

Topic: **Rooftop Dining**

Date Introduced: **February 9, 2011**

Date of Discussion: **February 9, 2011**

Why on the list: The City Council adopted an Ordinance establishing a moratorium to temporarily prohibit rooftop restaurants within the City of Edina. (See attached moratorium.)

History: Interest has been expressed by the Barrio Restaurant located at 5036 France Avenue. The adjacent property owner of the condominiums at 50th and France expressed concern in regard to locating a rooftop restaurant so close to residential property. As a result the City Council passed a moratorium, and directed staff to conduct a study to determine if rooftop restaurants should be allowed in the City of Edina, and if so, how should they be regulated.

Barrio Restaurant is located 88 feet from the adjacent condominiums. Salut Restaurant is located 20 feet from the condominiums. The Edina Grill is located on the lower level of the condominiums. (See attached photographs.)

Rooftop dining is currently considered a permitted use, similar to outdoor dining. The City of Edina does not have any existing rooftop dining establishments. Staff has been asked about doing rooftop dining in the past; however, in each instance they have not been constructed due to the inability to meet fire and building code requirements.

The cities of Minneapolis and Wayzata currently have rooftop dining establishments; however, they are not located adjacent to residential areas. (See attached photos.)

Decision Point: Should rooftop restaurants be allowed within the City of Edina?

- Options:**
1. Prohibit rooftop restaurants within the City.
 2. Allow rooftop restaurants to continue as a permitted use.
 3. Allow rooftop restaurants as a conditionally permitted use.

For Discussion: Staff has done some research and found that, similar to Edina, most cities in the Metro area do not regulate rooftop dining specifically. Only the Cities of Minneapolis and Medina were found to mention rooftop dining in their ordinances. In Minneapolis they are a permitted use, and must be at least

twenty (20) feet from a residential area. The outdoor dining must be screened from the residential use. The City of Medina simply “encourages” rooftop dining associated with restaurants.

The following is a survey of cities regarding outdoor dining and how it is regulated. A rooftop restaurant would be considered outdoor dining:

City	How is outdoor dining permitted	Is parking required?	Parking Requirements
Apple Valley	CUP in mixed use areas	Yes	1 per 5 seats
Blaine	CUP	Yes	1 per 200 s.f.
Bloomington*	Permitted Use	No	
Columbia Heights	Permitted Use	No	
Coon Rapids	Permitted Use	Yes	1 per 2 seats or 1 per 2.5 seats if liquor
Cottage Grove	CUP with liquor	Yes	Half of the required seating for restaurant
Eagan	Permitted Use	No	
Hopkins	Permitted Use	No	
Lakeville	Permitted Use	Yes	1 per 40 s.f.
Maple Grove	Permitted Use (If in a PUD an amendment is req.)	No	
Minnetonka**	CUP	No	Same as restaurant seating
Burnsville	CUP for over 50 seats	Yes if over 30 seats	Same as restaurant if over 30 seats
New Brighton	Permitted Use	Yes	Same as restaurant seating
Plymouth	Permitted Use	Yes	1 space per 4 seats
Robbinsdale	CUP	Yes	1 space per 8 seats or 1 per 200 s.f. whichever greater
St. Louis Park	Permitted Use	Yes if over 500 s.f.	Same as restaurant seating
Eden Prairie	CUP	Yes	½-1/3 the seating capacity
Wayzata	Permitted Use	Yes	1 space per 40 s.f.
Edina	Permitted Use	No	
Minneapolis***	Permitted Use	No	

* Bloomington requires a 100 foot setback to residential parcels.

** Minnetonka requires a 200 foot setback to residential parcels.

***Minneapolis requires a 20-foot setback to residential parcels.

As shown above, regulation of outdoor dining is not consistent among cities. Seven (7) cities require a CUP, and thirteen (13) allow them as a permitted use. Twelve (12) cities require parking and eight (8) cities do not.

Parking within the 50th and France area is becoming more difficult at times, as more restaurants are opening in the area. If rooftop dining were to be allowed, it could potentially double the size of the restaurant below during the spring and summer months, which could impact the parking in the area.

The existing outdoor dining areas at 50th and France and other areas of town are relatively small and have not caused an impact on parking. The City of Edina has not required additional parking for outdoor dining areas. The policy has been that outdoor seating does not generate the need for additional parking; rather, it gives an existing customer an option for seating. However, a larger outdoor dining area could potentially impact parking.

As noted in the attached articles from cities across the country, rooftop dining can be controversial when residential areas are located adjacent to the property. Issues regarding this type of use include noise, hours of operation, distance from residential uses, lighting, trash, and parking.

Should the City wish to pursue this type of use as allowed within the City of Edina, it would seem appropriate that it be a conditionally permitted to ensure review by planning commission and city council, to minimize impact on adjacent properties. It would seem appropriate that any large outdoor eating area also require a conditional use permit. A "large" outdoor eating area could be based on the number of seats or the square footage, similar to Burnsville or St. Louis Park.

Should the planning commission wish to pursue a change to the Zoning Ordinance, staff would draft an ordinance based on the discussion at the work session, and bring it back to the planning commission for additional consideration.

2018 Update

	Outdoor Dining Allowed?	Rooftop Dining Allowed?	Is Additional Parking Required with an Outdoor Dining Area?
Apple Valley	Yes	Yes- Allowed as an accessory use in most zoning districts (subject to review and approval of a site plan).	1 space per 5 seats of outdoor eating area, excluding the first 10 outdoor seats
Blaine	Yes-allowed with a CUP	Yes- haven't been asked but nothing in the Ordinance prohibits it	Parking considered with the CUP, usually 1 stall per 100 square foot ratio
Bloomington	Yes-all restaurants require a CUP	Yes-All restaurants require a CUP	Rooftop dining is treated as indoor dining not outdoor seasonal dining. Indoor or rooftop seating: 1 space per 2.5 seats plus spaces equal in number to 1/3 capacity of in persons for meeting/banquet area. Seasonal outdoor: 1 space per 5 seasonal outdoor dining seats.
Burnsville	Yes-must meet code requirements requires CUP if over 50 seats	Yes-must meet code requirements and requires a CUP if over 50 seats or written into a PUD	No additional parking is needed if less than 30 seats; if public parking is available either in a ramp or adjacent on the street, no additional parking is required. Any seating over 30 seats requires 1 space per 3 seats.
Columbia Heights	Yes-not regulated	Yes-not regulated	No
Cottage Grove	Yes-must meet code requirements; CUP if over 30 seats	No-but an ordinance amendment would be entertained if it came up	No additional parking required if under 30 seats; anything over 30 seats requires 1 space per 3 seats and must apply for a CUP
Eagan	Yes	Yes	No parking requirements for outdoor dining up to 24 seats, 1 stall per 12 seats over 24
Eden Prairie	Yes-must meet code requirements	Yes-must meet code requirements	Yes-would need to meet the parking code requirements
Hopkins	No specific standards-license for sidewalk cafes		
Lakeville	Yes-ordinance for outdoor dining is related to establishments that serve alcohol, which needs to meet zoning requirements	Ordinances don't deal with outdoor dining	No additional parking standards but does not allow the removal of parking spaces for outdoor dining
Maple Grove	Yes	Yes	75% discount on required parking for outside areas
Minneapolis	Yes-needs to meet certain requirements	Yes-needs to meet certain requirements	No
Minnetonka	Yes-allowed with a CUP; CUP not required if there isn't outdoor service	Yes-allowed with a CUP	No
New Brighton	Yes-must meet requirements	Ordinance not specific, but the topic hasn't come up	No
Plymouth	Yes-if Outdoor Dining Area standards are met. Site plan required.	No rooftop dining at this time	Parking requirements looked on a case by case basis
Robbinsdale	Yes	No rooftop dining at this time	Yes-treated the same as a restaurant but reduced if transit is available
St. Louis Park	Yes-as an accessory use	Yes-as an accessory use	No additional parking unless greater than 500 square feet or 10% of the gross floor area of the principal use
Wayzata	Yes- as an accessory use to the restaurant; different standards if located in the ROW	Currently do not have any rooftop patios	No



RESOLUTION NO. 2010-52
RESOLUTION DIRECTING COMPLETION OF A
STUDY ON THE REGULATION OF ROOFTOP RESTAURANTS
AND PREPARATION OF OFFICIAL
CONTROLS BASED UPON THAT STUDY

City of Edina

WHEREAS, the City does not have specific regulations concerning rooftop restaurants.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Edina as follows:

1. The City planning staff is directed to conduct a study to determine if rooftop restaurants should be allowed and if allowed how rooftop restaurants should be regulated within the City.
2. Based upon the study, the City staff and the City Attorney are directed to prepare a draft of any appropriate amendments to the City's official controls for consideration by the City Council.

