

AGENDA
MEETING OF THE MARSHALL PLANNING COMMISSION
WEDNESDAY – DECEMBER 14, 2022
COUNCIL CHAMBERS – CITY HALL
5:30 P.M.

- 1) *Call to Order*
- 2) *Consider the approval of the minutes of the November 9, 2022, regular meeting of the Marshall Planning Commission.*
- 3) *Conduct Public Hearing on Marshall 2040 Comprehensive Plan*
- 4) *Consider Ordinance amending Section 86-1 Definitions*
- 5) *Consider Ordinance repealing Section 86-51 Bed and Breakfast*
- 6) *Consider Ordinance amending Section 86-97 One-Family Residence District*
- 7) *Consider Ordinance amending Section 86-230 Required number of spaces*
- 8) *Other Business*
- 9) *Adjourn*

**MINUTES OF THE
MARSHALL PLANNING COMMISSION MEETING
NOVEMBER 9, 2022**

MEMBERS PRESENT: Lee, Deutz, Doom, Stoneberg, Pieper and Muchlinski

MEMBERS ABSENT:

OTHERS PRESENT: Jason Anderson, Ilya Gutman, Dennis Simpson, and Amanda Schroeder

1. The meeting was called to order by Chairperson Lee. She asked for the approval of the minutes of the September 14, 2022, regular meeting of the Marshall Planning Commission. Deutz MADE A MOTION, SECOND BY Stoneberg, to approve the minutes as written. ALL VOTED IN FAVOR OF THE MOTION.
2. Chairperson Lee call for an election for a Vice Chair. Deutz nominate Muchlinski second by Stoneberg. Vice Chair is Muchlinski.
3. McNally Management LLC applied for a Conditional Use Permit for an advertising sign at 705 West Main Street. Gutman explained that the memo is incorrect. This is not a LED changing billboard; this is a tradition billboard that has vinyl advertising. Chad Hagar with Summit Locations was attending by Zoom. Hagar said it is correct; this is much like the traditional billboards. Doom asked for clarification if this sign is going to be lighted. Hagar explained it is a lighted sign, but it is lighted to illuminate the face. Gutman said that with this being a traditional billboard, we will remove conditions 4, 5 and 6 from the recommendation, because they are not applicable to the traditional billboard. The new billboard will consist of four panels, 8 feet by 20 feet each, installed one above each other and at an angle to each other to face traffic in both directions. The overall height of the sign is requested to be 32 feet. Each panel size is less than maximum allowed length of 55 feet and there are two sign panels per side, as limited by the ordinance. All conditions may be revised, or new conditions added by both the Planning Commission and the City Council. Staff recommends a motion to recommend to City Council an approval of the request of McNally Management LLC, for a Conditional Use Permit for an advertising sign at 705 West Main Street, subject to the following conditions:
 1. The sign must be installed as shown on attached sketch. A survey showing exact sign location by the registered land surveyor shall be filed with the City of Marshall prior to sign installation. The sign or any part thereof shall not encroach into any public right-of-way or adjacent property.
 2. This permit is for the sign structure described as follows:
 - a. Two double panels will be installed at an angle to each other (four sign panels total).
 - b. Each sign panel shall be no greater than 8 feet by 20 feet.
 - c. The overall height of the sign shall be no more than 32 feet.Prior to sign installation, a sign permit application must be applied and paid for. Structural drawings showing sign footing and foundations shall be signed by a registered professional engineer and submitted along the sign permit application.
 3. The sign structure shall be maintained in a safe condition and all surfaces maintained without blemish or defects. The current land and sign owner, and all future sign and landowners are fully responsible for maintenance, together or separately.
 4. Obtain the required permit from the State Department of Transportation.Muchlinski MADE A MOTION, SECOND BY Deutz to close the public hearing. ALL VOTED IN FAVOR OF THE MOTION. Muchlinski MADE A MOTION, SECOND BY Stoneberg to recommend to City Council as recommended by staff with conditions 1 through 4. ALL VOTED

IN FAVOR OF THE MOTION.

4. Gutman said this is a request from the owner to approve building a new store with five feet side yard instead of required 10 feet side yard and provide 29 parking space instead of required 33 spaces. The new building is proposed to be built five feet away from the east property line. The owner wants to maximize the width of the driveway located on the west side of the lot and leading to the required parking in the back. The owner also wants to reduce parking to free space for required landscaping; they state that parking as suggested (4 spaces fewer than required) will be adequate based on experience and estimates of store foot traffic. Granting of a variance may be permitted only if the request meets the "practical difficulties" test, which requires that proposed use is reasonable (it is); the problem is caused by the conditions unique to this property (the property is relatively small, but that can be resolved by slightly reducing the building size or shifting it and there is enough room for required parking and landscaping); and that granting the variance will not change the character of the area (no other building around has a five foot side yard, even though the "character" of the area will most likely not be affected). It seems that two out of three conditions are at least partially not met. Staff recommends denial to the City Council of the request by Levi Bond / Iron Horse Development for a Variance Adjustment Permit to have a reduced side yard and reduced parking. Levi Bond went over the variance conditions that made this unique: it is a redevelopment of a property for a Family Dollar chain, so the building is fixed in its size. It is also placed on existing lot in an area developed long ago. He talked about character of the area and listed 2 other businesses that do not meet the set back. He said Family Dollar stores have been doing well. Deutz asked if the extra 5 ft on the East are to give the extra 5 ft to drive on the west. Bond said yes. Doom questioned the parking in the rear and if to get into the store one will still need to go to the front. Bond said it is more for staff and to meet more of the parking requirements. Lee asked how many parking spots are in the front. Bond said 17. Schroeder asked what the plan is if the variance is not granted. Bond said they would have to go back to the tenant. Doom questioned driveway width. Bond said making it narrower would make it more difficult for the delivery trucks to get though. He said in the past people have driven on each other's property and that is something they do not want to do. Lee asked if she goes and must park in the back, is there a sidewalk to get to the front. Bond said it will be completely paved. Doom said the neighbor is concerned about driving on their lot; is there a plan for putting in a curb. Bond said that was not the plan and that they reached out about shared access, but the neighbor never got back. They can put in a curb if Planning Commission want to require that, but they are just putting it back the way it was. Muchlinski asked if they can make building smaller. Bond said no, these are all predesigned. Stoneberg asked if in reality they are only expecting 17 people in the store at the same time. Bond said that is correct; 5 to 10 at a time is typical and people are usually in and out in about 5 to 10 minutes. Ultimately, if the tenant is comfortable, then it is believed to be enough as the tenant wouldn't want to lose business. Doom asked if they could put 4 more parking spaces in the back. Bond said they can, but then they wouldn't be able to meet the landscaping ordinance. They like to have the green space to help with run off. Schroeder inquired if there is a concern for drainage issues. Anderson said staff have not got into that yet, but he believes they will be just fine. Muchlinski asked if there are other properties that don't meet the set back. Anderson said yes, some are older buildings that were built before the ordinance. Pieper asked if there is any negative impact in setting a precedence. Anderson said when we make all of our decisions, we need to think about future implications. Gutman said the main thing is consistency. Doom MADE A MOTION, SECOND BY Muchlinski to close the public hearing. ALL VOTED IN FAVOR OF THE MOTION. Doom said the lot has been vacant for a long time, so when we can develop it, it's a benefit to the city and just like several lots in that area, they are long and narrow. The safety with the trucking in and out needs consideration. Gutman said the Planning Commission can add

--UNAPPROVED --

conditions. Lee said it would be nice to get a business in that area. Doom said they can put more parking in the back, but we have enough asphalt in the city. Stoneberg asked about the condition to put a sidewalk. Muchlinski said that would defeat the intent where the trucks come through. Doom MADE A MOTION to approve both as requested, since area is an old part of town and those lots are long and narrow. Rather than adding more parking in the back, to have green space is more important and it looks better, SECOND BY Muchlinski to recommend to City Council as requested. ALL VOTED IN FAVOR OF THE MOTION.

