



Case number:	10805ABCD-08
Address:	5701 Green Valley Drive
Application type:	1) Comprehensive Land Use Plan amendment from Office to High Density Residential (Case 10805A-08); 2) Rezone from CO-1(PD)(FH), Commercial Office (Planned Development) (Flood Hazard) to RM-50(PD)(FH), Multiple-Family Residential (Planned Development) (Flood Hazard) (Case 10805B-08); and 3) Preliminary and Final Development Plan for a five-story, 250-unit rental apartment building over a one story parking garage (Case 10805C-08) 4) Conditional use permit in accordance with Section 19.38.02(d) to allow placement of fill and/or extraction of materials within the Flood Hazard Overlay District (Case 10805D-08)
Applicant:	Norman X, LLC

This file will contain the following items as they become available:

1. Agenda information
2. Staff report
3. Location map and site plan

Additional information

To receive copies of submitted development applications, supplemental documents, and (in some cases) building and site plans please contact the Planning Division at 952-563-8920 or planning@ci.bloomington.mn.us.

Your comments are important!

If you wish to communicate to the Planning Commission about this agenda item, please include:

- Your name
- E-mail address
- Full mailing address (number, street name, city, state, ZIP)
- Daytime telephone number
- Case file number
- Date of hearing

You may not receive a detailed response to your e-mail, but your comments, if received in time, will be presented to the Planning Commission.

If you wish to send comments via e-mail, write to planning@ci.bloomington.mn.us.

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Originator Community Development	Item Comprehensive Plan Amendment, Rezoning, Preliminary and Final Planned Development, Conditional Use Permit	# 5.4A1,2,3,4
Agenda Section HEARINGS/PUBLIC INPUT Ordinances	By JEF	Approved Date December 15, 2008

Case 10805A,B,C,D-08

GENERAL INFORMATION

Applicant: Norman X, LLC

Location: 5701 Green Valley Drive

Request: Comprehensive Plan Amendment, Rezoning, Preliminary and Final Planned Development, Conditional Use Permit

Existing Land Use and Zoning: Vacant/parking lot; zoned CO-1 (PD, FH)

Surrounding Land Use and Zoning: North – I-494; zoned CO-1
East – Norman Pointe Office Park (aka Duke I and II); zoned CO-1 (PD)
West and South –Multi-family townhomes; zoned RO-24 and RO-24 (FH)

Comprehensive Plan: The Comprehensive Plan recommends Office uses for this property.

PROPOSAL

The applicant (Norman X, LLC) is proposing to construct 250 luxury rental apartment units on an 8.36-acre site located on the north side of American Boulevard just west of Normandale Lake Boulevard. The proposed apartment building will consist of 5-stories constructed over a one-story parking ramp. Some surface parking will also be provided. The property currently contains an old surface parking lot and was planned to be redeveloped with a 15-story office building as part of Duke Realty's Norman Pointe Office Park, which received Preliminary Planned Development approval in 2001.

The Bloomington Comprehensive Plan 2000 and the Normandale Lake District Plan designate the subject property Office, which allows professional and business offices and related accessory retail uses. This land use designation also allows residential development, if integrated with office land uses, and hotels if located in close

Council Action

Motion by _____ Second by _____ to _____

proximity to a freeway interchange. Because the proposed development does not include an office or hotel component, the applicant has requested a guide plan amendment to High Density Residential (HDR).

Concurrently, the applicant is requesting to rezone the property to Multiple-Family Residential (RM-50) to allow the proposed apartments and proposed density of 31 units per acre. The applicant is also requesting a Preliminary and Final Development Plan approval to allow flexibility with regarding to specific development standards required by the zoning code, including building and parking setbacks and off-street parking.

The proposed apartment will include 148 one bedroom and 102 two-bedroom rental units. Parking for 293 vehicles will be provided in the parking ramp. Surface parking lots will provide 120 stalls for a total of 413 parking stalls (1.65 spaces/unit). The apartment building encloses a courtyard that will be constructed as a green roof over the parking ramp. The outdoor courtyard includes a patio and swimming pool for use by the residents.

Access to the apartment complex will be from two driveways off American Boulevard. Public utilities (water and sanitary sewer) are available to serve the development.

Nine-Mile Creek winds through the area and portions of the site are in the Shore Area of the creek as well as the Flood Hazard Overlay District. While no buildings are proposed within these areas, some disturbance (i.e., grading, construction of fire lane) is proposed in both the Flood Hazard and Shore Area. Consequently, a conditional use permit per Section 19.38.02(d) (Flood Hazard Overlay District) is required and must also be reviewed by the Mn/DNR. A notice of the public hearing for the conditional use permit was sent to Mn/DNR on November 4, 2008. To date, no comments have been received. In addition, a shore area permit must be granted by the City (administrative) to allow grading or filling in the Shore Area.