Adopted by the Edina City Council this 6th day of July, 2010.

Attest:


Debra A. Mangen, City Clerk


James B. Hovland, Mayor

STATE OF MINNESOTA)
COUNTY OF HENNEPIN)SS
CITY OF EDINA)

CERTIFICATE OF CITY CLERK

I, the undersigned duly appointed and acting City Clerk for the City of Edina do hereby certify that the attached and foregoing Resolution was duly adopted by the Edina City Council at its Regular Meeting of July 6, 2010 and as recorded in the Minutes of said Regular Meeting.

WITNESS my hand and seal of said City this 6th day of July, 2010.


City Clerk

(Draft, 4-28-11)

ORDINANCE NO. 2011-__

AN ORDINANCE AMENDING THE ZONING ORDINANCE CONCERNING
ROOFTOP DINING IN THE PCD-2 ZONING DISTRICT

The City Council Of Edina Ordains:

Section 1. Subsection 850.03 (Definitions) is amended to add the following:

Rooftop Dining. Outdoor dining on a rooftop that is accessory to an indoor restaurant in the same building. Rooftop dining may not have kitchen facilities or a permanent beverage bar on the rooftop. Additional activities that may take place within rooftop dining areas include wedding receptions, business receptions, catered events and parties.

Section 2. Subsection 850.08. (Parking Regulations) Subd. 1.P is amended to read as follows:

- P. Restaurants (Except Within Shopping Centers). Spaces equal in number to one-third the maximum indoor seating capacity, plus one space for each employee on the major shift. A combination of outdoor rooftop dining and outdoor patio or sidewalk dining areas that are larger than 20% in area of the square footage of the principal indoor restaurant must provide additional parking spaces equal to one-third the maximum outdoor rooftop and/or patio seating capacity.

Section 3. Subsection 850.16. (Planned Commercial District) Subd. 6. is amended to read as follows:

Subd. 6. Conditional Uses.

- A. PCD-1 and PCD-2.

Multi-residential uses.

- B. PCD-2.

Rooftop dining, subject to the following:

Existing text – XXXX

Stricken text – XXXX

Added text – XXXX

1. A conditional use permit may not be granted for rooftop dining on a lot within 50 feet of an existing R-1 or R-2 Zoning District lots used for residential purposes.
2. Hours of operation are limited to 7:00 am to 10:00 pm. The City Council may further restrict the hours of operation based upon the proximity of the area to residential dwelling units and upon considerations relating to the safety and welfare of residents, businesses, and other uses near the establishment.
3. Amplified sound audible from adjacent property is prohibited.
4. The rooftop dining area shall be kept in a clean and orderly manner. No food or beverages may be stored on the rooftop unless a suitable means for such storage has been reviewed and approved by the City as part of the CUP.
5. Rooftop dining must be adequately screened from existing R-1 or R-2 Zoning District lots used for residential purposes.
6. A liquor license is required to serve alcohol in the rooftop dining area.
7. Fencing or a guard is required around the perimeter of the rooftop dining area per the Minnesota State Building Code.

B.C. PCD-3.

Automobile agencies selling new, unused vehicles.

Boat or marine stores or agencies selling or displaying new, unused boats.

Multi-residential uses.

Offices except offices allowed as a permitted accessory use.

All non-residential uses that increase the FAR to more than 0.5.

Section 4. This ordinance is effective immediately upon its passage and publication.

ORDINANCE NO. 2011-07

AN ORDINANCE AMENDMENT PROHIBITING ROOFTOP
RESTAURANTS IN THE CITY OF EDINA

The City Council Of Edina Ordains:

Section 1. Subsection 850.03 (Definitions) is amended to add the following:

Rooftop Restaurant. A restaurant or any portion of a restaurant open to customers on the roof covering any part of a building or restaurant.

Section 2. Subsection 850.07 (General Requirements Applicable to all Zoning Districts) is amended to add the following:

Subd. 24. Rooftop restaurants shall be prohibited in all zoning districts.

Section 3. This ordinance is effective immediately upon its passage and publication.

First Reading:

Second Reading:

Published:

ATTEST:

Existing text – XXXX

Stricken text – ~~XXXX~~

Added text – XXXX

ORDINANCE ALLOWING
HOMES IN 2010-11 TO
BE RECONSTRUCTED ABOVE
FLOOD & LOW WATER
ELEVATIONS

ORDINANCE 2010-17

AN ORDINANCE AMENDING THE ZONING ORDINANCE CONCERNING NONCONFORMING BUILDINGS AND USES AND ADDITIONS TO OR REPLACEMENT OF HOMES WITH A FIRST FLOOR ELEVATION OVER ONE FOOT ABOVE THE EXISTING HOMES FIRST FLOOR ELEVATION

The City Of Edina Ordains:

Section 1. Section 850.07 Subd. 20. A. is repealed:

- ~~A. Non-conforming uses. Any non-conforming use may continue, provided that:~~
- ~~1. It shall not be expanded to occupy a larger portion of a building or lot, or be extended to other buildings or lots;~~
 - ~~2. It shall not be replaced with any other nonconforming use;~~
 - ~~3. It shall not be resumed if it is discontinued for one year or longer; and~~
 - ~~4. If it is ever discontinued and replaced with a conforming use, no non-conforming use thereafter shall be made of the building or lot.~~

Section 2. Section 850.07 Subd. 20.B is amended to read:

A. Nonconforming Buildings.

1. Alterations, Additions and Enlargements.

- a. A nonconforming building, other than a single dwelling unit building, shall not be added to or enlarged, in any manner, or subjected to an alteration involving fifty percent (50%) or more of the gross floor area of the building, or fifty percent (50%) or more of the exterior wall area of the building, unless such non-conforming building, including all additions, alterations and enlargements, shall conform to all of the restrictions of the district in which it is located. The percentage of the gross floor area or exterior wall area

subjected to an alteration shall be the aggregate percentage for any consecutive three (3) year period.

- b. Alternate setbacks. An addition to a single dwelling unit building with a nonconforming setback, or an addition to a structure accessory to a single dwelling unit building with a nonconforming setback, may be constructed within the existing nonconforming setback, which is the shortest distance from the applicable lot line to the existing structure, subject to the following limitations:
 - i. the addition shall not exceed the existing square footage encroachment into the nonconforming setback or two hundred (200) square feet, whichever is less; and
 - ii. the addition may only be constructed on the same floor as the existing encroachment into the nonconforming setback.
2. Nonconformities. Except as provided in Section 850.21, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this Chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, except as specifically provided in this Chapter, unless:
- a. the nonconformity or occupancy is discontinued for a period of more than one (1) year; or
 - b. any nonconforming use is destroyed by fire or other peril to the extent of greater than fifty percent (50%) of its market value, and no building permit has been applied for within one hundred eighty (180) days of when the property is damaged. In these cases, the city of Edina may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property. Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.

Section 3. Section 850.11 (R-1, Single Dwelling Unit District) Subd. 2. Conditional Uses; is amended to add the following:

- I. Additions to or replacement of single dwelling unit buildings with a first floor elevation of more than one (1) foot above the existing first floor

elevation of the existing dwelling unit building. Such additions to or replacements of single dwelling unit buildings must meet one or more of the first three (3) conditions listed below, and always meet condition four (4).

1. The first floor elevation may be increased to the extent necessary to elevate the lowest level of the dwelling to an elevation of two (2) feet above the 100-year flood elevation, as established by the Federal Emergency Management Agency (FEMA), or the City's Comprehensive Water Resource Management Plan; or
2. The first floor elevation may be increased to the extent necessary to reasonably protect the dwelling from ground water intrusion. Existing and potential ground water elevations shall be determined in accordance with accepted hydrologic and hydraulic engineering practices. Determinations shall be undertaken by a professional civil engineer licensed under Minnesota Statutes Chapter 326 or a hydrologist certified by the American Institute of Hydrology. Studies, analyses and computations shall be submitted in sufficient detail to allow thorough review and approval; or
3. The first floor elevation may be increased to the extent necessary to allow the new building to meet State Building Code, City of Edina Code, or other statutory requirements; and
4. An increase in first floor elevation will only be permitted if the new structure or addition fits the character of the neighborhood in height, mass and scale.