5. Anderson informed that Dollar General has purchased two lots for development of their retail store. The building that is being constructed sits atop the lot line that separates the two lots. City of Marshall Zoning Ordinance requires property line setbacks; therefore, a building cannot be constructed over top of a lot line. Due to an error in property descriptions, Lyon County is not allowing for the two lots to be combined into one lot to resolve the lot line issue. To resolve the issue, Dollar General is going through a platting process to resolve description concerns and to combine the existing two lots. Staff recommends a motion to recommend approval of the preliminary plat of DG Marshall to the City Council, subject to utility companies review and recommendations. Deutz MADE A MOTION, SECOND BY Stoneberg to recommend to City Council as recommend by staff. ALL VOTED IN FAVOR OF THE MOTION.
6. Gutman said Ordinance amending Sections 86-205 Access, 86-206 Construction and maintenance, and 86-226 Minimum size regulations are minor changes to parking ordinance brought up by real life. The changes allow for a narrower two-way street access drive beyond required front yard, which will let landowners save money on pavement and reduce impervious surfaces, while not negatively affecting safety; require that principal use parking on the lot be paved, which will prevent large gravel parking lots in business areas, since only accessory parking to the main structure is currently covered by the Ordinance; and increase minimum sidewalk width in front of the shorter parking places to make sure that an accessible path is still available if a vehicle's front projects over sidewalk. Staff recommends the recommendation to the City Council approving the revisions amending Sections 86-205 Access, 86-206 Construction and maintenance, and 86-226 Minimum size regulations as recommended by staff. Muchlinski MADE A MOTION, SECOND BY Deutz to recommend to City Council as recommend by staff. ALL VOTED IN FAVOR OF THE MOTION.
7. In other business. Gutman mentioned the Comp Plan will be published for public comments and then will come to the Planning Commission at the next meeting
8. A MOTION WAS MADE BY Doom, SECOND BY Deutz to adjourn the meeting. ALL VOTED IN FAVOR. Chairperson Lee declared the meeting adjourned.

Respectfully submitted,
Chris DeVos, Recording Secretary



Memorandum

Date: December 7, 2022

To: City of Marshall Planning Commission

From: Stephanie Falkers and Mitchell Brouse, SRF Consulting Group

Subject: Proposed Adoption of Marshall 2040 Comprehensive Plan

Action Recommended

Motion to close public hearing.

Consulting staff recommends a motion to recommend approval of the Marshall 2040 Comprehensive Plan to the City Council.

Background

Minnesota State Law (Minnesota Statute §462.351), requires that all communities that wish to adopt and enforce zoning regulations or subdivision regulations shall have a Comprehensive Plan that guides the development and implementation of those official controls. Under State Statute, plans should include a combination of policy statements, goals, standards, and maps that guide the physical, social, and economic development of the community.

At its core, the Comprehensive Plan should include policies and recommendations on land use that guide future land use decisions. However comprehensive plans generally include information on other topics, including economic development, utilities and facilities, the environment, cultural resources, and others.

The City of Marshall's existing [Comprehensive Land Use Plan](#) was adopted in 1996 and later amended in 2004. While Minnesota law does not include specific requirements for how often Marshall's comprehensive must be updated, due to the plans age, it does not provide relevant guidance for Marshall today, nor does it include up to date data and information about the community. This plan update provides the opportunity to:

- Respond to changes in community demographics and update population projections;
- Identify and integrate community input on the future of Marshall; and
- Include information about recent development activities within the city.

Process

This plan was developed over a 15-month planning process that included input from a number of community stakeholders, including a Comprehensive Plan Task Force, City of Marshall staff, local and regional stakeholders, and community members.

- Comprehensive Plan Task Force – Made up of a variety of community members, the Task Force members were asked to actively participate in the plan's development, provide input and review, represent the diverse views of the community, and promote the planning process.
- Engagement Activities – A variety of community engagement activities were hosted in an effort to understand and incorporate the community opinions into the planning process. Those activities included: 1) a City Kick-Off Event; 2) Task Force Meetings; 3) Community Survey and Open House; 4) Focus Group Meetings; and 5) Draft Plan Open House.

Plan development phases included:

- 1) Community Background – initiated the process and produced a summary of existing conditions within Marshall.
- 2) Community Issue Identification – using the information that was collected during the community background phase, key issues and opportunities were identified and refined through the community survey and open house.
- 3) Community Goals – issues and opportunities were translated into key themes, goals, and priorities, representing a desired vision for the community.
- 4) Plan Element Analysis – resulted in a detailed understanding of what the community wants Marshall to become, and how to get there.
- 5) Plan Development – all information from the phases above were compiled into a draft plan document, that was available for review by city staff, the community, and other stakeholders.

Plan Overview

The plan includes eight chapters that highlight the goals, policies, and recommendations for the community and three appendices that support the plan. The following is an overview of the contents of each chapter within the plan:

Chapter 1: Introduction – Introduces readers to the comprehensive plan, including describing the purpose for a comprehensive plan, providing a brief history of planning in Marshall, and overviewing the planning process.

Chapter 2: Issues and Opportunities – Highlights the issues and opportunities identified throughout the planning process and illustrates how they were used to inform the plan's goals, key themes, and focus areas.

Chapter 3: Land Use – Provides future development guidance for Marshall, including highlighting existing land uses and zoning districts, outlining future development guidance, and suggesting considerations and actions for the future.

Chapter 4: Utilities and Services – Reviews the existing utility and service infrastructure available within the City of Marshall and highlights tools and strategies for maintaining quality infrastructure while balancing growth opportunities.

Chapter 5: Economic Development – Highlights the existing economic characteristics within Marshall and the greater region, explores changing trends and opportunities, and highlights strategies that will inform future action and implementation.

Chapter 6: Environmental and Cultural Resources - Recognizes the diverse natural and cultural features that contribute to the identity of the community. Identifies tools for enhancing, preserving, and maintaining these resources.

Chapter 7: Communities Facilities – Reviews the existing community facilities and offerings available to Marshall community members, including those both offered by the city and other regional partners.

Chapter 8: Implementation –Identifies a plan for action that will be used to inform investment and growth decision making within the community that supports the goals and key themes identified through community input.

Appendix A: Early Engagement Summary – Provides a summary of the early engagement events and techniques used to inform the planning process and highlights the input heard through each event.

Appendix B: Community Profile – Provides an overview of existing and historic demographic and physical information about the community that informed the planning process. This information is intended to provide a snapshot of the community at the time the plan was drafted.

Appendix C: Zoning Analysis – Summarizes the findings of an analysis of Marshall’s existing zoning code to identify recommended updates and serve as a guide for making code amendments that facilitate implementation of the Comprehensive Plan.

Updates Since November 2022 – Draft

The November 2022 Draft Plan was available for Public Review and comment between November 9, 2022 and December 4, 2022. Based on the comments received during that time, the following changes have been made to the draft plan:

Page 2-3: “Marshall is home to 14,128 ((~~nearly 14,200~~)) residents (modified 2020 Census count as described above), of which 75 percent are White Alone, and approximately 25 percent are Hispanic

or Latino, Black or African American, American Indian or Alaska Native, Asian, some other Race, or a combination of these (see Figure 2).”

Page 2-8 and 5-2: Changed the color of the Economic Development Goal.

Page 3-1: Replaced photograph with a new one.

Page 3-12: Added the following description of changes to the Future Land Use Map and Plan:

Key Updates to Future Land Use Plan/Map

The Future Land Use Map includes some key differences from the one included in the 1996 Comprehensive Land Use Plan:

- 1) Residential Land Use Categories differentiates between residential land uses primarily based on density, including a low, medium, and high-density category, rather than housing type. This will allow a mix of housing types throughout the city.
- 2) The FLUM includes three mixed use categories where multiple use types are allowed in the same locations or on the same lot.
- 3) Identified categories in downtown include Downtown Mixed Use, allowing residential and commercial in the same structure and Neighborhood Mixed Use, allowing residential and commercial uses on neighboring parcels. This is intended to reflect the existing makeup of downtown, while still providing opportunities for development and redevelopment.
- 4) More opportunities exist for “missing middle” residential development that aligns with the look and feel of the existing community. Missing middle housing is focused on providing a mix of housing types, that are moderate density, including duplexes, townhomes, and smaller apartment/condo buildings.

Page 3-14: Updated the Future Land Use Map as follows:

- Change parcels west of the intersection between Highway 23 and Highway 59 from “Neighborhood Mixed Use” to “Commercial”

Page 3-15: Added the following discussion of housing preservation:

Housing Preservation

Many communities have embraced housing preservation and rehabilitation as a key strategy to help address housing affordability concerns and maintain an affordable rental housing stock. Often, preserving an existing home is more affordable than constructing new affordable housing options. According to the National Housing Trust, while more than 100,000 affordable apartments are built each year, nearly twice as many units are lost “annually due to deterioration, abandonment, or conversion to more expensive housing.”

As a community’s housing stock begins to age it is important that efforts are made to preserve the housing stock in good condition to avoid losing those units. Opportunities exist for communities to encourage the rehabilitation and preservation of those units. Programs include:

USDA Housing Preservation Grants – provides grants to sponsoring organizations, such as local governments, for the repair or rehabilitation of housing units that are owned or occupied by low-income individuals.