APPLICABLE REGULATIONS

Section 19.38.01 Planned Development Overlay Districts
Section 19.38.02(d) Flood Hazard Overlay District
Section 19.28.03 Multiple Family Residential (RM-50)
Section 19.47 Building Height
Section 21.301.06(d) Parking and Loading
Section 19.87.04 Shoreland Regulations
Section 19.38.02 Flood Hazard Overlay District

REQUIRED FINDINGS

Section 19.38.01(e)(5),(A),(B),(C),(D),(E),(F),(G),(H)

CHRONOLOGY

Planning Commission Agenda: 10/23/08 – Public Hearing scheduled and continued.

Planning Commission Agenda: 11/20/08 – Public Hearing scheduled.

Planning Commission Action: 11/20/08 – Recommended approval of a Comprehensive Land Use Plan amendment from Office to High Density Residential (Case 10805A-08).

- Planning Commission Action: 11/20/08 – Recommended approval of Rezoning from CO-1(PD)(FH), Commercial Office (Planned Development) (Flood Hazard) to RM-50(PD)(FH), Multiple-Family Residential (Planned Development) (Flood Hazard) (Case 10805B-08).
- Planning Commission Action: 11/20/08 – Recommended approval of Preliminary and Final Development Plans for a five-story, 250-unit rental apartment building over a one-story parking garage with five conditions and 14 Code requirements (Case 10805C-08).
- Planning Commission Action: 11/20/08 – Recommended approval of a Conditional Use Permit in accordance with Section 19.38.02(d) to allow placement of fill and/or extraction of materials within the Flood Hazard Overlay District with one condition (Case 10805D-08).
- City Council Agenda: 12/15/08 – Public Hearing scheduled.

DEADLINE FOR AGENCY ACTION

- Application Date: 9-12-08
60 Days: 11-10-08
Extension Letter Mailed: **Yes**
120 Days: **1-9-09**

RECOMMENDED CITY COUNCIL ACTION

(Case 10805A-08)

The Planning Division Staff and the Planning Commission recommend approval of a Comprehensive Land Use Plan amendment from Office to High Density Residential at 5701 Green Valley Drive.

(Case 10805B-08)

The Planning Division Staff and the Planning Commission recommend approval of Rezoning from CO-1(PD)(FH), Commercial Office (Planned Development) (Flood Hazard) to RM-50(PD)(FH), Multiple-Family Residential (Planned Development) (Flood Hazard) at 5701 Green Valley Drive.

(Case 10805C-08)

The Planning Division Staff and the Planning Commission recommend approval of Preliminary and Final Development Plans for a five-story, 250-unit rental apartment building over a one-story parking garage at 5701 Green Valley Drive subject to the following conditions:

- 1) A development agreement, including all conditions of approval, shall be executed by the applicant and the City and shall be properly recorded by the applicant with proof of recording provided to the Manager of Buildings & Inspections;
- 2) Grading, drainage, utility and erosion control plans be approved by the City Engineer following review by the appropriate watershed district—including a Stormwater Management Plan that includes the following:
 - a. Stormwater rate control, volume control and water quality treatment which meets the requirements of the Bloomington Comprehensive Surface Water Management Plan (CSWMP)
 - b. Maintenance Schedule/Plan for Stormwater BMP signed by property owner and to be filed on record with Hennepin County. Proof of filing shall be submitted to Engineering.;
- 3) Proof of overflow parking on adjacent property be provided to the City and approved by the City Engineer;
- 4) Bicycle parking spaces shall be provided (i.e., bike rack) in accordance with a plan submitted to and approved by the City Engineer; and
- 5) Park Dedication shall be paid prior to issuance of any permits.

and subject to the following Code requirements:

- 1) Exterior building materials shall be approved by the Planning Manager (Sec. 19.63.08);
- 2) Landscape plan be approved by the Planning Manager and landscape bond be filed (Sec 19.52);
- 3) All rooftop equipment be fully screened (Sec. 19.52.01);
- 4) Poured-in-place concrete curbs be provided on the perimeter of parking lots and traffic islands (Sec 19.64);
- 5) All trash and recyclable materials be screened and stored inside the principal building (Sec. 19.51);
- 6) Recyclable materials shall be separated and collected (Sec. 10.45);
- 7) Building shall be provided with an automatic fire sprinkler system as approved by the Fire Marshal (MN Bldg. Code Sec. 903, MN Rules Chapter 1306; MN State Fire Code Sec. 903);

- 8) Fire lanes be posted as approved by the Fire Marshal (MN State Fire Code Sec. 503.3);
- 9) Utility plan showing location of existing and proposed water main and fire hydrant locations be approved by the Fire Marshal and Utilities Engineer (City Code Sec. 6.20, MN State Fire Code Sec. 508);
- 10) Food service plans be approved by the Environmental Services Division (City Code Sec. 14.360);
- 11) Parking lot and site security lighting shall satisfy the requirements of Section 19.54 of the City Code;
- 12) A Uniform Sign Design in conformance with the requirements of Chapter 19, Article X of the City Code shall be approval by the Planning Manager;
- 13) Development shall comply with the State Handicapped Code; and
- 14) All drainage from the interior portions of an enclosed parking ramp must drain to the sanitary sewer system and be metered (State Building Code).