Section 4. Section 850.11 Subd. 7. H. is hereby amended as follows:

- H. Additions to or replacement of, single dwelling unit buildings and buildings containing two dwelling units. For additions, alterations and changes to, or rebuilds of existing single dwelling unit buildings and buildings containing two dwellings, the first floor elevation may not be more than one foot above the existing first floor elevation. If a split level dwelling is torn down and a new home is built, the new first floor or entry level elevation may not be more than one foot above the front entry elevation of the home that was torn down. Subject to Section 850.11 Subd. 2. I. the first floor elevation may be increased more than one (1) foot. The provisions of this paragraph shall apply to all single dwelling unit buildings and buildings containing two dwelling units including units in the flood plain overlay district. Any deviation from the requirements of this paragraph shall require a variance.

Section 5. Section 850.12 (R-2, Double Dwelling Unit District) is amended to add the following:

Subd. 3. Conditional Uses.

- A. Additions to or replacement of single dwelling unit buildings and buildings containing two (2) dwelling units with a first floor elevation of more than one (1) foot above the existing first floor elevation of the existing dwelling unit building. Such additions to or replacements of single or two dwelling unit buildings must meet one or more of the first three (3) conditions listed below, and always meet condition four (4).
1. The first floor elevation may be increased to the extent necessary to elevate the lowest level of the dwelling to an elevation of two (2) feet above the 100-year flood elevation, as established by the Federal Emergency Management Agency (FEMA), or the City's Comprehensive Water Resource Management Plan; or
 2. The first floor elevation may be increased to the extent necessary to reasonably protect the dwelling from ground water intrusion. Existing and potential ground water elevations shall be determined in accordance with accepted hydrologic and hydraulic engineering practices. Determinations shall be undertaken by a professional civil engineer licensed under Minnesota Statutes Chapter 326 or a hydrologist certified by the American Institute of Hydrology. Studies, analyses and computations shall be submitted in sufficient detail to allow thorough review and approval; or
 3. The first floor elevation may be increased to the extent necessary to allow the new building to meet State Building Code, City of Edina Code, or other statutory requirements; and
 4. An increase in first floor elevation will only be permitted if the new structure or addition fits the character of the neighborhood in height, mass and scale.

Section 6. This ordinance is effective immediately upon its passage and publication.

First Reading:

Second Reading:

Published:

ATTEST:

Debra A. Mangen, City Clerk

James B. Hovland, Mayor

Please publish in the Edina Sun Current on:

Send two affidavits of publication.

Bill to Edina City Clerk

CERTIFICATE OF CITY CLERK

I, the undersigned duly appointed and acting City Clerk for the City of Edina do hereby certify that the attached and foregoing Ordinance was duly adopted by the Edina City Council at its Regular Meeting of _____, 2010, and as recorded in the Minutes of said Regular Meeting.

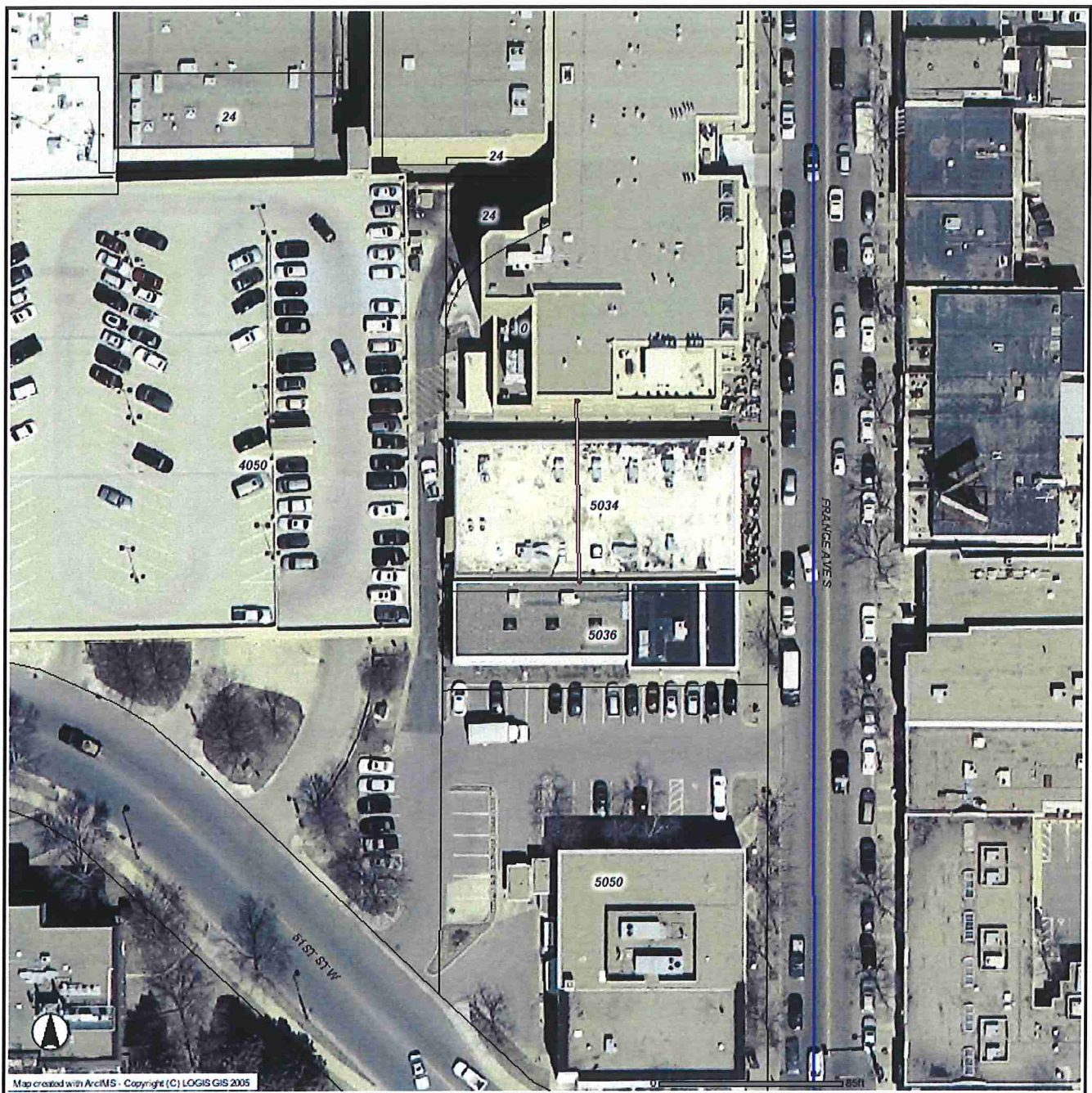
WITNESS my hand and seal of said City this _____ day of _____, 2010.