Low Income Housing Tax Credit – can be used to help property owners invest in historic buildings by converting them into an income producing use, such as low-income housing.

Page 4-3: Update second sentence of last paragraph as follows:

“They provide both ~~((offers))~~ bus and dial a ride services.”

Page 4-9: Update section “Fire and Emergency Medical Services (EMS)” as follows:

They assist the Lynd Fire Department on ~~((all))~~ structural fires within the shared Lynd/Marshall service area. They serve as primary fire response for ~~((nearly two thirds of the county))~~ a substantial portion of Lyon County and, through mutual aid agreements, assists all fire departments in the County.

Page 5-10: Major Employers data has been updated to reflect most current data as reported by the City: https://ci.marshall.mn.us/economic_development/workforce/index.php

Page 7-1: Replaced photographs with new ones.

Page 7-6: Replaced photographs with new ones.

Page 8-4: Added the following implementation action related to housing preservation:

HOUSING PRESERVATION: In coordination with adoption and implementation of housing rental code, prioritize the preservation and rehabilitation of Marshall’s existing housing stock through the use of funding programs, such as USDA Housing Preservation Grants and Low Income Housing Tax Credits, and development of local programming and regulations that encourage rehabilitation over reconstruction.

Fiscal Impact

None known.

Alternative/Variations

None.



MARSHALL
CULTIVATING THE BEST IN US

MEMORANDUM

TO: Members of the Marshall Planning Commission
Sharon Hanson, City Administrator
Jason R. Anderson, P.E., City Engineer/Zoning Administrator *Ja*

FROM: Ilya Gutman, Assistant Planning & Zoning Administrator *IG*

DATE: December 7, 2022

SUBJECT: Ordinance amending Section 86-1 Definitions

Action Recommendation

Staff recommends the recommendation to the City Council approving the revisions amending Section 86-1 Definitions as recommended by staff.

Background

These are changes to the Zoning ordinance definitions that clarify and explain terms used in the zoning ordinance; some are added, and some are revised and/or coordinated for improved consistency and better understanding. Some terms not used in the ordinance are also removed, including all sign related definitions which have been moved to the Sign ordinance.

Fiscal Impact

None.

Alternatives/Variations

None recommended.

IG/cld / Attachments

Sec. 86-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abutting or abuts means areas or lots whose boundaries at least touch one another at a single point, including areas or lots whose boundaries would touch but for an intervening alley.

Accessory building means a subordinate building which is located on the same lot as the principal main-use building and the use of which is listed as a permitted accessory use and clearly incidental or supplementary to the use of the principal main building.

Accessory equipment means any permanent exterior structure, except buildings, which is located either on the same lot as the principal main use building or attached to any building on the lot and the use of which is clearly incidental or supplementary to the use of the principal main building, such as for building service or building occupants' entertainment including, but not limited to, TV antennas, AC units, wind mills, solar panels, service tanks, children playgrounds, swimming pools, hot tubs, sports basketball courts, kennels, and other similar small scale items. For the purposes of this section, amateur radio antennas, flag and light poles, signs, and up to two electric vehicle charging stations, are not considered accessory equipment.

Adult use means an amusement or entertainment distinguished or characterized by an emphasis on material depicting, describing, or relating to sexual activities or anatomical areas; or which feature strippers, exotic or topless dancing, male or female impersonators.

Alley means a public way less than 30 feet in width which provides secondary access to adjacent abutting properties.

Apartment means a suite of rooms which is designed for, intended for, or used as a residence for one or more individuals and equipped with bathing and cooking facilities. Apartment is usually intended for rent or lease.

Apartment building means three or more apartments grouped in one building under single ownership and/or containing common public space.

Assisted living facility means a state licensed multiple family dwelling building or part thereof consisting of individual dwelling units and that includes common recreational spaces, a common dining room and food preparation areas where meals are served on a daily basis. Occupants are provided with personal care services because of age, disability or other reasons. Such facility is licensed by the state.

Attic means unfinished or partially finished space between the roof deck and the ceiling of the topmost story, and which can be accessed from below by attic access panel or pull-down ladder.

Automobile wrecking ~~is~~ See junkyards.

Awning means a roof-type architectural projection that is wholly supported by the building to which it is attached, and which is comprised of a lightweight, rigid frame structure over which a fabric or other pliable covering is attached.

Balcony means an exterior floor or platform projecting from, and supported by, the building to which it is attached without additional independent support.

Basement means a habitable portion of a building located fully or partly underground and accessed through a permanent stair or ramp, but having less than half of its floor-to-ceiling height above the average grade of the adjoining ground. This portion is not a completed structure and serves as a substructure or foundation for a building.

Bed and breakfast facility means any owner-occupied one-family dwelling other than a hotel, motel, boardinghouse or lodginghouse where the breakfast meal and lodging for compensation are provided for transient or semi-permanent guests persons pursuant to previous arrangements and where the owners serve as hosts. Such persons (guests) customarily shall have use of facility's common areas such as living room, dining room, library, etc.

Boarder means a person, not part of a housekeeping unit, who resides ~~lives~~ in a one- or two-family dwelling or dwelling unit on a permanent or semi-permanent basis ~~with a special contract with the owner~~, whereby the owner provides meals and lodging for compensation.

~~*Boardinghouse or lodginghouse* means any dwelling other than a hotel or motel where meals, lodging or lodging and meals for compensation are provided for three or more persons who do not function as a household unit and who are semi-permanent in nature.~~

Boulevard means a portion of the street right-of-way located between the street and private property, unless a public sidewalk is present in which case it is a portion located between the street and public sidewalk not occupied by pavement.

Brewpub means a small brewery that serves and sells its product on premises in addition to off-premises sales. For the purpose of this Ordinance ~~article~~, brewpub is the same as taproom.

Buildable area means the portion of a lot remaining after required yards have been provided.

Building means any structure used for the shelter or enclosure of persons, animals, chattels or property of any kind and fully enclosed with full height walls on all sides and roof on top, including, for the purposes of this chapter, supporting structures for antennas, excepting guy wires installed not closer than one foot from the side or rear lot lines. When any such structure is separated by party walls without openings, such portion of such buildings so separated shall be deemed a separate building.

Building addition means an extension or increase in floor area, number of stories or height of an existing building.

Building alteration (remodel) means any construction or renovation of an existing building other than addition or repair.

Building area means gross area of the main floor of a building contained between exterior surfaces of exterior walls, including all porches.

Building area, total, the sum of the gross horizontal areas of all stories of a building measured within exterior surfaces of the exterior walls, and including basements.

Building code means the current Sstate Building Code.

Building, existing, means a building erected prior to adopting the building code or the one for which a building permit and a permanent certificate of occupancy have been issued, even if they cannot be located.

Building height means the vertical distance from the average of the highest and lowest point of that portion of the lot covered by the building to the highest point of the roof edge or parapet for flat roofs; to the deck line of mansard roofs; and to the mean roof height, defined as the average of the between eaves height and the height of the roof's highest point, and ridge for gable, hip and gambrel roofs.

Building official means the municipal building code official, certified under Minnesota ~~Statutes~~ § 326B.133, subd. 2 and 3 and designated by the city council, who is authorized to enforce the state building code.

Building repair means any maintenance work, including replacement of deteriorated finishes and broken equipment, and work to correct damage, including that caused by natural disasters or malfunctioning equipment, performed on an existing building to restore it to previous condition.

Canopy means an roof-type architectural projection that is supported by the building to which it is attached and at the outer end by not less than one additional vertical support or an independent roofed structure supported by two or more individual vertical supports.

Carport means a canopy structure ~~building~~ serving as an automobile shelter and having one or more sides fully open.

Comprehensive plan means a declaration of purposes, policies and programs for the development of the City for the future and adopted by the City Council as one document.

Congregate living facility means a building or part thereof consisting of sleeping units designed, intended or used by one or more persons, not members of a household unit, on a permanent or semi-permanent basis and where residents share common sanitation or cooking facilities or both~~individual dwelling units with complete living facilities, including permanent provisions for living, sleeping, eating, cooking and sanitation, as well as a common dining room and food preparation areas where meals are served on a daily basis. Occupants are permanent residents of at least 55 years of age. Such facilities include convents, shelters, dormitories, and fraternity or sorority houses among others, but not nursing homes or jails.~~

Construction documents means written or graphic documents prepared or assembled for describing the design of, and providing other necessary information for, a project required to obtain a permit for relevant work.

Court means an open and uncovered unoccupied space at grade level bounded on three or more sides by the exterior walls of a building or buildings on the same lot.

Crematorium means a building where dead bodies are burned to ashes.