(Case 10805D-08)

The Planning Division Staff and the Planning Commission recommend approval of a Conditional Use Permit in accordance with Section 19.38.02(d) to allow placement of fill and/or extraction of materials within the Flood Hazard Overlay District at 5701 Green Valley Drive subject to the following condition:

- 1) The applicant shall apply for a Letter of Map Amendment through Mn/DNR and the Federal Emergency Management Agency (FEMA) with documentation forwarded to the Planning Manager.

Item 3

GENERAL INFORMATION

Applicant: Norman X, LLC (Case 10805A,B,C,D-08)

Location: 5701 Green Valley Drive

Request: Comprehensive Plan Amendment, Rezoning, Preliminary and Final Planned Development.

PROPOSAL

This request was on the October 23, 2008 Planning Commission agenda and the public hearing was opened and recommended to be continued until the November 20, 2008 Planning Commission meeting. Staff had requested continuance to allow time to more thoroughly review impacts to the Flood Hazard Overlay Zone and Shore Area. The Planning Commission raised questions requiring additional information, including: deviations from parking and setback requirements; residential uses allowed under current zoning; and impacts, if any, on assessments for public improvements recommended in the Normandale Lake District Plan. Area residents raised additional concerns about traffic and lighting.

The applicant (Norman X, LLC) is proposing to develop 250 apartment units in a five story building constructed on top of a one story (above ground) parking structure. The property is currently guided for Office land use and is zoned CO-1(PD). The Office land use designation allows residential development if integrated with office land uses, and hotels if located in close proximity to a freeway interchange. Because the proposed development does not include an office or hotel component, the applicant has requested a guide plan amendment to High Density Residential (HDR).

Concurrently, a rezoning is being requested to Multiple Family Residential (RM-50) to allow the proposed apartments and density (31 units/acre) as a permitted use. Preliminary and Final Planned Development Plans (PD) are requested to allow flexibility with regarding to specific development standards required by the zoning code, including building and parking setbacks and off-street parking. Portions of the site are located within the Flood Hazard Overlay District (FH) and Shore Area.

The staff report dated October 23, 2008 provides background on the details of the development proposal that will not be repeated in this memorandum.

ANALYSIS

The issues raised at the October 23 public hearing are addressed below.

Flood Hazard (FH) Overlay Zone and Shore Area Impacts

Portions of this site lie within the Flood Hazard Overlay District and are within the Shore Area of Nine Mile Creek, which is designated a “protected water” by the Mn/DNR. Development on the site must comply with the City’s Shore Area regulations (Sec. 19.87) and the Flood Hazard Overlay District regulations (Sec. 19.38.02).

FH Overlay – A Conditional Use Permit (CUP) is required to allow grading or disturbance in the FH Overlay Zone, which is generally defined as the 100-year flood elevation (817 contour). The applicant has submitted an application for a CUP, which was added to this request and a legal notice was published for the public hearing on November 20, 2008. The Mn/DNR must also review the CUP request. Notice of the public hearing was sent to them as required. To date, no comments have been received from the Mn/DNR.

The proposed apartment building is completely outside of the FH zone (817 elevation contour), however the fire lane is located within it and will require extraction of soil to create a level road surface. According to the applicant’s hydrology report, this extraction (“cutting”) results in an overall increase in the water storage area of the floodway of 27 cubic yards.

Shore Area – The “shore area” is defined as extending 50 feet from the Ordinary High Water Level (OHWL) of a designated “protected water”. Regarding Nine Mile Creek, the OHWL is defined as the top of the bank channel. The proposed apartment building is completely outside of the “shore area”, but the fire lane and portions of the parking lots are within it.

The City’s Shore Area regulations allow for certain disturbances (grading/filling, driveways, parking areas) within the shore area under a separate, shore area permit. These permits are granted administratively by City staff provided adequate mitigation measures are taken to minimize and control erosion and limit removal of vegetation. The applicant must also provide sufficient evidence that all provisions of federal, state, and local laws pertaining to wetlands and shore areas have been satisfied. A determination of approval will be made simultaneous with the grading permit review and approval process.