City Clerk







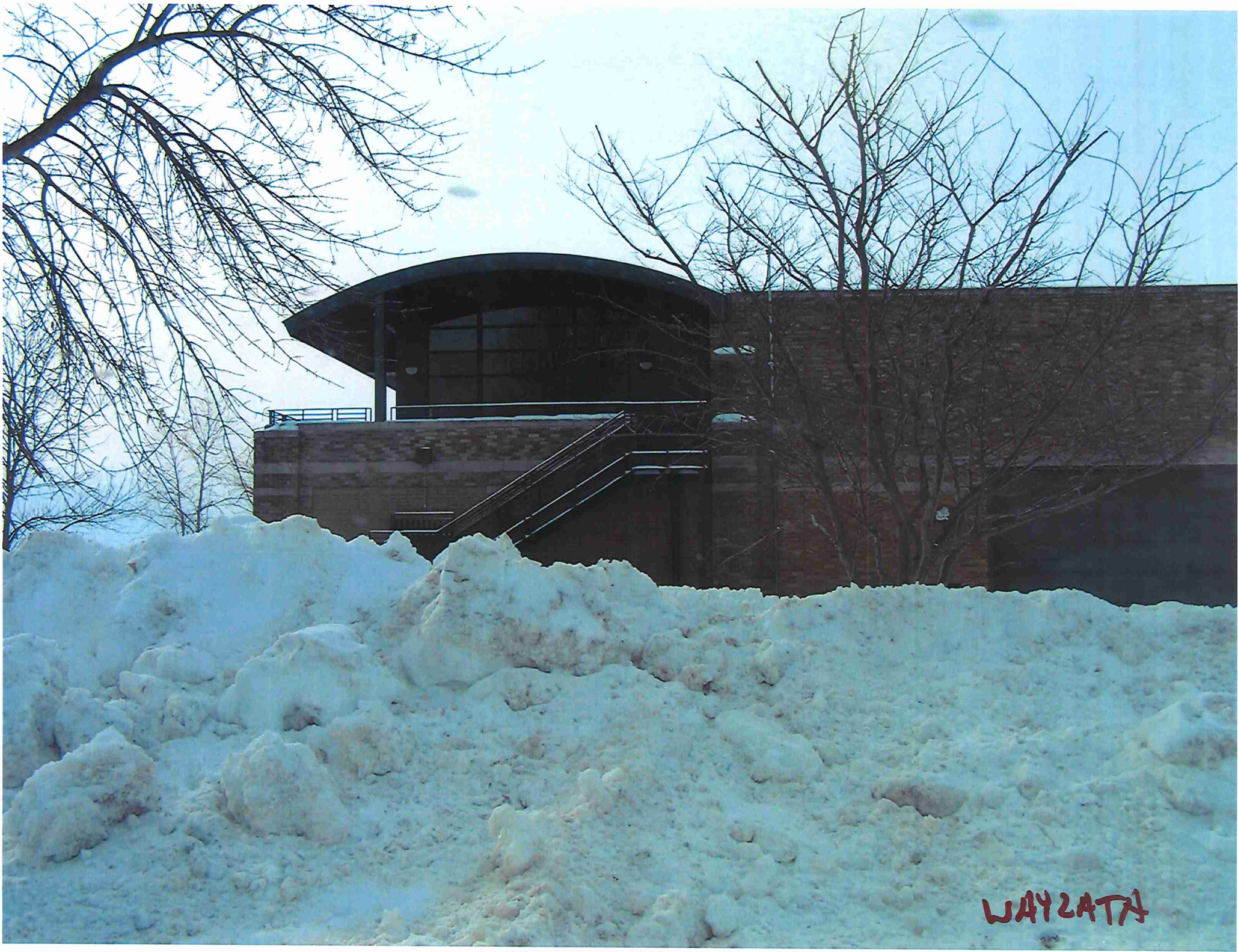




MPLS

MPLS





WAYZATA

1. The new single-family home must meet all minimum setback and height requirements, and not encroach within the future drainage and utility easement areas.
2. Prior to issuance of a building permit, a 25-foot drainage and utility easement along the north lot line and a 10-foot drainage and utility easement along the south line must be filed with Hennepin County.

Rollcall

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

VII.B. ORDINANCE NO. 2011-07 TABLED– AN ORDINANCE AMENDING SECTION 850 CONCERNING ROOFTOP DINING IN THE PLANNED COMMERCIAL DISTRICT-2

Planning Director Teague reviewed past considerations relating to regulation of rooftop dining and presented the Planning Commission's consideration and conclusion that rooftop dining was an appropriate use in PCD-2 Districts and should continue to be an allowed use, subject to a Conditional Use Permit (CUP). Due to the shortage of parking in the 50th and France area, the Commission recommended that additional parking spaces must be provided if the combination of outdoor rooftop dining, outdoor patio, or sidewalk dining areas were larger than twenty percent in area of the square footage of the principal indoor restaurant. Mr. Teague noted that no existing outdoor dining venues exceed the twenty-percent threshold, so adoption of the proposed ordinance would not create a nonconforming use. He read the conditions that would be placed on a CUP request for rooftop dining if the proposed ordinance were approved.

The Council discussed the proposed ordinance and asked questions of Mr. Teague relating to the status of outdoor/rooftop dining in PCD-1, PCD-3, MDD-5, and MDD-6 Districts. Mr. Teague advised that rooftop dining would not be allowed in those Districts. The Council then discussed the rationale for 50-foot setbacks from residential properties when neighboring communities required up to 200-foot setbacks, how to address lighting impacts to adjacent property, and extended hours of operation. Mr. Teague indicated the CUP process would allow each application to be considered on a case-by-case basis. With regard to the twenty percent threshold, the Planning Commission did not want the ordinance to create nonconforming uses.

The Council noted Edina Code's parking requirements were determined based on square footage rather than use of the property, yet it had been determined that restaurants created a higher parking demand. Mr. Teague advised that the square footage calculation to determine parking incorporated the entire building, not just the seating area.

The Council indicated support to require a special events permit for large private affairs. They discussed the noise-shed of upper level dining and whether amplified sound should be allowed. Mr. Teague explained that sound complaints would be enforced on a complaint basis. He said sound was measured at the adjacent property line. Mr. Teague noted the original language restricted amplified sound, but the Planning Commission did not want to prohibit playing soft music that would not disturb the neighbors. If a particular property was found to be in continual violation of the noise provision, the Council could consider revoking that establishment's CUP.

Attorney Knutson advised that the moratorium had been adopted on July 6, 2010, and could not be extended.

Mayor Hovland opened the public hearing at 9:26 p.m.

Public Testimony

No one appeared to comment.

Member Sprague made a motion, seconded by Member Swenson, to close the public hearing.

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

During discussion of the amendment language, concerns were expressed relating to the hours of operation from 7 a.m. to 10 p.m. given a 50-foot setback from residential properties, need to assure adequate screening, noise-shed of upper level dining, and impact of lighting on adjacent properties. The Council indicated it may be more supportive of rooftop dining in the Grandview District or Edina Interchange. However, rooftop dining at 50th and France remained problematic due to limited parking availability and the potential impact on the value of housing units at 50th and France. If approved, it was suggested the rooftop dining provision be implemented in a phased approach, permits be required for receptions and special events, no amplification be allowed, adequate screening be required and a larger setback be required from residential properties.

Attorney Knutson advised the ordinance could not exempt one area within PCD-2 because the Statute required uniformity throughout the District.

Given the number and type of issues raised and the expiration of the moratorium, the Council determined to not consider an amendment to allow rooftop dining. Member Swenson suggested a joint meeting be scheduled with the Planning Commission to discuss how rooftop dining could be phased in at a later date this fall. **Member Swenson made a motion, seconded by Member Bennett, to table indefinitely consideration of Ordinance No. 2011-07, amending Ordinance Section 850 concerning rooftop dining in the PCD-2 Zoning District, and directing staff to draft language prohibiting rooftop dining.**

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

VIII. REPORTS / RECOMMENDATIONS

VIII.A. VACANCIES ON ART CENTER BOARD, HERITAGE PRESERVATION BOARD, AND PARK BOARD DISCUSSED

City Clerk Mangen advised of recent resignations on the Art Center Board, Heritage Preservation Board, and Park Board. She referenced the listing of applicants who had been interviewed and requested Council direction. The Council noted there currently was not an applicant for the Art Center Board or Heritage Preservation Board and three applicants were available for the Park Board. Based on the current level of representation from each of the City's quadrants, it was agreed to consider applicants from the Southeast or Southwest quadrant.

Following discussion, Council consensus was reached directing staff to contact David Deeds inquiring whether he would be interested in making reapplication. If Mr. Deeds was not interested, the Park Board vacancy would then advertised with a press release. Staff was directed to issue a press release of Art Center Board and Heritage Preservation Board vacancies for interview at an upcoming work session.

VIII.B. RESOLUTION NO. 2011-60 ADOPTED – ACCEPTING VARIOUS DONATIONS

Mayor Hovland explained that in order to comply with State Statutes; all donations to the City must be adopted by Resolution and approved by four favorable votes of the Council accepting the donations. **Member Bennett introduced and moved adoption of Resolution No. 2011-60 accepting various donations.** Member Sprague seconded the motion.

Rollcall:

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

VIII.C. ORDINANCE NO. 2011-10 CONTINUED – AMENDING SECTION 1509 REGARDING THE TRANSPORTATION COMMISSION PURPOSE AND DUTIES

Appearing for the Applicants

Ehtesham Khoyratty

Motion

Commissioner Staunton moved to recommend approval of the lot division based on staff findings and subject to staff conditions to include the condition that the easements are vacated along the common side lot line. Commissioner Fischer seconded the motion. All voted aye; motion carried.

2009-0004.10.10

Zoning Ordinance Amendments

• **Roof Top Dining**

Planner Presentation

Planner Teague addressed the Commission and stated that based on the direction of the Planning Commission at the March 23, 2011 meeting, staff has revised the draft ordinance amendment that would allow rooftop dining as a conditionally permitted use within the PCD-2 Zoning District.

The changes are underlined on the draft ordinance, and summarized as follows:

- The definition of rooftop dining is expanded to include wedding receptions, business receptions, catered events and parties.
- The parking requirement has been changed to require additional parking for outdoor rooftop dining, outdoor patios or a combination of both that are larger than 20% in area of the square footage of the principal indoor restaurant.
- A condition has been added that a liquor license is required to serve alcohol in the rooftop area.
- A fencing requirement has been added. The current State Building Code requirement for rooftop dining is to have a minimum of a 42-inch fence, or "guard" around the perimeter. The maximum opening size within the fence is 4-inches. The State Building Code requirement is referenced, and not the specific requirement, because these standards often change within the building code. If the State does change the Building Code, then City would not have to amend its ordinance.