Curb level means the level of the established curb in front of the building measured at the center of such front. Where no curb level has been established, the city engineer shall establish such curb level or its equivalent for the purpose of this chapter.

Day care facility means any facility, licensed by the State of Minnesota~~commissioner of public welfare~~, public or private, which for gain or otherwise regularly provides two~~one~~ or more children~~individuals~~ with care, training, supervision, habilitation, rehabilitation or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the child's~~individual's~~ own home. Day care facilities include, but are not limited to: family day care homes, group family day care homes, day care centers, and nursery schools, daytime activity centers (D.A.C. mentally retarded adults) and day services (adult activity programs). Nothing in this definition shall be construed to include mental health care centers, substance abuse treatment facilities, and any facilities excluded by Minn. Stat. § 462.357, subd. 7.

Deck means an open exterior floor or platform supported on at least one~~two~~ opposing sides by an adjacent structure and/or posts, or piers or walls below it and elevated above adjacent grade more than six inches at any point.

Depth of rear yard means the mean horizontal distance between the rear line of the building and the centerline of an alley, where an alley exists, or a rear lot line.

Developer means the owner of the property, or a person or entity authorized in writing by the owner of the property to act on behalf of the owner of file the applications or the PUD and who will become the owner of the property prior to any development of the property.

District, zoning, means a section of the city for which the regulations governing the height, area and use of buildings and premises along with other supplemental requirements or building appearance are the same.

District, downtown, district means an area in the city characterized by lack of parking and reduced yards and shown on the city zoning map as an overlay district and generally described as limited by Sixth Street, Lyon Street, First Street and Saratoga Street.

District, Heritage, means an area in the city characterized by older, mostly original, buildings comprising the core of the downtown district and shown on the city zoning map as an overlay district.

Drive-thru, drive-in, or drive-up means a business where customers drive through or into a specified locality or place to complete a transaction from one's car, including obtaining and consuming food.

Dwelling means any building or portion of a building which is designed, intended, or used for permanent occupancy exclusively for residential purposes by one or more persons~~human beings either permanently or transiently.~~

Dwelling, multiple family, means a building or a portion of a building containing designed-use-by more than two dwelling units~~families~~.

Dwelling, one-family, means a building designed, intended, or used for permanent occupancy for use exclusively by one family housekeeping unit, and providing complete, independent living facilities, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Dwelling, two-family, means a building containing two dwelling units~~designed-for-use-by-two-families~~.

Dwelling unit means a self-contained portion of a building designed, intended, or used for permanent occupancy exclusively by one housekeeping unit and providing complete, independent living facilities ~~for one or more individuals~~, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Earth sheltered building means a building constructed so that 50 percent or more of the completed structure is covered with earth. An earth sheltered building is a complete structure that does not serve just as a foundation or substructure for aboveground construction. A partially completed building shall not be considered earth sheltered.

Easement, utility, means a grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining utilities, public or private, including, but not limited to, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage courses, and gas lines.

Easement, access or roadway, means a grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining an access drive.

Existing building, see Building, existing.

Facade or building elevation means the ~~entire portion of any~~ exterior elevation of a building exposed to public view extending the entire width of the building from the grade to the top of the roof edge or parapet wall of a building with a flat or mansard roof or the bottom of the eaves line of a building with a gambrel, gable, or hip roof ~~and the entire width of the building elevation~~.

~~*Family* means any number of individuals related by blood, marriage or adoption living together on the premises as a single housekeeping unit.~~

Farming means the cultivation of the soil or keeping farm animals, including and all related incidental activities, incident thereto for commercial purpose.

~~*Final development plan* means a final development plan based upon the preliminary development plan and presented by a PUD applicant as provided in section 86-140 and including the requirements set forth in that section.~~

~~*Floor area* means the sum of the gross horizontal areas of the all floors of a building measured from the exterior walls, including basements and attached accessory buildings.~~

Floor, main, means the lowest building level above grade.

Footprint means the area of the land covered by a building's foundation.

Frontage means that boundary of a lot that abuts a public or private street ~~or a private road~~ or, for the signage area calculations, the length of such boundary.

Free standing furnace means a furnace or burner designed, ~~and~~ intended, ~~and~~/or used for the burning of wood or other fuel sources, that is located outside of a structure for which it is intended to provide heat.

Garage, private, means a garage for storage of non-commercial power-driven vehicles belonging to property owners or tenants only and which is erected as an accessory building or is attached to the principal use building.

Garage, public, means any premises, except those described as a private garage, used for the storage or care of power-driven vehicles, or where any such vehicles are equipped for operation, repair or kept for remuneration, hire or sale.

Garage sale (rummage sale, yard sale) means any display and sale of used personal property conducted on residential premises by the occupant(s) of such property or on a parking lot of a community center, church, school, etc. by members of those institutions.

Gazebo means a roofed accessory building partially open on all sides, typically used for relaxation or entertainment.

Home occupation means any occupation or business of a service or shop character, ~~except family day care~~, conducted from the person's residence ~~and~~but which is clearly incidental and secondary to the ~~principal~~main use of the premises as a dwelling. For the purpose of this Chapter, family day care is not considered home occupation.

Hotel or motel means ~~any~~ building or portion of a building where lodging is offered to transient (~~less than 30 days~~) guests for compensation and in which there are more than ~~two~~five sleeping units, all rooms with no cooking facilities ~~in an individual room~~.

Hotel, extended stay, means a building or portion of a building where lodging is offered to transient and semi-permanent guests for compensation and in which there are more than two sleeping units, including some with limited cooking facilities.

Housekeeping unit means all persons residing together on the premises within a dwelling unit whose relationship includes a substantial amount of social interaction including the sharing of housekeeping responsibilities and expenses.

Impervious surface means ~~that portion of a parcel or lot which has a~~ surface covering which does not permit water to percolate into the natural soil.

~~Interim use means a temporary use of property until a particular date, until the occurrence of a particular event, or until the use is no longer allowed by zoning regulations.~~

Junk or refuse means any scrap, waste, reclaimable material, or debris, whether or not stored or used in conjunction with dismantling, processing, salvaging, storing, baling, disposal, or other use or disposition. "Junk" includes, but is not limited to, tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, brush, wood, and lumber.

Junkyard means open land ~~or buildings~~ where waste, discarded or salvaged materials and products are brought, sold, exchanged, stored, cleaned, packed, disassembled, processed, compressed or handled; such materials and products which includes, but is not limited to, scrap metal, rags, paper, rubber products, glass products, lumber products and products from ~~for~~ wrecking, disassembling and/or crushing of automobiles and other vehicles.

Landing means a platform at the top or bottom of a stair or a flight of stairs or in front of a door.

Lot or plot means one unit of a recorded plat or subdivision or, if not a part of a plat, defined by meets and bounds, occupied or to be occupied by buildings, including as a minimum such open spaces as are required under this ~~C~~chapter and having at least one frontage ~~on a public right-of-way or a traveled or used~~ recorded public access.

Lot area means the land area within the lot lines.

Lot, corner, means a lot situated at the junction of and fronting ~~on~~ two or more adjoining streets. For the purpose of this definition, a curved street changing direction by more than 60 degrees shall be considered two adjoining streets.

Lot depth means the average mean distance between the front and rear lot lines; in most cases, it may be approximated as a distance between center points of the front and rear lot lines. For the purposes of this definition, the front lot line of ~~a two-street~~the corner lot is the line opposite to the chosen rear lot line ~~and~~ and the front lot line of a three-street corner lot is the middle one. For a double frontage lot, lot depth means the average distance between two opposite front lot lines.

Lot, double frontage, means an interior lot having frontage on two not adjoining streets.

Lot, flag, means a lot with narrow or no frontage on the ~~street~~ public right-of-way where vehicular access is provided to the lot by means of a narrow portion of a lot or an access easement.

Lot, interior, means a lot other than a corner lot.

Lot lines means the lines bounding a lot and separating it from other lots ~~and~~ public right-of-ways.

Lot line, front, means a lot line abutting a ~~street~~ dedicated public right-of-way except alleys or any other access way that provides the only site access.

Lot line, side, means any lot line adjacent to the front lot line other than a front or rear lot line, except two-street corner lots, where one of the lot lines adjacent to the front lot line shall be designated a rear lot line.

Lot line, rear, means any lot line other than a front or side lot line and which is usually directly opposite the front lot line. ~~A lot may have only one rear lot line.~~

Lot, substandard, means any lot which does not meet the minimum lot size requirements area, length, depth, width or any other dimensional standards of this Chapter, including, but not limited to, setbacks and access requirements section. Substandard lot is the same as nonconforming lot.

