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**Date:** January 24, 2018

**To:** Planning Commission

**From:** Cary Teague, Community Development Director

**Re:** Zoning Ordinance Amendment – Rooftop Restaurants/Dining & Amend the R-2 District regulations regarding conditional uses permits.

### Introduction

The City Council has authorized staff and the Planning Commission to consider a Zoning Ordinance Amendment to allow rooftop restaurants in Edina. Based on the direction from the Planning Commission, attached is a draft Ordinance Amendment that would allow Rooftop Restaurants as a conditionally permitted use in all Planned Commercial Districts (PCD).

### Background

#### Rooftop Restaurants.

In 2011, this issue was studied by the City. The Planning Commission recommended approval of an Ordinance Amendment that would allow rooftop dining/restaurants as a conditionally permitted use in the PCD-2 and PCD-3 Zoning Districts. The City Council did not approve the recommendation; and adopted an Ordinance that prohibited rooftop restaurants. Primary concern was in regard to allowing this type of use in the 50<sup>th</sup> and France area so close to the 5000 France condominiums. Attached is the background information on that study, including memos, minutes, the Ordinance recommendation by the Planning Commission and the Ordinance adopted by the City Council.

Staff has updated the survey from 2011 showing how other cities regulate rooftop dining/restaurants. Also included are the specific regulations from other cities. (See attached.) Based on the direction of the Planning Commission at the January 10, 2018 meeting staff has drafted an Ordinance for consideration. The following summarizes the Ordinance to allow Rooftop Restaurants in Edina:



1. Allows Rooftop Restaurants in the PCD-1, PCD-2 and PCD-3, Planned Commercial Zoning Districts as a conditionally permitted use.
2. Requires a 100-foot setback from all residential uses. This is a change from the 2011 Ordinance that recommended a 50-foot setback from R-1 & R-2 lots. This addresses the concern regarding impacts on adjacent residential uses. In the 50<sup>th</sup> and France area, neither the Edina Grill nor Salut would be allowed to have a rooftop restaurant, as they would not meet the 100-foot requirement.
3. Hours of operation are limited to 7:00 am to 10:00 pm. A provision is included to further restrict the hours depending on circumstances.
4. Amplified sound (speakers) may not be audible to adjacent property.
5. The Rooftop restaurants must be adequately screened from residential uses at the time of their establishment.
6. Liquor license is required if alcohol is served.
7. A fence or guard is required around the perimeter for safety, per the Minnesota State Building Code.
8. Lighting is permitted only to the extent that it lights the designated area. The following is the lighting requirements (Sec. 36-1260) referenced in the Ordinance:

**Sec. 36-1260. – Lighting**

All exterior lighting and illuminating devices shall be provided with lenses, reflectors or shades so as to concentrate illumination on the property of the owner or operator of the lighting or illuminating devices. Rays of light or illumination shall not pass beyond the property lines of the premises utilizing the lights or illumination at an intensity greater than 0.5 footcandle measured at property lines abutting property zoned residential and one footcandle measured at property lines abutting streets or property zoned nonresidential. No light source, lamp or luminaire shall be directed beyond the boundaries of the lighted or illuminated premises.

**Conditional Uses in the R-2 District**

This proposed change is recommended as the result of the recent Rezoning request from R-2 to R-1 on McCauley Trail. This language in the City Code is from 2010, and was created to allow a home to be expanded or town and rebuilt where the first floor elevation was forced to exceed the first floor elevation of the existing home by more than one foot due to ground water issues. This ordinance was created because at that time cities could not process Variances in the State of Minnesota. The Ordinance allowed sites with groundwater issues to be redeveloped with a Conditional Use Permit rather than a Variance.



After the moratorium on processing variances in Minnesota was lifted, the city repealed this Ordinance, as these proposals could be processed by a Variance again; however, the language in the R-2 District was not stricken. That language caused confusion in the uses that are allowed in the R-2 District with the McCauley Trail proposal. Staff views this as housekeeping issue, as the language should have been stricken as it was in the R-1 District.

### **Staff Recommendation**

Recommend that the City Council adopt Ordinance No. 2018-03 subject to revisions recommended by the Planning Commission on January 24, 2018.