

GENERAL INFORMATION

Applicant: City of Bloomington
Location: Citywide
Request: Ordinance re: Temporary Pandemic Response Housing

CHRONOLOGY

Planning Commission	11/05/2020	Public Hearing – continued to 11/19/20
Planning Commission	11/19/20	Public Hearing
City Council	11/09/20	Public Hearing – continued to 11/23/20
	11/23/20	Public Hearing anticipated

DEADLINE FOR AGENCY ACTION

Applicable Deadline: Applicant waived deadline
Newspaper Notification: Confirmed – (10/22/20 Sun Current – 10 day notice)

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BACKGROUND

The COVID-19 pandemic has given rise to a unique convergence of events affecting many communities, including Bloomington. The number of people experiencing unsheltered homelessness has been exacerbated by the pandemic. At the same time, capacity in traditional homeless shelters has decreased due to distancing requirements. Business and leisure travel has fallen significantly, resulting in high vacancy rates at hotels. This convergence of events has spurred interest in using excess building capacity - particularly hotel rooms - to augment shelter capacity.

Given the large number of hotels in Bloomington, the City has been exploring approaches to address this situation in a manner that preserves public safety and health and maintains City discretion, while also being responsive to the human impacts of homelessness. The proposed code amendments to create a new use category for “temporary pandemic response housing” are intended to allow an existing building to be used for temporary housing for individuals or families to reduce the transmission of disease during a pandemic.

On November 5, 2020, the Planning Commission held a public hearing on the proposed code amendments related to Temporary Pandemic Response Housing (included in attachments as “Original Ordinance”). Planning Commissioners applauded the proactive approach and were supportive of many of the specific standards in the draft ordinance. However, several concerns were expressed, which resulted in a unanimous recommendation to continue the public hearing to their next meeting on November 19, 2020.

SUMMARY OF INPUT AT PUBLIC HEARING ON NOVEMBER 5, 2020

During the meeting, Planning Commissioners raised the following concerns with the draft ordinance presented on November 5:

- Too restrictive - Commissioners indicated that limiting this new interim use to only the RM-50 zoning district was too restrictive and didn’t provide sufficient flexibility to respond to the need.
- Process will be deterrent – The need to rezone and potentially reguide property is fairly time-consuming and complicated and could effectively become a barrier to application of this interim use. Commissioners expressed interest in making the process more nimble.
- Redevelopment uncertainty – Commissioners appreciated the intent to strive towards redevelopment with a permanent residential use, but had concerns that once the IUP expires, there is no guarantee redevelopment or conversion to a long term residential use will proceed.

The Planning Commission requested that staff explore the possibility of expanding the zoning districts where this interim use would be allowed and consider modifications to address their other concerns. No members of the public spoke at the public hearing, however the Planning Commission received questions and comments via email from two people during and after the meeting. Those emails are included in the attachments.

This item was advertised for a public hearing before the City Council on November 9th. Given the Planning Commission continuance, the City Council public hearing was continued to November 23rd.

OVERVIEW OF POTENTIAL REVISIONS TO PROPOSED AMENDMENTS

Potential revisions to the code amendments originally presented are framed by the following questions for Planning Commission consideration on November 19:

1. Should the amendments pertaining to existing definitions and penalty language be advanced separately?

The draft ordinance includes several items intended to clarify existing definitions to distinguish between specific uses and to reiterate standard penalty provisions that are provided in several other City Code chapters, but are not currently included in chapters 19 and 21. These amendments are intended to add transparency and aid in enforcement.

Some Commissioners indicated a preference to retain all proposed amendments in a single ordinance and not separately move forward select portions. The main reason expressed was to ensure the proposed new interim use (temporary pandemic response housing) and standards are considered in a broad context. Staff notes that the proposed modifications to definitions of existing uses are consistent with interpretation staff has long

applied and the addition of a penalty clause in Chapters 19 and 20 is consistent with the format of other code chapter. These modifications are intended to provide clarity, consistency, and transparency. They do not directly affect how the new interim use will be regulated. As such, staff is requesting the Planning Commission consider this question again. A version of the ordinance separating out the definitional and penalty amendments is included in the attachments as “Option A”.