Discussion

The Commission asked Planner Teague to clarify public parking. Planner Teague clarified that public parking is calculated according to the Floor Area Ratio (FAR) of each merchant space. The Commission said they want assurances that the 20% is the total outdoor dining percentage which would include sidewalk, patio, and rooftop. Anything over that 20% would require additional parking.

The Commission proposed the following language changes:

Section 1 850.03 (Definitions) insert after: of a **permanent beverage** bar. Typo on the word dining in same paragraph

Section 2. Beginning with the sentence Outdoor rooftop dining....begin sentence with **A combination of** outdoor rooftop dining and outdoor patio or sidewalk dining areas...cross out after areas; or a combination of both.

Section 2. last line change or to and **rooftop and patio**.

Section 2. B.1. Last line change lots to lot.

Motion

Commissioner Potts moved to recommend approval of the Rooftop Dining Ordinance subject to the language changes proposed by staff and the Commission. Commissioner Staunton seconded the motion. All voted aye; motion carried.

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- **Planning commission Meeting Dates: Zoning Board of Appeals**

Planner Presentation

Planner Teague told the Commission that on April 19, 2011, the city Council adopted the Ordinance that establishes the Planning Commission as the Zoning Board of Appeals. As a result the Planning Commission will now review all variance requests.

Teague reminded the Commission that past discussions concluded that if the City Council establishes the Commission as the Zoning Board of Appeals the Planning Commission would have to begin meeting twice per month. To streamline the development process Teague said meeting on the 1st and 3rd Wednesdays of each month would allow staff one week to prepare meeting minutes for the City Council, and also allow applicants time to revise plans if so directed by the Commission. Teague concluded that staff would further recommend that the Planning Commission meetings begin at 5:30 pm to consider residential variances. This meeting would be held off

that would enhance the streetscape along France Avenue and the neighborhood. Concluding Grabel said in his opinion Mr. Noonan should bring his plan to the City Council.

The Commission highlighted the following points:

- The Commission acknowledged that the Comprehensive Plan identifies this area as an area where a Small Area Plan may occur.
- The City Council needs to determine if a Small Area Plan was needed before this project can proceed.
- Keep in mind that the direction of the Comprehensive Plan was walkability and creating and maintaining streetscapes.
- Minneapolis is directly east of the subject site and the City has no control over what happens on that side of the street.
- The Commission suggested revisions to the plan; Pull the building closer to the street; construct parking on top of existing garage; work on the interior configuration of the parking lot. A redesign of the parking lot could achieve more parking.
- The sketch plan presented tonight needs to be presented to the neighborhood.

Mr. Noonan thanked the Commission for their input, adding he would consider their comments and would proceed to the City Council.

Motion

Commissioner Staunton moved to recommend that the Commission formally pass their comments on the Sketch Plan presented by Mr. Noonan to the City Council. Commissioner Potts seconded the motion. All voted aye; motion carried.

2009.0004.10.11

Zoning Ordinance Amendments

Rooftop Dining

Planner Presentation

Planner Teague reminded the Commission this topic was addressed at past meetings. Planner Teague said at their last Planning Commission meeting the Commission directed him to revise the ordinance with the following changes:

- Requiring a 50-foot setback from R-1 or R-1 Zoning District, rather than from any residential use. The Commission believed that because an exception was made to allow residential uses within commercial zoning districts, the City should not

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now place additional restrictions or not allow a commercial use where it was previously allowed.

- Screening requirements were added.
- Outdoor speakers are allowed as long as they are not audible from adjacent property.

Teague also noted that attached was an email from a resident that found regulations on rooftop dining from other communities.

Planner Teague told the Commission if they were comfortable with the changes he made to the ordinance he would forward the ordinance on to the City Council.

The Commission said they would like to discuss this issue further in light of the materials received from Councilmember Bennett. The Commission also suggested that it might be beneficial to add a definition of "rooftop dining" to the ordinance. It was acknowledged that if the term "rooftop dining" is taken in context it means just that; dining on a roof; however out of context it could mean catered events, parties etc. on a roof. To avoid confusion the definition language should be tightened up as to what rooftop dining is. The Commission also noted that certain aspects of a restaurant require licensing (food and liquor) and it should be noted that if rooftop dining is permitted that their licensing requirements reflect the additional seating. It was also suggested that Planner Teague look at safety for the rooftop diners to ensure that someone wouldn't be able to tumble off the roof. Lastly the Commission asked Planner Teague to clarify the difference between sidewalk and rooftop dining and establish a percentage for both, pointing out that it is entirely possible that a restaurant may want both, sidewalk and rooftop dining.

Chair Grabiell asked Planner Teague to study this issue further and bring it back to the Commission at a later date.

Side Yard Setback (Heritage Landmark District)

Planner Presentation

Planner Teague reminded the Commission that at their February 9th Zoning Ordinance Update Committee (ZOUC) meeting Committee Members requested that the Heritage Preservation Board review and comment on a draft ordinance regarding side yard setback exemptions for properties with a Heritage Landmark District overlay zoning. Also at that meeting the Committee raised a concern that there would be no review of the Heritage Preservation Board (HPB) if an addition were built at the back of a home and used the side yard setback exception in the newly drafted Ordinance.

Teague told the Commission the HPB discussed the Committees issue at their March 8th meeting, and agreed there should be some review of a house that uses the exception. Continuing, Teague said the HPB agreed to require a Certificate of

The Commission stated that this was a surprise to them too; adding that at this time they would like to "hold off" on electing a new Chair allowing them time to consider their options. The Commission also noted they are in the process of amending the zoning ordinance and to maintain continuity it may be best to keep the current Chair in place. The Commission pointed out that during the Comprehensive Plan re-write process John Lonsbury retained the chair for a three year time period to ensure continuity. Chair Fischer acknowledged the sentiment of the Commission, and pointed out that the ordinance stipulates a two year term for the chair. Continuing, Fischer stated he was very happy with the accomplishments of the last two years (by-laws, ordinance re-write, PUD, sketch plan review), adding that at this time it's time to elect a new chair and have the new chair bring their own ideas to the Commission. Fischer stated he would feel comfortable continuing the annual meeting to the next PC meeting. The Commission formally requested that the annual meeting adopting by-laws and electing new officer(s) be continued to the next meeting of the Planning Commission, noting that two Planning Commissioners were absent.

Motion

Commissioner Grabiell moved to continue the election of officers and adoption of by-laws to the March 23, 2011, Planning Commission Meeting. Commissioner Carpenter seconded the motion. Ayes; Potts, Scherer, Carpenter, Grabiell, Forrest, Platteter, Fischer. Motion carried.

III. NEW BUSINESS:

Zoning Ordinance Update – Discussion

Rooftop Dining

Chair Fischer summarized the Zoning Ordinance Update Committee's (ZOUC) previous discussion on rooftop dining, adding during that discussion three options were formulated to address it; prohibit rooftop restaurants within the City, allow rooftop restaurants to continue as a permitted use or allow rooftop restaurants as a conditionally permitted use. Fischer added at the meeting the ZOUC asked staff to draft an ordinance that would allow rooftop dining as a conditionally permitted use within the PCD-2 zoning district. Fisher also added at that meeting the Committee invited City Engineer, Wayne Houle to clarify ramp parking/merchant fees and circulation in the 50th & France Avenue business area at the next meeting of the Planning Commission. Fischer concluded that Mr. Houle is present to address the parking situation at 50th & France.

Mr. Houle presented to the Commission a power point overview of the 50th & France business commercial area and the cost reimbursement for work/maintenance of the ramps, sidewalks and other public areas.

Mr. Houle explained that the 50th & France Commercial Area is governed by City Code 1215, adding 1215 focuses on two areas; Grandview and 50th and France. Houle outlined key areas of City responsibility for the 50th & France Avenue business area and merchant cost assessment:

- Cost and assessment/ 2010 \$276,552.76 @ \$0.7826 (cost assessment is based on square footage, not use).
- Types of Parking; Contract (permit), 2-hour parking, 5-hour parking and top level parking – permit or 5-hour plus
- Total public parking spaces available = 1,053
- Total public and private parking available = 1,283

Mr. Houle summarized the public parking availability:

- South ramp = 409 spaces
- Middle ramp = 338 spaces
- North ramp = 255 spaces
- 36 surface public parking spaces at the 49 ½ St. & Halifax ramp area
- 15 public parking spaces in front of the Liquor Store

Houle also noted that Lund's provides its own parking; however, patrons of Lund's can also access the public parking areas. Continuing, Houle explained when Salute moved into the area the City realized it would have to "get its arms" around the parking. Houle reported that a valet service was also implemented in the area to accommodate parking demands. Houle said a vehicle counting system is in place and the City uses the Shared Parking Model. Houle acknowledged that during peak times and seasonally parking was an issue, adding the City needs to determine how to address it. Concluding, Houle pointed out that the public ramps and surface parking spaces provide parking for not only the general public but for employees as well.