Stormwater Management – As noted in the Oct. 23 staff report, the proposed development will increase the amount of impervious surface on this site from 2.77 acres (33%) to 5.17 acres (62%). The applicant is proposing two methods to control and treat stormwater runoff on the site. A green roof, approximately 0.6 acres in size located on top of part of the parking structure, is designed to filter runoff from the apartment building roof. Runoff from the paved parking areas (except the existing parking lot west of Nine Mile Creek) will be pre-treated by sump catch basins then routed to and stored in two underground detention pipe galleries. Water stored in these pipes will be used for site irrigation and overflow (treated) will be discharged into Nine Mile Creek or the City’s stormwater system.

Standard drainage and stormwater management conditions and code requirements will apply to this development. In part, these include meeting City, State, and Federal requirements regarding control of runoff quantity and water quality (NPDES permit requirements) and obtaining other permits, as necessary, from the Nine Mile Creek Watershed District and Minnesota Pollution Control Agency (MPCA).

Parking Deviations

According to City's zoning code, the proposed 250-unit apartment building should provide 492 off-street parking spaces, of which, 250 (one per unit) must be enclosed. This number is based on ratios of 1.8 spaces/unit for one bedroom and 2.2 spaces/unit for two bedroom apartments. Parking flexibility measures, including reductions may be approved via the planned development process. Areas that are well served by public transit may also be candidates for parking reductions. As noted in the Oct. 23 staff report, two bus routes currently serve the adjacent office parks and provide good transit service during weekday peak hours. These routes are easily accessible to this site.

The applicant is proposing to provide 413 off-street parking spaces, of which 293 will be enclosed within the parking structure. The total parking proposed is 79 spaces (16%) less than the code requirement and results in an average ratio of 1.65 spaces per unit. The applicant states that their target market is young professionals between the ages of 26 and 32, which tend to have fewer vehicles per household than families. They anticipate an average occupancy of 1.23 people per unit and believe, based on their experience in similar developments, that the proposed number of spaces will be more than enough to meet the demand of anticipated occupancy.

As noted on October 23, the applicant is in discussions with Duke Realty regarding use of the ramp at 5601 Green Valley Drive (Duke I office/ramp) for 80 overflow parking stalls. They expect this parking to be used primarily by guests of apartment residents and, if needed for an event a resident is having, a shuttle could be provided. Otherwise, guests would either walk between the Duke ramp and the apartment or be picked up by the resident they are visiting. The applicant does not expect significant demand for the overflow spaces.

Parking requirements for multi-family dwellings are "all over the map" in Bloomington, as are the results of their adequacy to meet parking demand. Most of the older (pre-1970) multi-family developments do not satisfy current Code requirements, particularly the enclosed garage requirements. During the "condo craze" of the late 70s to mid 80s (e.g., Portland Park, Girard Park, Marsh Park, Girard Park, Hyland Hill), most projects satisfied the current requirements but have unused surface parking; a maintenance expense. Perhaps the projects most similar to this proposal are International Village (25 spaces above current code requirements) and Hampshire Hills (65 spaces short of current requirements).

Setback Deviations

The applicant is requesting fairly large deviations from the building setback requirements along American Boulevard (26 ft vs. 60 ft). The setbacks in the RM-50 district reflect a more suburban style development that typically includes large surface parking fields in front of buildings. The shallower setbacks would allow for a more urban character, creating a distinct street edge. A similar street setback (26 ft) was approved for the Richdale apartment development from W. 82nd Street. Several of the parking structures in the United Properties office park are also setback 26 feet from the street and portions of the office towers are as close as 20 feet to Normandale Lake Boulevard. These properties are also very well landscaped, which helps create a pleasant street presence and “sub-urban” character.

The applicant is proposing significant landscaping in the front yard/setback area along American Boulevard. The building facade facing American Boulevard also includes some surface relief (indentations) and a mix of materials, windows, and balconies that give it a distinct residential character. Staff believes the shallower setbacks, architectural treatment and ample landscaping will create a street presence consistent with the character already established in the adjacent office park. One of the aims of the NLDP was to complete development in the district in a manner that builds on the existing character of the office parks.

As noted above, setback deviations and shallow front setbacks are not uncommon. A few examples of other multi-family residential development in the City with fairly shallow front setbacks include: The Village on Nine-Mile (32 ft), Lyndale Green (10 ft), and Lyndale Avenue Townhomes (20 ft).

Residential Use Allowed by Current Zoning and Land Use

The site is currently zoned CO-1 (PD). However, the City is in the process of replacing existing zoning districts in an effort to create more streamlined zoning regulations. At this time, only the commercial districts have been updated and adopted. Revisions to the residential districts are forthcoming. It is the City Council’s intent to implement the new zoning districts in conjunction with adoption of district plans or major redevelopment. Zoning recommendations in the Normandale Lake District Plan (NLDP) were intended to implement the new commercial districts. Along with the entire Duke office planned development, this site was recommended to be rezoned to C-4 (Freeway Office).

