted use, unless the zoning is subsequently changed to prohibit the use.
- c. Normally there is no review by either the Planning Commission or the Council. Rather, the applicant merely applies for a building permit with supporting documentation that the use is permitted.

2. Accessory Uses. Defined as those uses that cannot stand alone and must be accompanied by a principal, permitted use.

3. Conditional Uses. Defined as uses permitted in a zoning district under the zoning ordinance, if certain conditions, designated by the Council or specified in the zoning district, are met.

4. Uses Which Are Not Permitted In Zoning District.

- a. In order for a use to be allowed in a specific zone or use district, it must be listed as a permitted or conditional use in the zoning ordinance, or must be similar enough to such a listed use so as to be included by City staff, Planning Commission or Council interpretation or by application of common sense. (e.g. medical clinic includes a dental clinic but not a veterinary clinic)
- b. No Use Variance May Be Granted, except the temporary use of a one family dwelling as a two family dwelling.
- c. Applicant Options. If the use is neither permitted or a conditional use in the zone or use district, the applicant can:
 - i. apply for a rezoning to a zone or use district in which it is a permitted or conditional use; OR
 - ii. request that the City amend its zoning ordinance to allow the use as a permitted or conditional use in the zoning or use district where the property is located.

- I. **INTERIM USES.** An interim use is a temporary use until a certain date or until the use is no longer permitted. Interim uses allow activity that, while currently acceptable, may become unacceptable in light of anticipated development. The intent is to allow, for limited period, reasonable utilization of the property when the desired eventual use under the comprehensive plan is not currently reasonable. Authority for an interim use must be provided for in the zoning ordinance along with conditions for the use. Often interim uses are granted for mining activities or agricultural activities in developing areas.

III. **CONDITIONAL USE PERMITS**

- A. **WHAT IS IT?** A type of land use in a particular district which is presumed to be allowed, but requires special, additional standards and review due to the existence of some aspect of the use which may create a nuisance or place an extraordinary burden on public services. By far, the most commonly litigated zoning matter.
- B. **NEXUS REQUIREMENT.** Courts require that any conditions placed on the conditional use permit to be issued must have a direct connection or a nexus between the problem identified and the condition required as the cure. The need for the conditions must be supported by evidence in the record.
- C. **TIME LIMITS.** Although previously a common practice in many communities, time limits on a conditional use permit are not a permitted condition. A “sunset provision” is not permissible. If a time limit is determined to be necessary, then the use should be identified as an interim use, not a conditional use. A conditional use permit runs with the land forever, regardless of a change in landowner. A CUP need not be “renewed.” CUPs remain in effect for as long as the conditions are observed.
- D. **NOTICE AND HEARING.** State law and City Code requires a public hearing preceded by notice mailed to nearby property owners.
- E. **LIMITED DISCRETION.** The City's discretion is limited in the case of an application for a conditional use permit. The City **MUST** grant the CUP if the applicant has met their statutory burden to satisfy all the conditions. ***RDNT, LLC v. City of Bloomington*, 861 N.W.2d 71, 78-79 (Minn. 2015).** NEIGHBORHOOD OPPOSITION OR A COUNCIL MEMBER’S OPINION ALONE IS AN INSUFFICIENT BASIS ALONE FOR A

DENIAL. If an applicant fails to meet their burden to prove that all conditions for the CUP are satisfied, but they propose mitigating conditions to address any conditions they failed to meet, the City **MUST** consider the proposed mitigation. If the City chooses to reject the proposed mitigation, its decision **MUST** be supported by evidence in the record. *Id.* CUPs are the most commonly litigated zoning matter and Cities lose challenges to a CUP decision more than any other land use approval.

- F. QUASI-JUDICIAL DECISIONMAKING.** In denying or approving a CUP, a City is exercising quasi-judicial decision-making, in which it is applying specific standards set by the zoning ordinance. This should be contrasted with City legislative decisions, in which the City is engaged in forming public policy, such as the adoption of a comp plan or zoning ordinance. While the courts tend to give great deference to the City when it is acting in its legislative capacity in crafting public policy, the courts give substantially less deference to the City when it exercises quasi-judicial decision-making, e.g. where the public policy has already been established under the zoning ordinance and the inquiry focuses on whether the proposed use is contrary to the general welfare as established in the Zoning Ordinance.