The Commission asked how the City of Minneapolis works with Edina on parking. Mr. Houle acknowledged that the 50th and France Avenue Business Association includes both Edina and Minneapolis merchants; however, Minneapolis' philosophy on parking and parking ramps is different from Edina's. Minneapolis isn't fond of ramps at least for this area. The Commission commented that it appears Edina's ramps support Minneapolis. Mr. Houle responded that he can't argue with that statement.

The Commission expressed surprise on the number of employees that park in the ramps. Mr. Houle said the City established a parking permit process and fee for employee parking, adding only Edina merchant employees can park in the ramp; Minneapolis side employees are "on their own". The Commission asked if business owners had expressed concern over employee parking. Houle responded that business owners had expressed concern over employee parking and are considering the option of shuttling employees to and from the area. The Commission asked Mr. Houle if it was determined that more parking was needed would the cost of providing the additional

parking spaces/ramp level be assessed back to the merchants. Mr. Houle responded in the affirmative.

Chair Fischer thanked Mr. Houle for his presentation.

Discussion

The Commission acknowledged that the success of 50th & France was a good problem; however, at this time the charge of the Commission was to comment on rooftop dining. The Commission discussed the difference in commercial uses; especially with parking demands pointing out that traditionally restaurant parking demands are greater than those for general retail use. Planner Teague agreed with that comment. Commissioners also noted that merchant assessments are based on square footage; not use. Planner Teague informed Commissioners that they are correct in their comments on parking demands for restaurant establishments and acknowledged that parking ratios differentiate between commercial uses.

Planner Teague briefed the Commission on the proposed rooftop dining ordinance highlighting the following points:

1. Rooftop dining must be subordinate to the principal restaurant building.
2. Rooftop dining areas that are larger than 20% in area of the square footage of the principal restaurant building must provide additional parking as required for restaurants per Section 850.08 of the City Code.
3. Hours of operation shall be limited to no later than 10:00 pm. The City Council may further restrict the hours of operation based upon the proximity of the area to residential dwelling units and upon considerations relating to the safety and welfare of residents, businesses, and other uses near the establishment.
4. The lot line of a rooftop dining establishment shall be at least 50 feet from any residential parcel and shall be separated from residential parcels by the principal structure or other method of screening acceptable to the city.
5. There shall be no outside speakers or audio equipment which is audible from adjacent parcels.
6. The rooftop dining area shall be handicap accessible and not restrict accessibility in other areas inside or outside the restaurant or food establishment.
7. The rooftop dining area must conform to all Fire and Building Codes.
8. The rooftop dining area shall be kept in a clean and orderly manner. No food or beverages may be stored outdoors, unless a suitable means for such storage has been reviewed and approved by the City as part of the CUP.

The Commission acknowledged the rooftop dining ordinance drafted by Planner Teague and noted that rooftop dining was seasonal; similar to sidewalk dining and questioned the reasoning sidewalk dining wasn't included in the ordinance draft. Continuing, the Commission also observed that there is a difference between sidewalk and rooftop dining. The Commission added that in their opinion Edina should encourage sidewalk dining because it enhances the quality of life and is part of the streetscape. They also acknowledged that rooftop dining by its very nature wasn't part of the streetscape. Planner Teague responded that during his study on the topic of rooftop and sidewalk dining that he found that sidewalk dining usually doesn't exceed the 20% in area of the square footage of the principal indoor restaurant area, adding a cut-off mark needed to be established. Continuing, Teague said the draft ordinance also recommends a 50-foot setback from residential properties, limited hours, amplified sound standards, rooftop bar and kitchen are prohibited, storage of materials is prohibited and the rooftop dining was limited to the PCD-2 zoning district.

In conclusion the Commission stated they understood the rationale behind the draft ordinance and its stipulated conditions; however, were troubled over the possible perceived unfairness of singling out this establishment and rooftop dining. The Commission pointed out that the current ordinance governing the PCD-2 district was amended to accommodate housing; and now that amendment has created an issue where before the amendment there was none..

Continuing, the Commission stated they felt that the 50-foot distance requirement made sense; however, suggested that the amendment should be written that "rooftop dining must maintain a 50-foot setback from all residentially zoned properties." The Commission stated to the best of their knowledge the 50th and France area is zoned PCD-2. The Commission also reiterated as previously mentioned, that the City of Edina has no degree of control over what happens on the Minneapolis side of the street; pointing out there are ample opportunities for rooftop dining directly across the street, adding that it seems odd to legislate for this one corner.

In summary the Commission asked Planner Teague to review the following:

- Amend the proposed ordinance language stipulating that rooftop dining maintain a 50-foot setback from all residentially zoned properties. It was acknowledged that the proposed language established a setback between uses within a similarly zoned district; not zones.
- Introduce screening requirements; noting flexibility; case by case.
- Revisit the noise standards and it's reference to speakers/amplified sounds – maybe include amplified sound not audible to adjacent properties
- Revisit the 20% -

Planner Teague invited all Commissioners to call or e-mail him if they had other ideas on this topic.

An Ordinance Amending the Zoning Ordinance concerning Notification Requirements for Conditional Use Permits

Planner Teague said the City Council directed staff to draft an ordinance that reduces notification distance requirements for Conditional Use Permits required for first floor elevations that exceed existing structures by more than 1-foot in the R-1 and R-2 zoning districts. The notification reduction would be from 1,000-feet to 350-feet.

The Commission asked where the 350-foot distance came from. Planner Teague responded that the 350-feet originate from the state statute distance requirements for Conditional Use Permits. Teague pointed out that Edina's 1000-foot distance notification requirement for Conditional Use Permits far exceeds the minimum distance requirements stipulated by state statute.

The Commission asked if the proposed ordinance was written only for single and double family homes. Planner Teague responded that is correct. The 350-foot notification area keeps the notification area in line with other residential requests such as variances. Teague further clarified that this ordinance does not include R-1 zoned properties such as churches, schools and public buildings, reiterating its jurisdiction was only for single and double family homes.

Motion

Commissioner Carpenter moved to recommend ordinance adoption. Commissioner Potts seconded the motion. Ayes; Potts, Carpenter, Scherer, Grabiell, Forrest, Platteter, Fischer. Motion carried on roll call vote – seven ayes.

The Commission asked, as a point of clarification, if the 1-foot ordinance only pertains to water related issues. Planner Teague responded in the affirmative.

Ordinance Amendment Concerning Boards & Commissions

Chair Fischer commented that he believes the ordinance amendment on boards and commissions was already adopted and asked Planner Teague if the Council was looking for comments. Planner Teague responded that is correct. The Council would like the Commission to share their ideas on this topic or suggest changes. Teague said this topic could also be discussed at the joint work session with the Council in May.

Chair Fischer said the Planning Commission hasn't had any issues with attendance; however, paragraph B page 5 talks about attendance criteria, adding in his opinion Council work sessions could present a problem. Continuing, Fischer noted that Commission and ZBA meetings are predetermined, and Commissioners are provided

that there is "leverage" in the ordinance that would prevent a house or addition from being constructed at too large of a scale.

The discussion continued with committee members reiterating their concern on massing and asked Planner Teague to work with the city attorney on drafting ordinance language and have that language reviewed and discussed by the HPB for their review and comments.

Topic: Rooftop Dining

Date Introduced: February 9, 2011

Chair Fischer introduced the topic of rooftop dining, and asked Planner Teague to update the Zoning Ordinance Update Committee (ZOUC) on what's occurring in the City with rooftop dining.

Planner Teague informed the ZOUC that the City Council recently adopted an Ordinance placing a temporary moratorium prohibiting rooftop dining within the City of Edina. Planner Teague explained that a new restaurant (Barrio) located in the 50th & France Avenue area had expressed the desire to add rooftop dining to their establishment. This new restaurant is located within close proximity to the condominiums at 50th & France, and the "rooftop dining" would also include a bar area. Teague reported that the adjacent property owner (condominiums) expressed concern in locating rooftop dining so close to residential buildings. Continuing, Teague reported that rooftop dining is currently considered a permitted use, similar to outdoor dining; (sidewalk/patio) however, at this time the City doesn't have any rooftop dining establishments.