Lot width means the distance between end points of the side lot lines at their intersections with the front lot line measured along the front lot line. For the purposes of this definition, the front lot line of a double frontage lot is the access side one. For a two-street corner lot, lot width means the distance between an end point of a side lot line at its intersection with the front lot line and a point of two front lot lines intersection and for a three-street corner lot, lot width means the distance between two points of front lot lines intersection.

~~*Lot width, average*, means the distance between side lot lines measured at a point halfway between front and rear lot lines.~~

Manufactured home means a structure, ~~not affixed to or part of real estate~~, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained in it. A recreational vehicle or trailer is not a manufactured home.

Manufactured home park means any site, lot, field or tract of land upon which two or more occupied, manufactured homes are harbored, either free of charge or for revenue purposes, and shall include any building, structure, ~~tent, vehicle~~ or enclosure used or intended for use as an accessory for part of the equipment of such manufactured home park.

Marquee means a flat roofed structure that is wholly supported by the building to which it is attached.

Nonconforming means a use or a structure lawfully in existence on April 6, 1964, or on the effective date of amendments to this Cchapter, and not conforming to the current regulations for the zoning district in which it is situated.

Occupancy, permanent, means residential occupancy other than temporary or semi-permanent.

Occupancy, semi-permanent, means residential occupancy over 30 days by persons who have permanent residency elsewhere.

Occupancy, transient, means residential occupancy not exceeding 30 days

Outlot means a tract of land, included in a plat, which is smaller than the minimum size permitted for lots or doesn't have proper access from a street and which is thereby declared unbuildable until combined through platting with additional land; or, a parcel of land which is included in a plat and which is at least double the minimum size and which is thereby subject to future platting prior to development; or a parcel of land which is included in a plat and which is designated for public or private open space, right-of-way, utilities or other similar purposes.

Owner means any person, agent, firm or corporation having a legal or equitable interest in the property.

Patio means a flat structure made of concrete, brick, wood, or other building materials, elevated above adjacent grade with a height of six inches or less from ground level from any point of the structure, and not attached to a building.

Pergola means a structure forming a shaded area and made of vertical posts or pillars that usually support cross beams and a sturdy open lattice.

Permit means an official document issued by the City that authorizes performance of a specified activity.

Porch, four-season, or sunroom means a heated room with the glazing exceeding 40 percent of the exterior wall area.

Porch, open, means a roofed deck surrounded by walls not higher than 42 inches, with or without window screens above.

Porch, three-season, means an unheated room with the glazing exceeding 40 percent of the exterior wall area.

Prefabricated building means any building regulated by the building code intended for use, and regulated by the zoning ordinance and building code, as a one- or two-family dwelling or an accessory building, which is newly constructed, in full or in sections, off the building site, to be installed for installation, or assembly and installation, on the building site on the permanent foundation.

Preliminary development plan means a formal development plan in preliminary form presented by a PUD applicant as provided in section 86-140 and including the requirements set forth in that section.

Property means all land included within the PUD.

PUD (planned unit development) means a special zoning district, which may include single or mixed uses and, one or more lots or parcels, where one or more of the zoning or subdivision regulations, except use regulations, may be waived or altered intended to create a more flexible, creative and efficient approach to the use of land, and which is subject to the procedures, standards and regulations contained in this Chapter article.

PUD agreement means the agreement to be entered into between the developer and the city to incorporate all term, requirements and conditions of the PUD approval.

Recreational vehicle means a vehicle, motorized or towed, that is built on a single chassis and is designed for recreational, travel, or seasonal camping use. For the purposes of this Chapter, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle, camper, or motor home.

Residential facility means any facility, licensed by the State of Minnesota commissioner of public welfare, public or private, which for gain or otherwise regularly provides two or more persons individuals with a 24-hour per day substitute for care, food, lodging, training, education, supervision, habilitation, and rehabilitation for 24 hours per day and treatment they need, but which for any reason cannot be furnished in the individual's own home. Residential facilities include, but are not limited to, state institutions under the control of the commissioner of public welfare, foster homes, hospices, residential treatment centers, maternity shelters, group homes, and residential programs or schools for handicapped children. Nothing in this definition shall be construed to include jails, nursing homes, substance abuse treatment facilities, or any facilities excluded by Minn. Stat. § 462.357, subd. 7.

Right-of-way means at the publicly owned strip of land covered, or intended to be covered, by a public roadway or other vehicle or pedestrian path, including and adjacent land, which is dedicated, designated or reserved for public use.

Roomer means a person, not part of a housekeeping unit, who rents a single room in a one- or two-family dwelling or dwelling unit on a permanent or semi-permanent basis, with no right to cooking privileges or facilities except occasional meals and no special contract for food.

Self-storage warehouse ~~or (ministorage)~~ means a building ~~subdivided constructed~~ into compartments of 500 square feet or less ~~each, which are~~ rented to individuals on a monthly basis for storage of personal property.

Setback means the distance between the property line and the building on a lot.

~~*Shopping center* means a group of businesses occupying a common building or immediately adjacent buildings and having common private mall areas, parking areas, access, signage and other facilities.~~

Short-term rental unit means a dwelling or dwelling unit where lodging for compensation is provided for transient guests pursuant to previous arrangements.

Sleeping unit means a room or a suite of rooms designed, intended, or used for transient or semi-permanent occupancy and providing facilities for sleeping; it may also provide facilities for living, eating, sanitation, and cooking. Such rooms that are part of a dwelling unit are not considered sleeping units.

~~*Sign*, means a name, identification, description, display, illustration, device or lettered figure or pictorial symbol which is affixed to or represented directly or indirectly upon a building, structure or land in view of the general public, and which directs attention to a product, place, activity, person, institution or business and is displayed for the purpose of communicating a specific message.~~

~~*Sign, abandoned*, means any sign remaining without a message or whose display surface remains blank for a period of six months or more, or any sign pertaining to a time, event or purpose which no longer applies, or any sign remaining after demolition of a principal structure, or any sign applicable to a discontinued business unless evidence is provided that a business is temporarily suspended due to a change in ownership or management.~~

~~*Sign, advertising*, means a sign which directs attention to a business, commodity, service, activity or entertainment not conducted, sold or offered upon the premises where such sign is located. An advertising sign is the same as a billboard.~~

~~*Sign alteration* means any change, reconstruction, relocation or enlargement of a sign, or of any of its component parts. Routine maintenance, the changing of movable parts of signs which are designed for such changes, the repainting of sign copy and display matter, and replacement of a sign facing with the same size facing shall not be deemed to be an alteration within the context of this chapter.~~

~~*Sign, banner*, means a temporary sign made of fabric, cloth, canvas, plastic sheathing or any other flexible non-rigid material with no enclosing framework temporarily mounted to a building, structure, or the ground at two or more edges.~~

~~*Sign, balloon*, means a temporary sign consisting of a bag made of lightweight material supported by helium, hot, or pressurized air which is greater than 24 inches in diameter.~~

~~*Sign, business*, means a sign which directs attention to a business or profession or to a commodity, service or entertainment sold or offered upon the premises where such a sign is located.~~

~~*Sign, construction*, means a temporary sign identifying an architect, contractor, subcontractor and/or material supplier participating in construction on the property on which the sign is located.~~

~~*Sign, directional*, means a sign erected on private property for the purpose of directing pedestrian or vehicular traffic onto or about the property upon which such sign is located, including signs marking entrances and exits, circulation direction, parking areas, and pickup and delivery areas, which does not display advertising copy.~~

~~*Sign, double-face*, means a sign which has a message on opposite sides of a single structural component or is a spherical sign. The single structural component is counted as one sign.~~

~~*Sign, dynamic display*, means any sign in which display portion of a sign appears to have movement or that appears to change and which is caused by any method other than physically removing and replacing the sign or its components. This includes, among other types, electronic graphic display sign having a programmable display that has the capability to present text and/or symbolic imagery in motion and in a variety of colors, or any display that incorporates rotating panels, LED lights manipulated through~~

digital input, "digital ink", incandescent bulbs, or any other method or technology that allows a sign face to present a series of images or displays.

Sign, electronic graphic display, means any sign or portion thereof that displays electronic, static or moving images, with or without text information, defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area where the message change sequence is accomplished immediately or by means of fade, re-pixelization or dissolve modes. These signs include computer programmable, microprocessor controlled electronic or digital displays and projected images or messages with these characteristics onto buildings or other objects

Sign, flag, means any fabric or similar lightweight piece of material attached at one end of the material, usually to a staff or pole but possibly to the underside of a roof structure, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices.

Sign, flashing, means any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use.

Sign, flat, means a sign mounted parallel to the building surface and projecting no more than 18 inches.