IV. VARIANCES

- A. DEFINED.** A variance is a request to use property in a way not generally permitted by the zoning ordinance, but which may be allowed by the City in special cases only, e.g., by varying one or more of the performance standards, such as lot area, setbacks, lot width or depth.
- B. PRACTICAL DIFFICULTIES.** An applicant must demonstrate the existence of “practical difficulties” before a variance may be granted. "Practical difficulties" means the property owner proposes to use the property in a reasonable manner, but the use is prohibited by the ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute an undue hardship. Further, variances are only permitted when they are in harmony with the general purposes and intent of the zoning ordinance and when the variances are consistent with the comprehensive plan.
- C. STATUTORY CONSIDERATIONS.** Variances may be granted when:
1. The variance is in harmony with general intent and purpose of the Ordinance.
 2. The variance is consistent with the comprehensive plan.
 3. Applicant establishes that there are practical difficulties with complying with the zoning ordinance. Practical difficulties are:
 - i. property will be used in a reasonable manner.
 - ii. There are circumstances unique to property not caused by landowner.
 - iii. The variance will not alter essential character of locality.
- D. CITY CODE CONSIDERATIONS.** Section 21030 of the Zoning Code controls variances. The primary considerations for variance review under the City’s Ordinance, are as follows:
- a. The request is in harmony with the general purposes and intent of the ordinance and is consistent with the comprehensive plan.
 - b. The applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. “Practical

difficulties,” as used in connection with the granting of a variance, means that:

- i. The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
 - ii. The plight of the landowner is due to circumstances unique to the property not created by the landowner; and,
 - iii. The variance, if granted, will not alter the essential character of the locality.
 - iv. Economic considerations alone do not constitute practical difficulties.
- c. The use must be permitted under the ordinance for property in the zone where the affected person’s land is located, except that a variance may be granted for the temporary use of a one family dwelling as a two family dwelling.
 - d. The proposed action will not impair an adequate supply of light and air to adjacent property.
 - e. The proposed action will not unreasonably increase the congestion in the public right-of-way.
 - f. The proposed action will not increase the danger of fire or endanger the public safety.
 - g. The proposed action will not unreasonably diminish or impair established property values within the neighborhood.
 - h. The proposed action will not be detrimental to the public welfare nor interfere with other land or improvements in the neighborhood
 - i. The proposed action is the minimum action required to address or alleviate the practical difficulties
 - j. The ability to grant a variance may be limited by floodplain and shoreland management overlay districts, City Code §§ 21660 & 21665.
 - i. No variance application shall be accepted for a property located within the floodplain until the applicant demonstrates that all required state and Federal permits have been obtained.
 - ii. No variance shall permit a lower degree of flood protection than required under state law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied for all properties located within floodplain which are the subject of a variance.
 - i. Variances shall not be issued if any increase in flood levels during the base flood discharge would result.
 - ii. Variances shall not result in increased flood heights or discharge, create any additional threats to public safety or

exceptional public expenses, or conflict with local laws and ordinances.

- iii. Variances shall be issued only upon the determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

E. DISCRETION IN GRANTING OR DENYING A VARIANCE FROM ZONING RESTRICTIONS.

1. Broad discretion is permitted when denying a request for a variance, but there must be a legally sufficient reason for denial. Written findings of fact should be prepared and adopted concerning the reasons for denial or approval and the facts upon which the decisions is based, based on the statutory requirements.
2. The decision cannot be arbitrary.
3. A variance is typically required only where there has been an unlawful taking of property, demonstrated by the landowner's inability to put the land to any beneficial use unless the variance is granted.
4. Applicant bears the heavy burden to show that a variance is necessary.
5. Variances are not permitted for a use not permitted under the ordinance for property in the zone where the affected land is located.

F. PROBLEMS. The approval/denial of variances is often considered one of the greatest land use problems faced by local officials. While some cities strictly adhere to their official controls, granting variances in only those situations required by law, some cities are very liberal in granting variances. The problem arises when a city planning commission and council do not agree on the instances appropriate for granting/denial of a variance. If a City has numerous variance applications, it may be that the City is known for granting variances, or that a change in the City's official control on a particular performance standard should be reviewed for modification. Ideally, it is better to change an official control to reflect the standard set by the City, rather than to continually grant variances to a standard that is not adhered to.