Planner Teague noted from a study he conducted in the Metro area that a number of cities allow rooftop dining either as a permitted use or through the Conditional Use process. Teague said at this time he would like the committees input on rooftop dining; especially in close proximity to residential properties, and how it should or should not be addressed.

Chair Fischer asked Planner Teague if parking could become an issue. Planner Teague responded in the affirmative adding that parking in the 50th & France business district at times is limited.

Member Staunton questioned if an additional level could be added to the ramps. Planner Teague responded that could be a possibility; however, there are height restrictions within the 50th & France business district and the ramps would have to be engineered to accommodate the weight of an additional level. Teague said another part of this issue to remember is that outdoor dining is permitted and occurs (Salute) in close proximity to the residential properties in question; however, it's on the sidewalk

Chair Fischer commented that in a way the City should feel fortunate that the 50th & France business district is so successful. Continuing, Fischer said he understands concerns expressed from residential property owners; however, he doesn't know if he would rather look at a flat roof or people dining.

A discussion ensued with committee members raising the following:

- Would continued expansion of dining facilities (including the Minneapolis side) within the 50th & France business district strain parking?
- If rooftop dining is permitted limiting the hours, number of seats, and lighting should be addressed.

- Consider allowing rooftop dining as a Conditional Use. With a Conditional Use process the City could place conditions on each individual request (lighting, hours, bar, proximity).
- Is there a difference between rooftop dining and sidewalk dining?
- Acknowledge that in the 50th & France area parking could be an issue; however, the committee acknowledged that both the City and business establishments are partners in the municipal ramps.
- Point out that in Minnesota outdoor dining of any kind is seasonal; not 24-7, 365 days per year.
- Is it fair to single out this establishment; noting the ordinance was amended to allow housing in a commercial zoning district?
- If housing in a commercial area restricts permitted commercial uses could that be problematic for the viability of the district.
- Allow rooftop dining; but no bar area.
- Consider utilizing the currently restricted employee parking area during evening hours.
- Acknowledge that Minneapolis doesn't provide parking - this use could move across the street impacting Edina's parking but with no input from Edina.
- Limit rooftop dining to the PCD-2 zoning district; and prohibit it in other zoning districts.

The discussion ensued with members inquiring about existing parking counts and the potential for increasing parking in the 50th & France area. Members also wanted to know how ramp fees were assessed to establishments. Committee members also wanted to know what other 50th & France area restaurants had the potential for rooftop dining. In response to that question Planner Teague stated that all restaurants within the 50th & France district have that option; however, because of building code restraints it appears (at this time) that Barrio may be the only restaurant that could achieve rooftop dining meeting all building codes. Further discussion continued suggesting that limiting rooftop dining to the PCD-2 zoning district and as a conditional use would be the correct way to proceed with ordinance language. PCD-2 zoning districts include the Grandview District, 70th & Cahill and the 50th & France district.

The discussion continued with members acknowledging the moratorium provides the City with the opportunity to study the issue and draft an ordinance addressing this issue.

Chair Fischer asked Planner Teague to provide more information on the parking status in the 50th & France area. Fischer suggested inviting Wayne Houle to the next Planning Commission meeting. Mr. Houle would be able to bring the Commission up to date on the parking situation in the 50th & France area and how merchants are assessed. Fischer also asked Teague to draft an ordinance on rooftop dining limiting it to the PCD-2 zoning district.

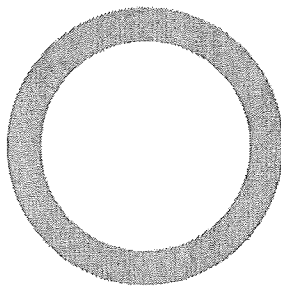
Planner Teague said he would invite Mr. Houle to the next meeting and would work on drafting an ordinance addressing rooftop dining.

Meeting adjourned at 8:20 PM

Jackie Hoogenakker
Respectfully submitted

Uptown Association

Orfield Laboratories Inc



Design Research Testing
Acoustics / Vibration / Vision / Lighting / Architecture / Market Research

PREPARED FOR

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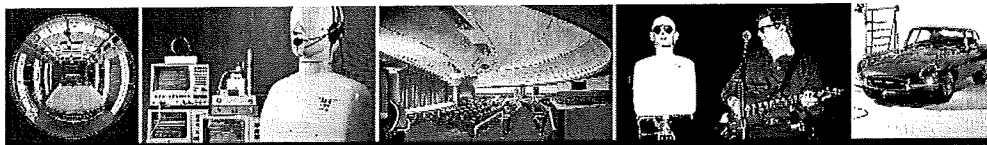
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PROJECT

Acoustic Consulting - Environmental Noise Program

We have prepared this memo following our measurement session in Uptown. The session measured all the Uptown restaurants noted by Randy and a series of other venues. This memo includes the process, the results and our recommendations at this point.





MEASUREMENT INTRODUCTION

A test session was scheduled on the 16th of September, and this measurement was repeated on the 30th of November in the Uptown area. These sessions were completed successfully, but the noise was not as high as the measurements taken during the Stella's visit the year before, as we were approaching the end of the season before these measurements were authorized.

Dave Berg and Mike Role of Orfield Labs set up and calibrated acoustic instrumentation and left for Uptown at 9 PM, arriving at about 9:30 PM. The measurement process included in this visit, as suggested by Mr. Stanley, included the measurement of

1. Amore Victoria, Lake Street and Irving
2. Cafeteria, Lake Street and Girard
3. Stella's Fish Cafe, Lake Street and Girard
4. Cowboy Slims, Lake Street and Girard
5. Bar Abilene, Lagoon Avenue and Freemont
6. Moto I, Lake Street and Lyndale
7. Drink

Two acoustic measurement instruments were used for the measurements:

1. Bruel & Kjaer 2236 Analyzer
2. Norsonic - NOR121 Analyzer

Both analyzers were used for all the fixed measurements. For the 'drive by' measurements of restaurants and bars, only the Norsonic analyzer was used, as Mike drove while Dave measured.

(This measurement schedule was not publicly announced, and it was done late in the season in order to capture the levels of noise prior to the City Council enacting their statute on outdoor noise, that was being presented by Council Member Meg Tuthill.)



GOALS OF THIS PROCESS

This measurement process was undertaken due to the concerns expressed by members of the Uptown Association (UA) who were interested in establishing a program of noise control that was administered by the Association in order to control outdoor noise for the benefit of the local residents. This is tentatively being called, the Restaurant Standards Program For Entertainment Noise. This project includes four initial phases:

1. **Measurement of the Uptown bars** to report on noise based on those measurement sessions and on previously done for Stella's.
2. **Definition of Acoustic Issues** in order to define needed restaurant performance and to develop metrics that can be used to measure noise impact.
3. **Individual Venue Assistance** to calibrate and refine each venue in order to easily comply the new Uptown Association standards.

The City of Minneapolis is in the process of developing a new noise ordinance for outdoor entertainment venues. Since there is no in-depth noise experience within the City, there is concern on the part of UA for being treated unpredictably in the process of controlling noise.

THE COMPLEX MEASUREMENT PROCESS

Measurements of entertainment districts are often difficult because of a series of common problems. Uptown is no exception. Some of these problems in Uptown are:

1. There are many venues within a small, compact area.
2. Some of these emphasize music; some are restaurant only, with music as background.
3. Some venues are open on street level, producing significant noise.
4. Some are closed on street level, but play music loudly, with low frequencies (the beat) traveling significant distances.
5. From the residences on Fremont, Stella's is one of the only visible high elevation perceived sound source.
6. Sound on the ground is harder to observe, but there are a number of venues affecting the neighborhood.
7. Speech is normally perceived as directional; low frequency music noise is not. In reflective, closely packed city environments, directionality is very difficult to control or to determine. Thus, perceived source localization by citizens or public officials (identifying where sound is coming from) is relatively unreliable.



MEASUREMENT RESULTS – STELLA'S FISH CAFE

A test session was scheduled on Saturday the 17th of July in the Uptown area. This session was rained out, and a second session was re-scheduled on Saturday, July 24. This session was completed successfully.