Sign, freestanding, means a permanent non-movable sign supported upon the ground by poles, pylons, braces, foundation, solid base or any other structure and not attached to any building.

Sign, ground, means a freestanding sign with the sign face mounted on the ground or solid base or on the poles or pylon if the bottom edge of the sign display area is eight feet or less above the ground elevation at the base of the sign.

Sign, holiday decoration, means temporary signs, in the nature of decorations, clearly incidental to and customarily and commonly associated with any national, local or religious holiday.

Sign, illuminated, means any sign which has characters, letters, figures, designs or outlines illuminated by external electric lights or by electric lights or luminous tubes as a part of the sign.

Sign, incidental, means a small sign, emblem, or decal less than two square feet in area placed on the exterior of a building, or attached to a freestanding structure on the premises, and informing the public.

Sign, integral, means a sign carrying the name of a building, its date of erection, monumental citations, commemorative tablets, and the like, when carved into stone, concrete, or similar material or made of bronze, aluminum, or other permanent type of construction and made an integral part of the structure.

Sign, multiple-face, means a sign containing three or more faces. Each face shall be counted separately toward the maximum allowable sign area.

Sign, nameplate, means any sign which states the name or address, or both, but nothing else, of the business or occupant of the lot where the sign is placed.

Sign, political, means a temporary sign used in connection with a local, state or national election or referendum.

Sign, portable advertising, means all signs that are not permanently affixed to a building or foundation structure, intended for temporary placement on sidewalk or anywhere on the lot and designed to be moved easily, and used for business promotion.

Sign, private sales or event, means a temporary sign advertising private sales of personal property such as house sales, garage sales, and the like or private not-for-profit events such as picnics, carnivals, bazaars, game nights, art fairs, and craft shows or any charity fundraising.

Sign, projecting, means a sign mounted perpendicular to the building surface.

~~Sign, public, means a sign of a public, non-commercial nature, to include safety signs, danger signs, trespassing signs, traffic signs, signs indicating scenic or historical points of interest, memorial plaques and the like, when signs are erected by or on order of a public officer or employee in the performance of official duty.~~

~~Sign, pylon, means a freestanding sign erected upon a pole, post or other similar support so that the bottom edge of the sign display area is more than eight feet above the ground elevation at the base of the sign.~~

~~Sign, real estate, means a temporary sign advertising the real estate upon which the sign is located being for rent, lease or sale.~~

~~Sign, roof, means a sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above the roof line of a building with a flat roof, the eave line of a building with a gambrel, gable or hip roof or the deck line of a building with a mansard roof.~~

~~Sign, rotating or moving, means a sign which revolves or rotates on its axis by mechanical means or has otherwise moving parts.~~

~~Sign, surface area of, means the entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface, or in the case of letters, symbols, etc., not mounted on a common background, the area shall consist of the area within the continuous outside perimeter of each individual letter, symbol etc. It does not include any structural elements outside the limits of such sign and not forming an integral part of the display. Only one side of a double-face or V-type sign structure shall be used in computing total surface area.~~

~~Sign, temporary transportable advertising, means all signs that are not permanently affixed to a building or foundation structure, mounted on wheels or supporting structure for the purpose of mobility.~~

~~Sign, window, means a sign attached to, placed upon, or painted on the interior of a window or mounted on the inside within the exterior wall thickness in the window opening and that is visible from the exterior of the building.~~

~~Sketch plan means an informal development plan presented by a PUD applicant as provided in section 86-140.~~

Solar **energy** collector means any device **or system** ~~relying upon direct solar energy and associated facilities that converts solar energy to electrical energy~~ that is employed in the collection of solar energy for heating and/or cooling of a structure, building or water.

Solar energy system means any solar collector or other solar device or any structural design of a building whose primary purpose is to collect, convert or store solar energy for useful purposes including heating and cooling of buildings, domestic water heating, electric power generation, and other energy using processes.

Stacking lane means a waiting area for drivers who remain in their vehicles awaiting service at a drive through establishment.

Staff development review committee **means a committee**~~shall be~~ appointed by the city administrator ~~to and will~~ conduct a review of all development plans for any PUD. The committee shall include the city engineer, **zoning administrator**, and any other members of the city staff or city consultants.

Story means a portion of a building included between the upper surface of a building floor and the upper surface of the floor or roof above and located entirely above ground.

Story, half, means **at that finished** portion of a building under a gable, hip or gambrel roof, the wall plates of which, on at least two opposite exterior walls, are not more than two feet above the floor of such story, **or, if not at exterior wall, not more than five feet above the story floor, and which is accessed through a permanent stair.**

Street means a **public road**way set aside for **public** vehicular traffic regardless of size or designation but excluding **access and roadway easements and** alleys as defined therein ~~and driveways serving only one parcel of land.~~ **Streets may be public or private.**

~~Structural alterations means any change in the supporting members of a building such as bearing walls, columns, beams or girders.~~

Structure means anything constructed or erected, the use of which requires location on the ground or attachment to something having a location on the ground.

Tent means an independent canopy structure, with or without side covers, constructed of fabric or other pliable material and supported by a lightweight, rigid frame.

Thoroughfare means a major public roadway set aside for heavy continuous vehicular traffic through the city and designated as such on the city zoning map.

~~Townhouse means three or more one family dwellings under separate ownership constructed as a group of attached units in which each unit extends from the foundation to roof.~~

Use means the purpose for which land ~~or premises~~ or a building thereon is designated, arranged or intended, or for which it is or may be occupied or maintained.

Use, accessory, means a use occurring along with, and related to, the principal use in the same lot and occupying more than ten percent but less than 25 percent of the principal building total area, except for single family dwellings this percentage may be increased to 33 percent, or a separate accessory building.

Use, conditional, means a use not normally permitted in a particular zoning district, but which may be allowed under certain conditions by the City Council action.

Use, incidental, means a use occurring along with, and related to, the principal use in the same lot and occupying ten percent or less of the principal building total area. Incidental use shall not be considered in determination of the zoning district placement.

Use, interim, means a use not normally permitted in a particular zoning district, but which may be temporary allowed by the City Council action until a particular date, until the occurrence of a particular event, or until the use is no longer allowed.

Use, mixed, means a single building containing more than one type of ~~land~~ use or a single development of more than one building and use, where different types of ~~land~~ uses are in close proximity, planned as a unified complementary whole, and functionally integrated to the use of shared vehicular and pedestrian access and parking areas.

Use, permitted, means a use formally allowed in a particular zoning district.

Use, principal, means the main use of the property occupying at least 75 percent of the building area and determining the zoning district placement.

Use, temporary, means a use temporary authorized by this Chapter for a fixed period of time not exceeding 180 days.

Variance means a modification ~~or variation~~ of the provisions of this ~~C~~chapter as applied to a specific ~~piece of~~ property which may be allowed under certain conditions by the City Council action, except that modification in the ~~permitted~~~~allowable~~ uses within a zoning district shall not be considered ~~for~~ a variance.

Wind energy conversion systems (WECS) means any device ~~or system~~, such as a wind charger, windmill, or wind turbine, and associated facilities that converts wind energy to electrical energy. ~~This definition includes any device used to convert wind power to other forms of energy such as mechanical or heat.~~

Yard means an open unoccupied, except for accessory buildings or structures, space lying between any line of the lot and the nearest ~~line of the~~ walls or any other vertical structural support of a principal use building.

Yard, front, means a yard extending across the front of the lot between the lot side lines ~~and lying between the front line of the lot and the nearest line of the building.~~

Yard, rear, means an ~~yard open space unoccupied except for accessory buildings on the same lot with a building~~, extending across the rear of the lot between the lot side lines ~~and lying between the rear lines of the building and the rear line of the lot~~.

Yard, required, means the minimum yard width required in a particular zoning district.

Yard, side, means an ~~yard open unoccupied space between the building and the side line of the lot~~, ~~and~~ extending across the side of the lot between ~~from~~ the front lot line ~~and to~~ the rear lot line.

(Code 1976, § 11.04; Ord. No. 404 2nd series, § 1, 11-16-1998; Ord. No. 410 2nd series, § 1, 2-16-1999; Ord. No. 443, § 2, 11-6-2000; Ord. No. 472, § 1, 1-7-2002; Ord. No. 512 2nd series, 3-1-2004; Ord. No. 590 2nd series, § 1, 2-19-2008; Ord. No. 609 2nd series, § 1, 4-28-2009; Ord. No. 615 2nd series, § 3, 10-27-2009; Ord. No. 619 2nd series, § 1, 6-8-2010; Ord. No. 655 2nd series, § 1, 5-22-2012; Ord. No. 656 2nd series, § 1, 5-22-2012; Ord. No. 681 2nd series, § 1, 9-24-2013; Ord. No. 746 2nd series, § 1, 11-26-2019)

Cross reference— Definitions generally, § 1-2.