Decision Options:

- A. If the Planning Commission agrees to advance the amendments pertaining to existing definitions and penalty language, a recommendation can be made to approve Ordinance Option A. A motion to that effect is provided later in this report. This would advance Ordinance Option A to the November 23rd City Council meeting for consideration.
- B. If the Planning Commission prefers to retain all amendments in one ordinance, the language in Option A would be included, along with other changes recommended by the Planning Commission on November 19, in a revised ordinance that would be re-noticed for a subsequent Planning Commission public hearing (December 17th is earliest possible date to meet public notice requirements).

2. In what zoning districts should the proposed new interim use (temporary pandemic response housing) be allowed?

On November 5, several Commissioners indicated that limiting this new use to the RM-50 zoning district was too restrictive and the need to rezone property to accommodate the interim use is time-consuming and procedurally involved, which hinders the ability to respond in a timely manner to a pandemic situation. The Commission requested staff explore allowing the new interim use in additional zoning districts, including districts that allow hotels.

Staff proposes the following options for consideration:

- Option A: Allow in RM-50 only (initial proposal)
- Option B: Allow in RM-24, RM-50, and RM-100
- Option C1: Allow in RM-24, RM-50, RM-100 plus all zoning districts that allow hotels (CS-0.5, CS-1, CR-1, B-2, C-1, C-2, C-4, C-5, CX-2, HX-R, LX, FD-2, IT, and I-2)
- Option C2: Allow in RM-24, RM-50, RM-100 plus all zoning districts that both allow hotels and have hotels currently in place (CS-0.5, CS-1, C-2, C-4, C-5, CX-2, HX-R, LX, FD-2, and I-2)
- Option C3: Allow in RM-24, RM-50, RM-100 plus a subset of the districts that allow hotels. This option would require further direction from Planning Commission on criteria to use to determine whether or not to include a district that allows hotels.

These options are described below and illustrated on the attached maps, except for Option C3, which would require further direction. Key factors to consider include how the options address Planning Commission concerns as well as the City’s long-term objectives to transition to permanent multi-family residential and maintain a higher level of City discretion. The assessment focuses on conversion of a hotel to temporary pandemic response housing. While office buildings and other uses could be converted to temporary pandemic response housing, hotels can be remodeled much more readily. It is noted that offices are allowed in all the zoning districts that allow hotels.

Option A: Allow in RM-50 only (initial proposal)

The initial proposal recommended limiting the use to RM-50 because the intent of this district fits well with the City's long-term goal of transitioning these properties to permanent multi-family housing that can help to address the City's goals for affordable housing. Hotels are not allowed in the RM-50 district, so rezoning would be necessary to allow the interim use. Likewise, future use of the building as a hotel would be prohibited under RM-50 zoning. In the event the market demand was not sufficient enough for permanent conversion to residential use at the end of the IUP period but there was market demand for hotel use, the property owner could always request rezoning back to the original zoning district.

There are relatively few properties currently zoned RM-50 and all are developed (or in development) with permanent housing. Consequently, this option would likely require a candidate site for the interim use to be rezoned. While this maximizes City discretion, it could slow down the IUP review and rezoning may not be deemed appropriate in all locations, and thus may not be approved.

Option B: Allow in RM-24, RM-50, and RM-100

Similar to Option A; allowing temporary pandemic response housing in these Multiple Family Residential (RM) zoning districts would be consistent with the City's goal to transition to permanent multi-family housing once the IUP expires. However, hotels are not allowed in any of these districts. Rezoning would likely be required to accommodate the interim use. As noted above, this maximizes City discretion, but could slow down the IUP process and rezoning may not be approved. While the RM-100 District exists in the City Code and is available, it has not yet been applied to any land in Bloomington.

Option C1: Allow in RM-24, RM-50, RM-100 plus all zoning districts that allow hotels (CS-0.5, CS-1, CR-1, B-2, C-1, C-2, C-4, C-5, CX-2, HX-R, LX, FD-2, IT, and I-2)

This option includes all the multiple family districts in Options A and B, plus all zoning districts that allow hotels as a permitted or conditional use. It is noted that not all of these zoning districts currently contain hotels; they simply allow the use. Again, hotels are not allowed in any of the RM districts.