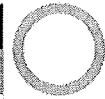
From assessment of these measurements, the results of this testing were clear in determining these facts:

1. Speech, (assumed to be emitted from Stella's), can be clearly heard from one of the closest points in the residential neighborhood, 3017 Fremont Avenue South. As you move further away, speech perception reduces.
2. The source of this sound may actually be a combination of Stella's, Cafeteria and Cowboy Slim's venue. The acoustic values on the deck and in the neighborhood have been determined with a full crowd on the roof at Stella's late into the evening, and large crowds at Cafeteria and Cowboy Slims.
3. General sound in the area, on a L10 Basis, ranges from 59 to 87 dBA, much louder than later measurements.
4. This residential sound is strongly masked by vehicle traffic, when traffic is moving on Lake Street or in the neighborhood.
5. Venues producing substantial noise, as measured from the curb in front of each. The levels were loud but somewhat muted probably due to the realization that measurement was ongoing that night; these noisy venues (above 70 dBA) include:
 - a. Stella's
 - b. Cafeteria
 - c. Bar Abeline
 - d. Drink
 - e. Cowboy Slims



MEASUREMENT DATA – JULY 24, 2010

Description	LAeq	L10	L50
Stella's Deck	80	82	79
Stella's Deck	81	84	81
From Stella's New Upper Deck	72	74	72
6' from chiller fan	84		
Main Floor Bar (can't hear BG music)	83	85	83
Stella's Sidewalk	73	77	72
3017 Fremont	56	58	54
Cafeteria Drive-by 01	71	73	71
Cafeteria Drive-by 02	70		
Cafeteria Drive-by 03	70	72	70
Calhoun Square Parking (top)	67	65	63
Aura Drive-by	67		
Bar Abeline Drive-by (Lagoon) music	74	76	74
Drink drive-by	69	70	69
Bar Abeline Drive-by (Fremont) music	69	72	69
Bar Abeline Drive-by (Lagoon) music	75	77	74
Drink drive-by	74	75	73
Cowboy Slims (rear deck walk-by)	77	79	76
Cowboy Slims (front drive-by)	70	72	70
Chino Latino drive-by	69		
Stella's Sidewalk	77	79	75
Cafeteria Sidewalk walk-by	78	80	78
Stella's Deck	84	87	83
From Stella's New Upper Deck	75		
Main Floor Bar (can't hear BG music)	87	88	87
3017 Fremont	57	59	56



MEASUREMENT RESULTS – UPTOWN ASSOCIATION PROCESS

A test session was performed on the 16th of September in the Uptown area. This session was also redone on September 30th. This session was completed successfully, but there was a lower level of noise, as this measurement set of data were gathered when the outdoor areas were less busy later in the season.

From assessment of these measurements, the results of this testing were clear in determining these facts:

1. This residential sound is strongly masked by vehicle traffic, when traffic is moving on Lake Street or in the neighborhood.
2. A number of venues are producing substantial noise, as measured from the curb in front of each on September 16th with the L10 Metric (loudest 10% of sound). We used 70 dBA as a cut-off to show comparisons of noise level. The levels were loud but somewhat muted probably due to the realization that measurement was ongoing that night; these noisy venues include:
 - Cowboy Slims
 - Herkemer
 - Moto I
 - Stella's
3. A number of venues are producing substantial noise, as measured from the curb in front of each on September 30th with the L10 Metric (loudest 10% of sound). We used 70 dBA as a cut-off to show comparisons of noise level. The levels were loud but somewhat muted probably due to the realization that measurement was ongoing that night; these noisy venues include:
 - Bar Abilen
 - Herkemer
 - Moto I
 - Stella's



MEASUREMENT DATA – SEPTEMBER 16, 2011

Description	LAeq	L10	L50
Amose Victoria – parking lot @ property line	50.3	55.8	52.5
Amose Victoria – Along front & at side	66.8	72.4	70.7
Amose Victoria – Across street (Irving) east side	61.4	66.7	65.7
Cowboy Slims – East side of Girrard	69.2	72.2	71.5
In parking lot south of Cowboy Slims	60.9	63.9	62.8
Lagoon (Drink) – South side of street	62.8	66.3	64.9
Lagoon (Drink) – North side of street	65.4	70.2	68.9
Crowd outside Stellas	67.8	70.8	70.1
Outside Cafeteria – South side of street	65.0	68.2	67.1
Outside Cafeteria – Southeast corner	60.8	64.6	63.4
Alley @ South of Lake & West of Fremont	54.7	60.0	57.1
Alley @ South of Lake & West of Fremont	57.2	63.5	60.4
Outside Cowboy Slims @ Girrard & Lake	64.8	68	67.1
Bar Abilene across street	60.1	64.6	63.7
Outside Bar Abilene – no DJ – no music	65.3	69.4	68.7
On top of parking ramp – NW corner	57.7	59.2	58.8
Herkemer in alley	69.8	73.6	72.8
Outside Moto I	67.4	71.6	70.4
Across street from Moto I	67.1	71.3	70.2
Herkemer alley walk-by	71.9	76.3	75.5



MEASUREMENT DATA – SEPTEMBER 30, 2011

Description	LAeq	L10	L50
Amore Victoria parking lot	53.5	55.1	51.8
Amore Victoria parking lot	52	54.1	51.2
Across street (Irving) from Amore Victoria	59	62.8	56.9
On top of parking ramp – NW corner	59.8	62.2	59.1
Side of Cafeteria	60.2	63.1	59.2
Entrance to Cowboy Slims	64.6	68.2	62.8
Cowboy Slims @ back deck by street	66.1	68.5	64.5
Cowboy Slims parking lot	61.4	62.4	58.9
Across Street from Bar Abilene	59.8	64.7	55.3
Outside Bar Abilene	68.8	70.0	62.7
Outside Drink	63.3	66.9	61.6
Across street from Drink	65	67.9	63.9
Behind Stellas @ street	59.4	60.9	59.2
In front of Stellas @ street	68	70.6	67.6
In front of Cafeteria @ street – music from entryway	64.7	67	61.1
At alley on Freemont (3016)	60.2	63.6	57.3
On top of parking ramp – NW corner	60.4	63.2	59.4
By Herkemers through alley to street	68.2	71.2	65.2
Moto I @ street	63.5	66.4	62.3
Outside Cause – live music	77.9	81	76.4
Across street from Moto I	67.6	70.4	66.4

RESULTS

These data from our measurements will be used, in combination with other background information about environmental acoustics, to begin to formulate standards for the Uptown Association. This next phase effort has not yet been authorized.



THE PROBLEMS OF NOISE – UNWANTED SOUND

NOISE COMPLAINTS

Noise complaints from urban entertainment districts are not uncommon, and these complaints are usually motivated by:

1. Live performance noise inside and out
2. Amplified music noise, inside and out
3. Crowd noise, normally outside venue or moving through the neighborhood
4. Traffic noise of vehicles moving through the area
5. Other industrial or mechanical system noise

NOISE FACTS

There are a number of issues influencing noise complaints and the feeling that they are coming from a specific direction.

1. Source Localization

It is difficult to localize sound in a noisy urban environment, as many of the sound comes from a complex set of unseen sources and others may come from locations in the field of view. Localization is easiest when

- a. There are few noise sources
- b. The sources are mid or high frequency noise sources
(Lower frequencies are harder to control.)
- c. The sources are steady state (not fluctuating)
(Fluctuating sounds are easier to detect)

2. Source Loudness

It is difficult to determine the loudness of a sound in a noisy environment, as many issues affect loudness and detection. Loudness perception is higher if:

- a. The sound is a pure tone (siren)
- b. The sound temporally fluctuates (music)
- c. The sound is lower in frequency (bass music)
(Lower frequency sounds travel much further)



3. Source Identification

When listening to objectionable noise that cannot be seen, it is difficult to:

- a. Localize the sound (determine where it comes from)
- b. Estimate the distance from the sound (a low frequency sound will sound much closer)
- c. Identify the sound - (the aural environment may be complex)

4. Source Perception Inside a residence

When listening to objectionable noise indoors, certain things happen

- a. Most high frequency sound is lost
- b. Much mid frequency sound is lost
- c. Hardly any low frequency sound is lost

5. The complex Uptown environment

When listening to objectionable noise, the residents will be exposed to:

- a. Traffic noise (stop & go) cars, trucks and buses (audible for hundreds of feet)
- b. Pedestrian noise and parking noise (audible for hundreds of feet)
- c. Crowd noise at a limited distance (audible for hundreds of feet)
- d. Amplified music noise at a great distance (miles)

Uptown is an interesting venue, in that there are many bars and restaurants, some with live music and some with amplified music. We haven't confirmed which venues are playing music outside and which are inside. For loud dance-type music, either could cause complaints at a distance.