G. Procedure for Major Variances. Under Section 21030.04, subd. 2(b) of the City Code, when a complete application and preliminary staff analysis of an application for a major variance is received, the Zoning Administrator must set a time and place for a Planning Commission meeting to consider the application. At least 10 days before the meeting, written notice of the

meeting must be mailed to the applicant and property owners within 200 feet of the property in question. The Board of Zoning Appeals (City Council) may hold a public hearing after receiving the Planning Commission's report and recommendation if deemed necessary. In such a case, the Board shall make a recorded finding of fact and may impose any condition necessary to protect the public health, safety, and welfare, which condition(s) must be directly related to and bear a rough proportionality to the impact created by the variance.

V. TIME LIMITS

- A. 60 DAY RULE.** The legislature enacted an ordinance limiting the time in which a local unit of government has to act upon certain land use related applications. Within 60 days of submittal of an application, cities are required to approve or deny the request, or the request is deemed approved. This section does not apply to subdivisions applications, which operate under a separate timeframe of 120 days for approval of a preliminary plat and 60 days to review and approve a final plat (M.S. § 462.358).
- B. INCOMPLETE APPLICATION.** The 60 days does not begin until the application is complete, but a determination that an application is incomplete must be made within 15 days of its submission by written notice to the applicant or the 60-day period begins regardless of its incompleteness.
- C. EXTENSIONS.**
- 1. Automatic 60-Day Extension.** Within the 60-day period, an automatic extension of no more than 60 days can be obtained by providing the applicant written notice of the reason for the extension and specifying the additional time needed.
 - 2. Applicant Approval.** Other extensions are available only with the applicant's written approval.
- D. APPLICATION TO PLANNING COMMISSION.** In light of the 60-day time limit for final council action, it is important for the Planning Commission to act well within the 60 day period to allow ample time for Council review.
- E. DENIALS IN WRITING.** If a City denies a land use request, it must state in writing the reasons for the denial at the time of the denial or at the next meeting (provided it is within the 60 day time-period). It must also state the reasons for denial on the record and provide the applicant a written statement of the reasons for the denial. The written statement must be consistent with the reasons stated in the record. Because of the foregoing requirement, it is helpful for the City Council if the Planning Commission adopts written findings of fact for its decisions, particularly for recommendations of denial that can be reviewed by the City Council and modified for the City Council's decision.

VI. PUBLIC HEARINGS

A. TYPE OF HEARINGS.

1. Statutory
2. Informational

B. PURPOSE. The purpose of a hearing is to give public input. In many instances the hearing is not only a statutory requirement, it is an ordinance requirement.

C. STATUTORY. An example of public hearings related to planning which are required by statute:

- Amending Zoning Ordinance (Minn. Stat. 462.357, Subd. 3)
- Amending Comprehensive Plan (Minn. Stat. 462.355, Subd. 2)
- Approving Preliminary Plats (Minn. Stat. 462.358, Subd. 3b)
- CUP's (Minn. Stat. 462.3595, Subd. 2 / Minn Stat 462.357, Subd. 3)
- IUP's (Minn. Stat. 462.3597, Subd. 3 / Minn Stat 462.357, Subd. 3)

D. NOTICE. Each statute specifies the type of notice that is required, who it must be sent to, and when it must be sent. Can't simply be an agenda item.

E. DUE PROCESS. The concept of “procedural due process” is a constitutional protection, which constrains the government from depriving an individual of a liberty or property interests without granting that individual notice and an opportunity to be heard "at a meaningful time and in a meaningful manner."

F. IMPARTIALITY. To provide a fair hearing, board and commission members should disclose at any hearing prior meetings or contact with applicants, opposition groups, and citizens and also disclose what was learned. It is also important to keep an open mind and not to make any commitment or announce how you will vote.

“The district court found that Councilmember Goodman, who took part in making the council's decision: “took a position in opposition and exhibited a closed mind with regard to [CPG's] proposed project prior to hearing [CPG's] appeal”; “adopted an advocacy role in opposition to [CPG's] proposed project

well before she discharged her quasi-judicial duties”; and “was clearly involved in an effort not only to assist to organize and mobilize neighborhood opposition to the project, but also to sway the opinions of her fellow council members.” The court also noted that “the opinion of the council member in whose ward a project is proposed is given substantial weight” by other members of the council. We therefore conclude that the city council's decision was arbitrary and capricious” **Continental Property Group v. Minneapolis** (Mn. Ct. App. 2011).