MARSHALL
CULTIVATING THE BEST IN US

MEMORANDUM

TO: Members of the Marshall Planning Commission
Sharon Hanson, City Administrator
Jason R. Anderson, P.E., City Engineer/Zoning Administrator

FROM: Ilya Gutman, Assistant Planning & Zoning Administrator *IG*

DATE: December 7, 2022

SUBJECT: Ordinance repealing Section 86-51 Bed and breakfast

Action Recommendation

Staff recommends the recommendation to the City Council repealing Section 86-51 Bed and breakfast as recommended by staff.

Background

This change is the result of the City's proposed Rental ordinance, when bed and breakfast will become a short-term rental covered by the new ordinance as any other rental property in town. This will save owners money and allow for simpler process. This change will not be brought before the City Council for consideration of final adoption until the rental ordinance is approved.

Fiscal Impact

None.

Alternatives/Variations

None recommended.

IG/cld / Attachments



MEMORANDUM

TO: Members of the Marshall Planning Commission
Sharon Hanson, City Administrator
Jason R. Anderson, P.E., City Engineer/Zoning Administrator *ga*

FROM: Ilya Gutman, Assistant Planning & Zoning Administrator *IG*

DATE: December 7, 2022

SUBJECT: Ordinance amending Section 86-97 One-Family Residence District

Action Recommendation

Staff recommends the recommendation to the City Council approving the revisions amending Section 86-97 One-Family Residence District as recommended by staff.

Background

These changes are miscellaneous in nature and fall into three different categories. Some are the result of the near future Rental Ordinance adoption: they include allowing more than three unrelated adults living in a house, making bed and breakfast a permitted use, and moving keeping any number of boarders and roomers from Conditional Use to Accessory Use. Some changes are derived from the new Comprehensive Plan, such as referring to unit density and removing some conditional uses, for example, golf clubs and museums; these changes will help with keeping this zoning district more residential in nature. And the rest are just housekeeping items to make things more consistent and easier to read and understand and better coordinate with other sections.

Fiscal Impact

None.

Alternatives/Variations

None recommended.

IG/cld / Attachments

Sec. 86-97. - R-1 one-family residence district.

- (a) *Intent; scope.* This section applies to the R-1 one-family residence district. This R-1 district is intended to preserve and enhance low density (less than 6 units per acre) residential areas ~~for one-family detached dwellings.~~

- (b) *Permitted uses.* The following uses shall be permitted in the R-1 one-family residence district:

Churches and other places of worship, ~~provided that no building shall be located within 25 feet of any lot line of an abutting lot in any of the classes of residence districts.~~

One-family manufactured homes.

Residential facility serving six or fewer individuals.

Day care facility serving 14 or fewer individuals.

One-family detached dwellings, ~~occupied by persons related by blood, marriage, adoption, or by three unrelated persons.~~

Bed and Breakfast, provided property is registered with the City as rental.

- (c) *Permitted accessory uses.* The following uses shall be permitted accessory uses in the R-1 one family residence district:

Accessory uses customarily incidental to the uses permitted in this section, such as private vehicle garages ~~and storage sheds.~~

Accessory building complying with section 86-163, including, but not limited to, private garages, storage sheds, fallout shelters, and gazebos.

Accessory equipment complying with section 86-164, including, but not limited to, solar energy collectors and systems, playgrounds, and sports courts.

Fallout shelters.

Keeping ~~of not more than two~~ boarders and/or roomers by a resident family, provided property is registered with the City as rental.

Private swimming pool and hot tub when completely enclosed within a non-climbable fence five feet high with openings no greater than four inches in any dimension and self-closing and self-locking gate. Swimming pools exempt from the building permit requirements as defined in the state building code and hot tubs with latchable covers do not need to be enclosed.

~~Private solar energy collectors and systems.~~ Offices of persons and home occupations meeting the specific conditions of section 86-50, provided an interim use permit is obtained when required.

Private amateur radio towers and antennas complying with division 6.

Private vegetable gardens complying with Section 86-247 (a) (5).

- (d) *Conditional uses.* All conditional use permits for the R-1 district may only be issued if the proposed use meets the specific requirements of this section and also meets the supplemental regulations as outlined in article VI and meets the eligibility for conditional use permits as specified in article II, division 2. The following uses may be allowed in the R-1 one family district by conditional use permit:

~~Bed and breakfast facility meeting the conditions of section 86-51.~~

Fire stations, ~~community center buildings~~, public libraries, ~~museums, art galleries, post office, greenhouses (excluding commercial)~~, and essential public utility structures serving the surrounding area.

~~Golf course and clubhouse, country club, public swimming pool, private swimming pool serving more than one family, provided that no principal structure shall be located within 25 feet of any lot line of an abutting lot in any of the classes of residence districts.~~

~~Keeping of three or more roomers or boarders.~~

~~Offices of persons and home occupations in existing structures when they meet the specific conditions of section 86-50 except motor vehicle repair, tobacco sales, sales of alcoholic beverages, adult entertainment, adult book or video sales, motor vehicle or machinery sales, or restaurants are not permitted.~~

Other residential uses of the same general character as listed in subsection (b).

Parks and recreational areas, public or private.

~~Residential facility serving more than six individuals.~~

~~Day care facility serving more than 14 individuals.~~

School, public or private, kindergarten through grade 12.

Two-family dwellings under single ownership, joint ownership or tenants in common.

Two-family dwellings under split ownership under the following conditions:

- (1) The dwellings have separate utility service lines to each unit.
- (2) The owners execute and record a common maintenance agreement containing covenants as to uniformity of exterior appearance of the dwellings.
- (3) Proper separation of units, occurring along the lot line, exists as provided by the building code.
- (4) Such dwellings comply with all yard regulations for single-family dwellings, except side yard regulations between the dwelling units.
- (5) The dwelling location on the lot be compatible with the neighborhood.
- (6) Landscaping, fencing, grading, exterior lighting, and driveway conform to the surrounding neighborhood.
- (7) Any accessory building is compatible with the dwellings and the surrounding neighborhood.
- (8) The dwellings shall be a maximum height of two stories.
- (9) Not more than 50 percent of the lot area shall be occupied by buildings.

~~(10) No unit shall be eligible under this [use] unless the division of the dwelling occurs along the lot lines.~~

(e) *Height and yard regulations.* Height, yard, area and lot width and depth regulations for the R-1 district are as follows:

- (1) *Height regulations.* No building hereafter erected or altered shall exceed 3 stories or 30 feet in height.
- (2) *Front yard regulations.*
 - a. There shall be a front yard having a depth of not less than 25 feet except as otherwise provided in this section.

- b. There shall be a front yard of not less than 35 feet on a lot or plot that abuts a thoroughfare as shown on the ~~adopted~~ city ~~zoning map~~~~thoroughfares plan~~.
- ~~c. Where a lot or plot is located at the intersection of two or more streets there shall be a front yard on each street side of each corner lot.~~
- ~~d. No accessory buildings shall project beyond the front yard line of any street.~~
- (3) *Side yard regulations.* There shall be a side yard on each side of a building, each having a width of not less than five feet, except for non-residential uses, the width shall be no less than 25 feet if abutting another one-family residence district lot.
- (4) *Rear yard regulations.* There shall be a rear yard having a depth of not less than 25 percent of the lot or plot depth, or 18 percent of the lot or plot depth for a two-street corner lot.
- (5) *Lot or plot area regulations.*
 - a. Every lot or plot ~~upon which a one-family dwelling is erected~~ shall contain an area of not less than 8,000 square feet.
 - b. Every lot or plot upon which a two-family dwelling is erected or altered shall contain an area of not less than 10,000 square feet.
- (6) *Lot width and depth regulations.* Every lot or plot ~~on which a one-family dwelling or a two-family dwelling is erected~~ shall have a minimum width of not less than 70 feet at the building setback line, and a minimum depth of not less than 110 feet.
- (f) *Supplemental regulations.* Additional regulations in the R-1 one family residence district are set forth in article VI.