The C-4 district allows multi-family residences as accessory uses, limited to a maximum of 25% of the total floor area. Sec. 21.302.02 lays out the regulations for residential uses in commercial zoning districts. Residential uses must be physically integrated with non-residential uses. In the C-4 district, non-residential uses within residential developments must have a minimum floor area ratio of 0.20. For example, the area of this site is 364,466 square feet. To achieve the required minimum FAR of 0.20, 72,900 square feet of non-residential uses would need to be included in the development plan.

The site is currently zoned Office in the Comprehensive Plan. This designation only allows residential uses when “fully integrated with an office land use” and provided it is allowed by the underlying zoning. This integration requirement is consistent with the C-4 zoning requirements for integrating residential uses in commercial zoning districts. Because the applicant’s proposal doesn’t include any integrated office uses, they are also requesting a comprehensive plan amendment to change the land use from Office to High Density Residential.

Public Improvement Assessments

The NLDP identified various public improvements, primarily related to streetscape and traffic improvements. The strategy for funding these improvements included a combination of grants, tax abatement on new development, and assessments on Class A office property. The City worked closely with commercial property owners in the district to develop an agreed upon phased assessment rate for the improvements. The funding scenario assumes that the Duke IV site would not develop or be subject to assessments or abatement until 2018.

While residential development is specifically not subject to the special assessments, it will be included in the tax abatement. Staff believes the early tax abatement revenue from this property should be sufficient to off-set assumptions about revenues from special assessments, particularly given the proposed development would be completed several years before the Duke IV office was expected to begin paying assessments.

Traffic Impacts

Several residents of the Normandale Lake Townhomes expressed concerns about traffic generated by the proposed residential development. As noted in the Oct. 23 staff report, the traffic study submitted by the applicant (completed by SRF who did the traffic study for NLDP) indicates that the change from the previously proposed office use to multi-family residential would result in a net reduction of 1,681 daily trips, including 362 fewer trips during the AM peak hour and 296 fewer trips during the PM peak hour. The City’s Traffic Engineer has reviewed the traffic study and is confident in the accuracy of the study findings.

Residents also raised concerns about the location of the driveway into the apartment directly across American Boulevard from the townhome entrance. Alignment of driveways across a street is common practice in traffic engineering and has been demonstrated to improve traffic flow and safety. The City requires that driveway openings be lined up directly or are sufficiently off-set to provide adequate spacing between locations where turning movements are likely to occur.

Lighting

The lighting plan submitted with the application has been reviewed by City staff and meets City Code requirements for light levels, fixture type (e.g., cut-off fixtures) and pole

heights. Concerns were raised about street lighting. Street lighting on American Boulevard is subject to State standards. There are no current plans to replace any lighting on this roadway. However, when new lightings are installed it will need to meet State standards in existence at the time of construction.

FINDINGS

Preliminary and Final Planned Development

Section 19.38.01(e)(5) - The Planning Commission and the City Council shall find the following prior to the approval of preliminary development plans or final development building plans:

(A) The planned development is not in conflict with the Comprehensive Plan.

The application includes a request to change the Comprehensive Plan land use designation on this property from Office to High Density Residential, which is consistent with the proposed apartment development. The current Office land use allows for residential uses, but only if integrated with an office or hotel use. Because this development does not include non-residential uses, it is not consistent with the Office land use designation. If the Comprehensive Plan amendment is approved, the proposed residential development will be consistent with the Comprehensive Plan.

(B) The planned development is not in conflict with any adopted district plan.

The proposed high density residential use is consistent with the Normandale Lake District Plan (NLDP) objectives to encourage balanced development, including a “synergistic mix of land uses”. While the NLDP did not anticipated a change from the office use proposed in Duke Realty’s preliminary development plan approved in 2001, development of high density residential apartments at the far west edge of the office park can contribute to balancing the mix of land uses throughout the District.

(C) The planned development is not in conflict with the intent of the primary zoning district.

The application includes a request to change the primary zoning to RM-50. The proposed multi-family use and density are consistent with the requirements of the RM-50 district. The proposed site plan meets most of the development standards of the RM-50 zoning district, however deviations are requested to the building and parking setbacks and off-street parking requirements. Deviations to site development standards are commonly requested in planned developments, which are intended to provide for flexibility.

(D) The planned development is not in conflict with other applicable provisions of the City Code, subject to the provisions of Section 19.38(c).

Section 19.38(c) states that where the provisions of an overlay zoning district conflict with the provisions of a primary zoning district, the overlay district provisions take precedence. As stated under (C) above, the applicant is requesting some deviations from the primary zoning district development standards. The PD overlay allows deviations that have been reviewed and approved relative to a specific site development plan and its unique merits.

(E) The planned development or unit thereof is of sufficient size, composition, and arrangement that its construction, marketing, and operation is feasible as a complete unit without dependence upon any subsequent unit.