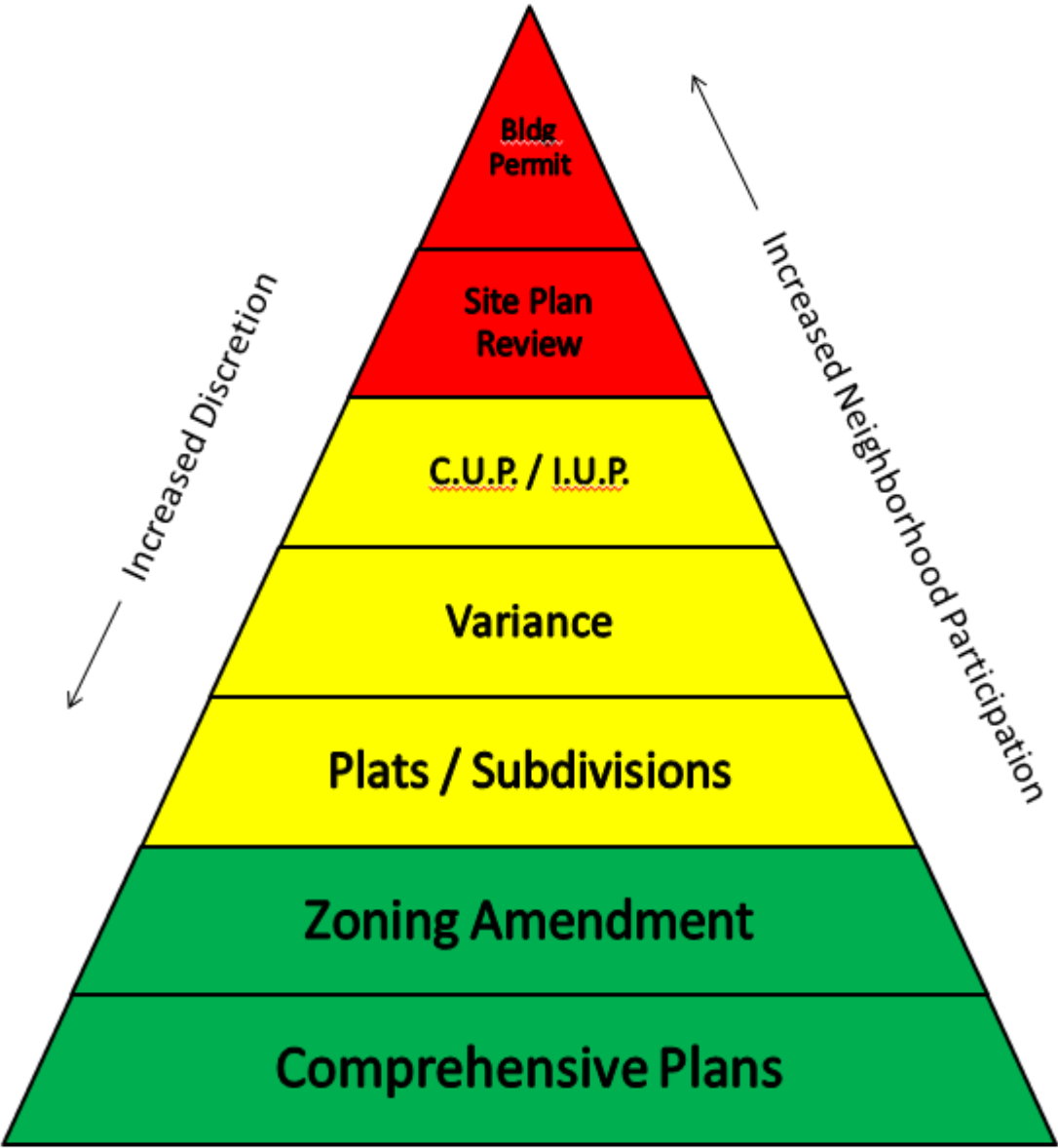
VII. PLANNING COMMISSION & COUNCIL APPROVAL REQUIREMENTS

	Legislative or Quasi-Judicial	Planning Commission Action	City Council Action	CC Votes Required
CUP	Quasi-Judicial	Findings of Fact & Recommendation to Council	Resolution & Permit	Majority Quorum
IUP	Quasi-Judicial	Findings of Fact & Recommendation to Council	Resolution & Permit	Majority Quorum
Zoning Code Amendment	Legislative	Findings of Fact & Recommendation to Council	Ordinance	Majority Council ¹
Variance	Quasi-Judicial	Findings of Fact & Recommendation to Council	Resolution	Majority Council ²
Comp Plan Amendment	Legislative	Recommendation to Council	Resolution	Two-Thirds Council
Preliminary Plat Approval	Quasi-Judicial	Findings of Fact & Recommendation to Council	Resolution	Majority Quorum
Final Plat Approval	Quasi-Judicial	None	Resolution	Majority Quorum

¹ The amendment of any portion of a zoning ordinance which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-thirds majority vote of Council.

² Per City Code Section 21030.04(12)

VIII. PUBLIC DISCRETION IN THE LAND USE PROCESS



To: Dave Callister, City Manager

Prepared by: Jodi Gallup, City Clerk

Reviewed by: Maria Solano, Deputy City Manager

Item: **Set future study sessions**

1. Action Requested:

Schedule study sessions and/or add topics as desired. The calendar for the next three months is attached to assist with scheduling.

2. Background:

Pending study session topics (at least three council members have approved the following study items on the list):

- Future local sales tax capital projects.

Staff requests for meeting topics and/or changes:

- Educational information and tour of pond next to Post Office on May 13 at 5 p.m.
- Discuss HRA vacancy

3. Budget Impact:

Not applicable.

4. Attachments:

1. Calendar

SUN	MON	TUES	WED	THUR	FRI	SAT
		1	2 7:00 PM PLANNING COMMISSION MEETING Council Chambers	3	4	5
6	7	8 5:00 PM SPECIAL COUNCIL MEETING Yard waste site management Medicine Lake Room 7:00 PM REGULAR COUNCIL MEETING Council Chambers	9 7:00 PM ENVIRONMENTAL QUALITY COMMITTEE MEETING Medicine Lake Room	10	11	12
13	14	15	16 7:00 PM PLANNING COMMISSION MEETING Council Chambers	17	18	19
20	21	22 5:00 PM SPECIAL COUNCIL MEETING Housing Trust Fund Medicine Lake Room 7:00 PM REGULAR COUNCIL MEETING Council Chambers	23	24 7:00 PM HOUSING AND REDEVELOPMENT AUTHORITY MEETING Council Chambers	25	26
27	28	29	30			

SUN	MON	TUES	WED	THUR	FRI	SAT
				1	2	3
4	5	6	7 7:00 PM PLANNING COMMISSION MEETING Council Chambers	8	9	10
11	12	13 7:00 PM REGULAR COUCIL MEETING Council Chambers	14 7:00 PM ENVIRONMENTAL QUALITY COMMITTEE MEETING Medicine Lake Room	15	16	17
18	19	20	21 7:00 PM PLANNING COMMISSION MEETING Council Chambers	22 7:00 PM HOUSING AND REDEVELOPMENT AUTHORITY MEETING Council Chambers	23	24
25	26 MEMORIAL DAY CITY OFFICES CLOSED	27 7:00 PM REGULAR COUCIL MEETING Council Chambers	28 10:00 AM DESTINATION MARKETING ORGANIZATION ADVISORY BOARD MEETING Mooney Lake Room	29	30	31

SUN	MON	TUES	WED	THUR	FRI	SAT
1	2	3	4 7:00 PM PLANNING COMMISSION MEETING Council Chambers	5	6	7
8	9 7:00 PM SPECIAL CHARTER COMMISSION MEETING Medicine Lake Room	10 7:00 PM REGULAR COUNCIL MEETING Council Chambers	11 7:00 PM ENVIRONMENTAL QUALITY COMMITTEE MEETING Council Chambers	12 6:00 PM PARK & REC ADVISORY COMMISSION MEETING Council Chambers	13	14
15	16	17	18 7:00 PM PLANNING COMMISSION MEETING Council Chambers	19 JUNETEENTH CITY OFFICES CLOSED	20	21
22	23	24 7:00 PM REGULAR COUNCIL MEETING Council Chambers	25	26 7:00 PM HOUSING AND REDEVELOPMENT AUTHORITY MEETING Council Chambers	27	28
29	30					