(Code 1976, § 11.07; Ord. No. 407 2nd series, § 1, 12-21-1998; Ord. No. 443, § 3, 11-6-00; Ord. No. 529 2nd series, § 1, 7-5-2005; Ord. No. 590 2nd series, § 1, 2-19-2008; Ord. No. 699 2nd series, § 1, 9-9-2015; Ord. No. 712 2nd series, § 1, 9-13-2016; Ord. No. 732 2nd Series, § 1, 1-8-2019)

TO: Members of the Marshall Planning Commission
Sharon Hanson, City Administrator
Jason R. Anderson, P.E., City Engineer/Zoning Administrator *ja*

FROM: Ilya Gutman, Assistant Planning & Zoning Administrator *IG*

DATE: December 7, 2022

SUBJECT: Ordinance amending Section 86-230 Required number of spaces

Action Recommendation

Staff recommends the recommendation to the City Council approving the revisions amending Section 86-230 Required number of spaces as recommended by staff.

Background

These are minimal changes to the parking spaces table. One change was made necessary by a Rental ordinance being proposed and another was the result of analyzing a specific request for parking to significantly exceed current requirements.

Fiscal Impact

None.

Alternatives/Variations

None recommended.

IG/cld / Attachments

Section 86-230 Required Number Of Spaces

Off-street parking areas of sufficient size to provide parking for patrons, customers, suppliers, visitors and employees shall be provided for each use. For mixed use buildings, the required number of parking spaces shall be calculated separately for each area use and then added up. Unless otherwise noted, required off-street parking noted as a S.F. (square foot) ratio is to be applied to the gross building area for each use. The minimum number of off-street parking spaces for each use is listed in table 86-230. ~~The number of provided parking spaces shall not exceed the minimum number by more than ten percent.~~

Apartment (more than 4 units)	1/ efficiency or one bedroom unit plus 2/ two or more bedroom unit plus 1/ 4 units for visitors
Assisted and congregate living facility	0.5/ unit plus 1
Art gallery, museum	1/ 500 S.F.
Assembly or auditorium with fixed seats, theatre	1/ 4 seats
Assembly without fixed seats not listed anywhere else, arcade	1/ 100 S.F.
Auction house	1/ 100 S.F. or 1/ 4 fixed seats, whichever is greater
Bank	1/ 300 S.F.
Baseball, soccer, football field, arena or stadium	1/ 4 seats plus 2/ field (court, rink, etc.) plus 1 oversize space/field (court, field, etc.)
Beauty salon, barber shop, massage or tattoo parlor, tanning salons	2/ service station or bed
Bed and breakfast	1/ guest bedroom plus 2
Boarding or lodging house	1/ rented bed plus 2
Boat, ATV, RV sales and service	1/ 1,000 S.F. plus as required for outside sales lot
Bowling alley	4/ alley plus 2
Car wash	2
Church	1/ 5 seats in largest auditorium
Clinic, medical, dental, etc., doctor or chiropractic office	1/ 250 S.F.
Convenience store	1/ 200 S.F. plus 1 plus 1 oversize space plus as required for fuel station if applicable
Corrections facility, jail	1/ 10 beds plus 1/ employee
Court, tennis or racquetball, without fixed seating	2/ court plus 1
Dance hall	1/ 50 S.F.
Day care	1/ classroom plus 1/ 10 participants

Dwellings, one to four units	2/ dwelling plus one for each roomer or boarder <u>or each tenant beyond four for units not rented to a single family</u>
Drinking or dining establishment, sit down or buffet restaurant, bar	1/ 50 S.F. of seating area , plus 1/ 100 S.F. of kitchen and storage area
Dining establishment: fast food restaurant	1/ 75 S.F. of seating area , plus 1/ 100 S.F. of kitchen and storage area
Farm implement, industrial equipment, and truck sales and service	1/ 1,000 S.F. plus 50% of required for outside sales lot
Fraternity or sorority house, dorm	1 / bedroom plus 1/ 4 bedrooms for visitors
Funeral home	1/ 100 S.F. or 1/ 4 fixed seats in largest parlor, whichever is greater
Furniture, large appliances, spas, building materials, garden supplies sales, retail greenhouse	1/ 500 S.F. for area less than 20,000 S.F. plus 1/ 1,000 S.F. for area over 20,000 S.F.
Golf course	4/ green plus 1/ 200 S.F. of clubhouse
Grocery, food, and beverage sales	1/ 200 S.F. plus 1 oversize space/ 30,000 S.F.
Golf, miniature course	2/ hole plus 1
Golf, driving range	2/ tee plus 1
Hospital	1/ 2 beds plus 1/ employee
Kennel	1/ 10 kennels plus 1/ employee
Library	1/ 500 S.F. plus 1/ employee
Manufactured home park	2/ home plus as required for office building
Manufacturing, fabricating, processing or printing plants	1/ 800 S.F.
Motor vehicle fuel station	1 plus as required for convenience store if applicable
Motor vehicle sales	1/ 500 S.F. plus as required for outside sales lot
Motor vehicle repair	3 1/ service stall plus 1 2
Motor vehicle garage (commercial)	1/ stall plus 1
Motel or hotel	2 plus 1/ room plus 1 oversize space/ 30 rooms
Nursing or rest home, memory care	1/ 6 beds plus 1/ employee
Office: business (data processing center, call center, radio and TV station, etc.)	1/ 200 S.F.
Office: professional (insurance, accountant, travel agent, etc.), public (city, county) or industrial/contractor	1/ 300 S.F.
Outside sales lot	1/ 5,000 S.F. for area less than 20,000 S.F. plus 1/ 10,000 S.F. for area over 20,000 S.F.
Park	4/ acre plus 2/ playground plus 5/ shelter plus 20/sports field
Recreation: fitness club, gymnasium, dance and martial arts studio, without fixed seating	1/ 200 S.F.

Residential facility, group home	0.5/ bedroom plus 2
Retail store: general, department, hardware, discount, drug; shopping center; pawn shop; wireless store	1/ 200 S.F. for area less than 2,000 S.F. plus 1/ 300 SF for area over 2,000 S.F. but less than 100,000 S.F. plus 1/ 1,000 S.F. for area over 100,000 S.F.
Retail store: specialized, boutique	1 plus 1/ 500 S.F.
Service establishment: laundry, repair, dry-cleaning, rental, phot studio, etc.	1/ 500 S.F. plus 1
Service establishment (labor intensive): glazing shop, take out only restaurant, bridal shop, etc.	1/ 500 S.F. plus 3
School: Elementary or junior high, private or public	1.5/ classroom or 1/ 20 students or 1/ 4 seats in the largest auditorium, whichever is greater
School: Senior high, public or private	10/ classroom or 1/ 3 students or 1/ 4 seats in the largest auditorium or gymnasium, whichever is greater
School: post-secondary, professional or business (educational buildings)	15/ classroom
Short-term rental	1/ bedroom minus 1, but not fewer than 2
Skating rink	25
Swimming pool	1/ 200 S.F. of lap pool area plus 1/ 500 S.F. of kids pool area plus 1/ employee
Terminal, passenger-bus, train, airline	1/ 200 S.F.
Veterinary clinic	1/ 500 S.F.
Rental storage units	1/ 4 units plus 1 plus as required for office if applicable
Wholesale sales and warehouse	1/ 2,000 S.F.

Table footnotes:

- (a) Continuous benches and pews shall be assumed to allow one person per 22 inches of length.
- (b) Rental storage units parking spaces located in front of storage units do not require painted line identification and independent access.
- (c) When parking requirements are determined by employee counts, such calculation shall be based on the maximum number of employees on the premises at any one time; when parking requirements are determined by student or participant count, such calculations shall be based on the maximum design or licensed capacity.
- (d) Parking spaces for all outside sales lots and other outside uses shall be calculated separately based on this table in addition to building parking requirements.
- (e) The number of required parking spaces for parks, sports fields, churches, and stadiums may be reduced by 20 percent if gravel or grassy overflow space, adequate to compensate for reduced parking, is provided and all landscaping section requirements are met without considering overflow space.
- (f) In all industrial zoning districts, the city may allow a reduction in the number of required parking spaces for industrial uses when the owner can demonstrate, in documented form, a required need less than prescribed by the ordinance . The city may require the additional land that is

necessary to meet the required parking standard to be placed in reserve for parking development should the use change or parking provided be determined inadequate. If at any time the city determines parking to be inadequate, the city may require construction of any or all of the additional parking held in reserve.

- (g) Buildings or building areas where an accessory storage constitutes more than 30 percent of the use area shall be considered mixed uses and parking calculations shall be based on mixed use requirements.
- (h) Buildings where an auxiliary use serving the main use constitutes more than 20 percent of building human occupancy or building area and people not using the rest of the facility are allowed to be present shall be considered mixed use buildings and parking calculations shall be based on mixed use requirements except only 90 percent of parking spaces required for auxiliary uses shall be provided.
- (i) If calculated number of parking spaces is less than five, an accessible space shall be provided in addition to those spaces.

(Ord. No. 686, § 1, 6-10-2014)