The development is feasible as a complete unit.

(F) The planned development will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development.

The development should not create an excessive burden on parks, schools, streets, and other public facilities and utilities. The development is subject to park dedication requirements, which must be paid prior to issuance of any permits. The development is also subject to tax abatement as established in the financing strategy approved by the City Council to fund public improvements identified in the Normandale Lake District.

(G) The planned development will not have an undue and adverse impact on the reasonable enjoyment of neighborhood property.

An office building previously existed on the site and a 15-story office building (9 stories office over 6 story parking ramp) has been preliminarily approved. The proposed residential development will result in less traffic than the office use envisioned in the approved Preliminary Development Plan for this property. Residential use will also result in a reverse traffic flow pattern compared to the surrounding office parks, with more vehicles leaving the area in the AM peak and returning in the PM peak. This should have an overall positive affect on traffic circulation in the immediate area and help balance out the peak hour traffic volumes.

Nine Mile Creek winds through the property, which makes the site challenging to develop. The applicant will need to comply with all City, State, and Federal regulations related to protection of wetlands and stormwater quantity and quality.

(H) That any variation from strict application of the primary zoning district provisions in the planned development are not in conflict with the intent of the Planned Development Overlay District and are justified by the design of the proposed development.

The building and parking setback deviations proposed are not atypical of other multi-family planned developments in the City. The proposed setbacks are similar to other developments in the area and will allow for a more “sub-urban” character, creating a distinct street edge. The applicant is proposing ample landscaping in the front setback area along American Boulevard, which will soften and reduce the scale of the apartment building.

The development plan includes 79 fewer parking spaces than required by Code. The applicant is working with the adjacent property owner (Duke Realty) to allow use of 80 parking spaces in the office building ramp for overflow parking if needed by the apartment residents.

Conditional Use Permit within Flood Hazard Overlay District

A Conditional Use Permit is required because the proposed development involves extraction (“cutting”) of soil and some grading within the Flood Hazard zone.

Section 19.22(6) - No Conditional Use Permit shall be granted unless the Council finds the following:

- (A) That no encroachment, including temporary or permanent structures; fill, deposit, or obstruction; new construction or substantial improvement; storage of equipment or materials; or other uses acting alone or in combination with existing or reasonably anticipated future uses will adversely affect the capacity of the floodway or increase flood heights within the floodway as designated by a public government agency with jurisdiction or as determined through the procedures of Subsection 19.39(g) of this Code.

No part of the proposed apartment building is located within the floodway. According to the hydrology report submitted by the applicant and as shown on the Floodplain Impact Mitigation Plan drawing submitted, soil extraction proposed to construct the fire lane around the building will increase the overall capacity of the floodway by 27 cubic yards.

- (B) That no danger to life and property due to increased flood heights or velocities caused by encroachments will occur; that no materials may be swept onto other lands or downstream to the injury of others; and that safe access, no lower than two feet below the flood protection elevation, to the property for emergency and ordinary vehicles exists in times of flooding.

A 12-foot wide bituminous fire lane is proposed around the building. A portion of the fire lane will be located within the FH Overlay District. Elevation of the fire lane will not be lower than 2 feet below the flood protection elevation.

- (C) That the establishment, erection, or construction of the use and operation of the use will minimally affect the natural ecological balance of the immediate floodplain vicinity and will not cause turbidity, siltation, or pollution of a waterway.

The fire lane should not affect the natural ecological balance of the area nor cause turbidity, siltation or pollution

- (D) The public utilities and facilities will be constructed to minimize flood damage and flood infiltration into utility lines and that any proposed water supply and sanitation systems will prevent disease, contamination, and unsanitary conditions.

No public utilities and facilities are proposed as part of the fire lane project.

- (E) That any new use or alteration, substantial improvement, or repair of any existing use will be protected from flood damage through adequate and practicable methods.

The design and construction of fire lane will take into consideration protection from potential flood damage and impacts.

- (F) That the use is consistent with the purposes of the Zoning Code as they are listed in Section 19.01 of this Code and the purposes of the zoning district in which the applicant intends to locate the proposed use and that the proposed use is not in conflict with the development plan of the City.

The fire lane is an access element not inconsistent with the purposes of the zoning code nor in conflict with City's Comprehensive Plan.

- (G) That the proposal has been reviewed and approved by the appropriate watershed district and that all applicable state and federal permits have been obtained.

The applicant has been in contact with the Nine Mile Creek Watershed District. Their staff has begun initial review of the proposal. The Watershed District Board does not formally review or act on proposals until the local jurisdiction (City Council) has taken formal action to approve it.

A notice of the CUP request in the FH Overlay was sent to the Mn/DNR on November 4, 2008, prior to the public hearing as required. To date, no comments have been received from Mn/DNR.