By including the zoning districts that allow hotels, owners of existing hotels, as well as offices and other uses allowed in these commercial districts, could apply for an IUP without rezoning the property. It would also allow the property to revert back to the former use (or another allowed use) after the IUP expires. This would reduce some of the procedural barriers and provide more options for future use of the property. However it would reduce the City's discretion, which would be limited to making the findings required in approving an IUP. The standards in the ordinance for temporary pandemic response housing requiring detailed plans addressing security, management and operations, licensing, etc. would provide the City a lower level of discretion.

Several of the existing hotels in Bloomington are in locations that are far less than ideal for residential use. Many are adjacent to the freeway with no noise wall in place, adjacent to industrial uses, exposed to aircraft noise, adjacent to transmission lines and detached from residential areas. Some hotels are far from transit service. Requiring rezoning to a multi-family residential district is one way to ensure that temporary pandemic response housing is conducive to stays longer than 29 days, the time limit for hotels. Hotels that have the location and transit attributes conducive to longer term residential use could be rezoned to allow conversion, while the City would have the discretion to say no to conversion of hotels without those attributes.

Bloomington has 47 hotels. One has been temporarily closed. A 48th hotel is under construction. Staff is aware that at least six Bloomington hotels are being used in full or in part as temporary pandemic response housing. Currently, that use is not allowed under the Zoning Ordinance. Staff anticipates that allowing IUPs for temporary pandemic response housing in hotel districts will result in additional hotels being used in that fashion.

It is also noted that several of the commercial districts do not allow multi-family housing at all, or require it to be mixed with nonresidential uses. Districts that don't allow housing include: IT, I-2, B-2, C-1, CR-1, CS-0.5, CS-1, and LX (due to airport noise). Districts that only allow residential if mixed with nonresidential use include: C-2, C-4, and C-5. Two districts only allow residential as a conditional use: CX-2 and FD-2.

Option C2: Allow in RM-24, RM-50, RM-100 plus

Option C2 is very similar to Option C1, except it only includes the commercial districts where hotels currently exist. These include: CS-0.5, CS-1, C-2, C-4, C-5, CX-2, HX-R, LX, FD-2, and I-2. The analysis is essentially the same as with Option C1, with a slightly smaller number of districts.

Option C3: Discuss other districts

If the Planning Commission is not satisfied with any of the previous options, further filtering could be applied to more narrowly define the zoning districts in which this interim use should be allowed. Are there other criteria the Planning Commission would like to use to further filter the zoning districts? If so, what are those criteria?

3. Should the Interim Use duration be reduced?

Some Planning Commissioners suggested that a shorter interim use duration should apply for non-residential zoning districts. The ordinance as originally drafted proposed a maximum duration of two years. Language could be added to reduce the duration generally or in specific situations, such as in non-residential zoning districts. It is noted that Section 21.501.05 Interim Uses already allows the City Council to establish an expiration date less than the maximum allowed. This would be done on a case-by-case basis at the time of approval.

NEXT STEPS

If the Planning Commission recommends advancing the amendments related to definitions and the penalty clause, the shorted ordinance Option A would be forward to City Council for consideration on November 23, 2020. If not, these amendments would be included in a revised ordinance for future Planning Commission consideration.

Staff will revise the ordinance to reflect Planning Commission recommendations regarding additional zoning districts and other modifications, such as reducing the IUP duration. The revised ordinance would need to be re-noticed for public hearing. To meet the required notification schedule, the earliest a revised ordinance could be considered would be at the December 17, 2020 Planning Commission meeting.

PUBLIC OUTREACH

Notice of the public hearing on the proposed amendments to the City Code was published in the Sun Current, the official newspaper. Notice was also be sent via e-mail to 1,234 registered users of the “Zoning Ordinance Updates” and 1,685 registered users of the “Planning Commission” E-Subscribe groups. The proposed amendments and supporting information contained in the staff report will be posted on the City website.

RECOMMENDATION

Staff recommends the following motions for consideration:

To advance the amendments pertaining to existing definitions and penalty language

In Case PL2020-193, I move to recommend approval of an ordinance, as attached to the staff report as Option A, modifying definitions and adding language pertaining to penalties , thereby amending Chapters 19 and 21 of the City Code.

To expand zoning districts that would allow Temporary Pandemic Response Housing

I move to direct staff to prepare a new ordinance as discussed on November 19, 2020, for further review and consideration at a future meeting.