- (H) That the proposed facility will benefit from a waterfront site and that available alternative sites not subject to flooding have been given consideration.

Location and alignment of the fire lane is a result of overall site development; alternative sites not subject to flooding have been considered.

RECOMMENDATION

In **Case 10805A-08**, staff recommends approval of a **Comprehensive Plan Amendment** to change the land use designation from Office to High Density Residential on property located at 5701 Green Valley Drive.

In **Case 10805B-08**, staff recommends approval of a request to **Rezone** property located at 5701 Green Valley Drive from Commercial Office (CO-1) to Multiple Family Residential Planned Development (RM-50).

In **Case 10805C-08**, staff recommends approval of a request for a **Preliminary and Final Development Plan** for a 250 unit apartment building and associated parking at 5701 Green Valley Drive subject to the following conditions:

- 1) A development agreement, including all conditions of approval, shall be executed by the applicant and the City and shall be properly recorded by the applicant with proof of recording provided to the Manager of Buildings & Inspections;
- 2) Grading, drainage, utility and erosion control plans be approved by the City Engineer following review by the appropriate watershed district—including a Stormwater Management Plan that includes the following:
 - a. Stormwater rate control, volume control and water quality treatment which meets the requirements of the Bloomington Comprehensive Surface Water Management Plan (CSWMP)
 - b. Maintenance Schedule/Plan for Stormwater BMP signed by property owner and to be filed on record with Hennepin County. Proof of filing shall be submitted to Engineering.;
- 3) Proof of overflow parking on adjacent property be provided to the City and approved by the City Engineer;
- 4) Bicycle parking spaces shall be provided (i.e., bike rack) in accordance with a plan submitted to and approved by the City Engineer; and
- 5) Park Dedication shall be paid prior to issuance of any permits.

and subject to the following Code requirements:

- 1) Exterior building materials shall be approved by the Planning Manager (Sec. 19.63.08);
- 2) Landscape plan be approved by the Planning Manager and landscape bond be filed (Sec 19.52);
- 3) All rooftop equipment be fully screened (Sec. 19.52.01);
- 4) Poured-in-place concrete curbs be provided on the perimeter of parking lots and traffic islands (Sec 19.64);
- 5) All trash and recyclable materials be screened and stored inside the principal building (Sec. 19.51);
- 6) Recyclable materials shall be separated and collected (Sec. 10.45);

- 7) Building shall be provided with an automatic fire sprinkler system as approved by the Fire Marshal (MN Bldg. Code Sec. 903, MN Rules Chapter 1306; MN State Fire Code Sec. 903);
- 8) Fire lanes be posted as approved by the Fire Marshal (MN State Fire Code Sec. 503.3);
- 9) Utility plan showing location of existing and proposed water main and fire hydrant locations be approved by the Fire Marshal and Utilities Engineer (City Code Sec. 6.20, MN State Fire Code Sec. 508);
- 10) Food service plans be approved by the Environmental Services Division (City Code Sec. 14.360);
- 11) Parking lot and site security lighting shall satisfy the requirements of Section 19.54 of the City Code;
- 12) A Uniform Sign Design in conformance with the requirements of Chapter 19, Article X of the City Code shall be approval by the Planning Manager;
- 13) Development shall comply with the State Handicapped Code; and
- 14) All drainage from the interior portions of an enclosed parking ramp must drain to the sanitary sewer system and be metered (State Building Code).

In **Case 10805D-08**, staff recommends approval of a **Conditional Use Permit** per Section 19.38.02(d) to allow placement of fill and/or extraction of materials within the Flood Hazard Overlay District at 5701 Green Valley Drive, subject to the following condition:

- 1) The applicant shall apply for a Letter of Map Amendment through Mn/DNR and the Federal Emergency Management Agency (FEMA) with documentation forwarded to the Planning Manager.

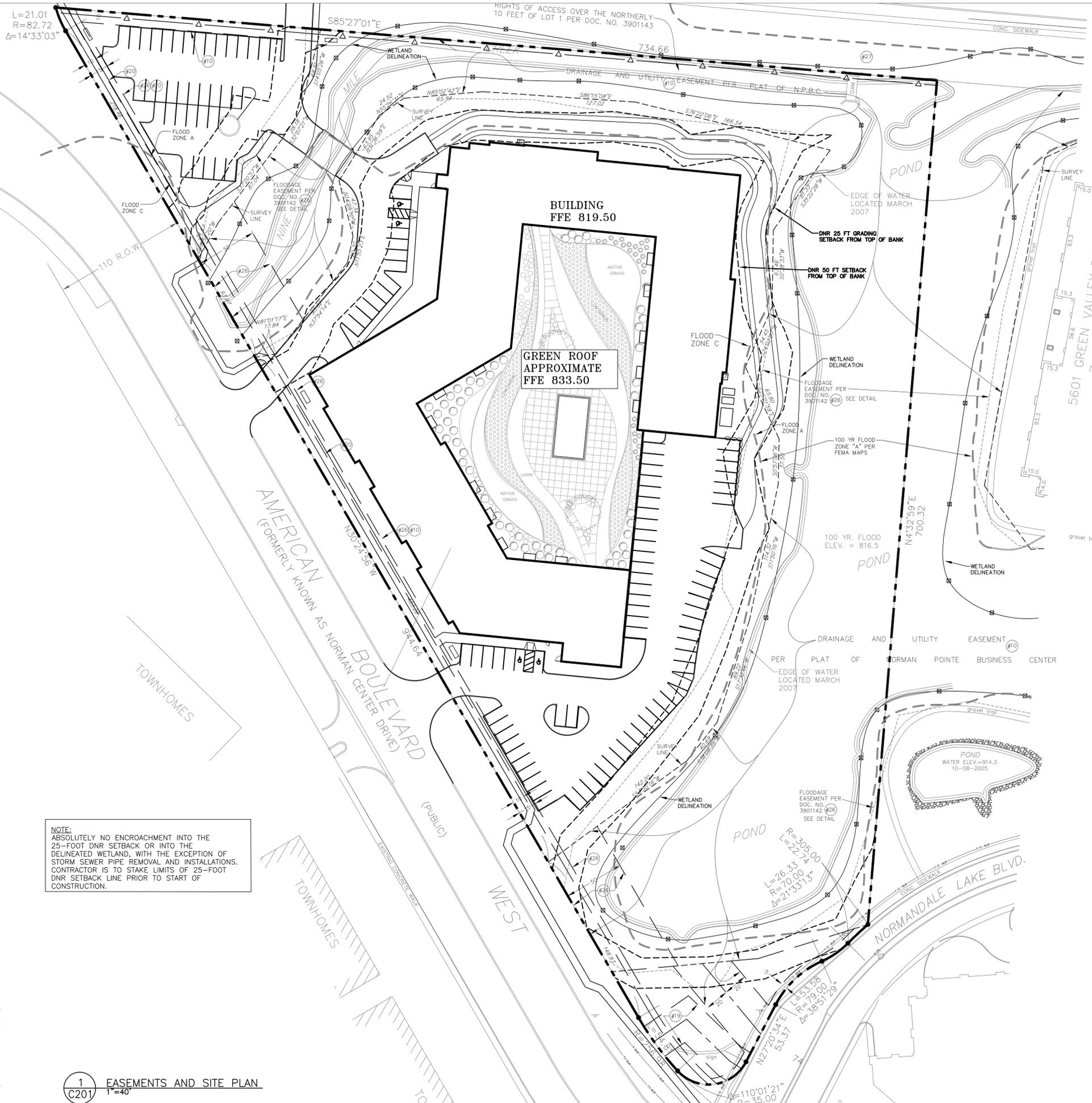
F:\Planning\PC\Reports\Reports 2008\s10805ABCD-08addendum



Snapshot from City of Bloomington GIS

Print Date: 10/10/2008



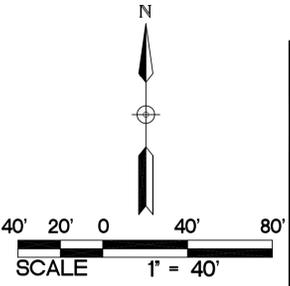


L=21.01
R=82.72
Δ=14°33'03"

NOTE:
ABSOLUTELY NO ENCROACHMENT INTO THE 25-FOOT DNR SETBACK OR INTO THE DELINEATED WETLAND, WITH THE EXCEPTION OF STORM SEWER PIPE REMOVAL AND INSTALLATIONS. CONTRACTOR IS TO STAKE LIMITS OF 25-FOOT DNR SETBACK LINE PRIOR TO START OF CONSTRUCTION.

ABBREVIATIONS	
BLDG	Building
BM	Bench Mark
ELEV	Elevation
EX	Existing
FFE	Finished Floor Elevation
HWL	High Water Level
INV	Invert
NWL	Normal Water Level

PROPOSED PLAN SYMBOLS	
PROPERTY LINE	---
WETLAND LINE	---x---
EASEMENT LINE	---Δ---
EASEMENT LINE	---
EASEMENT TEXT	(#10)
FLOOD EASEMENT	---
FLOOD PLAN	---
SETBACK LINE	---



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PRELIMINARY
NOT FOR CONSTRUCTION

REVISIONS		
#	Date	Description

DATE	10/07/08
PROJECT #	08-0038
PHASE	PUBLIC APPROVAL
DRAWN BY	KAM
CHECKED BY	TJC

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the state of Minnesota.

Lic No: 27031 Thomas J. Cesare

EASEMENTS AND SITE PLAN

C201

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