

MEMORANDUM

To: City Planning Commission, Committee of the Whole

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Subject: Proposed Zoning Code Text and Map Amendment: Land Use Rezoning Study

Background

Following adoption of Minneapolis 2040, staff embarked on a multi-year workplan to update the city's zoning ordinance. State law requires that the city's zoning ordinance conform with its comprehensive plan. New and updated policies in Minneapolis 2040 necessitate numerous changes to the zoning ordinance. So far, the city has adopted an inclusionary zoning ordinance and eliminated single-family exclusive zoning in 2020, new built form regulations in early 2021, and an overhaul of parking and travel demand management standards also in 2021.

Minneapolis 2040 includes two maps that are particularly significant in terms of guiding the development of new zoning regulations: a Future Land Use Map and a Built Form Map. Work on built form regulations that govern issues such as building height, floor area ratio (FAR), setbacks, lot coverage, impervious surface, and transitions between districts is largely completed. The Future Land Use Map is now the focus of staff's work and includes creating an entirely new set of primary zoning districts to regulate use. This work includes determining how use regulations relate to other elements of the code, reconfiguring the structure of the code, and ensuring that changes make it easier for staff, applicants, elected and appointed officials, and other stakeholders to use the code. Work is guided by the goals outlined in Minneapolis 2040, with changes to the zoning code intended to achieve outcomes such as complete neighborhoods, climate change resilience, and racial equity.

Draft code text, supporting materials, and opportunities to submit feedback are all available at minneapolis2040.com/implementation/land-use-rezoning-study. (Note that the updated code text is not expected to be available until April 19th.)

Key Topics

CPED staff will outline changes made to the staff-recommended code text and maps since the beginning of the public review period on January 12, 2023, and discuss the differences between making a use nonconforming versus conditional when existing on the effective date of the ordinance.

Code text and map changes – Since the beginning of the public review period, staff has continued to refine the proposed code text and maps. In addition to fixing errors and making various format changes, staff has compiled a list of more substantial changes that were made based on feedback received during the public review period. The list is attached to this report. Staff will highlight some of the key changes for discussion at the Committee of the Whole meeting and also welcomes questions from commissioners about any of the proposed revisions.

Further revisions to the recommendation will continue up to the point when the staff report and draft code text is published on or around April 18th. The staff report will include an updated list of substantive revisions. These materials will be available both through the City Planning Commission’s agenda on the City website as well as on the Land Use Rezoning study page.

Nonconforming versus conditional when existing on the effective date of the ordinance – The draft use regulations included two strategies to address existing high-polluting uses, where it is recommended that no more of these uses should be established in the City. The first was to prohibit certain uses, resulting in existing uses becoming legally nonconforming. An example of this is most general industrial uses, such as asphalt plants and foundries. The second is making certain existing uses conditional provided they are existing on the effective date of the ordinance. The attachments include a comparison of these two strategies. Public feedback has favored prohibiting high-impact uses instead of allowing them as conditional uses when they are already established.

This meeting will also allow the City Planning Commission an opportunity to discuss potential amendments they may propose to vote on at the April 24th public hearing and ultimately for the City Council to consider.

Key Dates

Since CPED staff last presented the Land Use Rezoning Study at a Committee of the Whole meeting, a decision was made to extend the public comment period an additional 30 days.

- Public engagement
 - 45-day Public Review Period begins January 12, 2023, ending March 26, 2023
 - Virtual Public Meeting was held February 15, 2023, 7pm
 - Presentation Slides
 - Recording of meeting
- Approval process
 - Public Hearing at City Planning Commission on April 24, 2023
 - BIHZ Committee on May 16, 2023 (Tentative)
 - City Council on May 25, 2023 (Tentative)
 - Ordinance Publication on June 5, 2023 (Tentative)
 - Effective Date of updated zoning ordinance on July 1, 2023 (Tentative)

Resources and Attachments

- Draft code text available at minneapolis2040.com/implementation/land-use-rezoning-study (Note that the updated code text is not expected to be available until April 19th.)

- Summary of changes to draft code text (Attachment A)
- Comparison of nonconforming uses versus conditional uses existing on the effective date of the ordinance (Attachment B)

ATTACHMENT A

Changes made to draft Land Use Rezoning Study recommendations during the public review period

Chapter 520 General Provisions

- No substantive changes made during public review period

Chapter 525 Administration and Procedures

- 525.330 - updated language regarding comprehensive plan amendments, clarifying process requirements
- Eliminated the reduced variance fee for reverse corner and through lots. Such lots will pay the regular variance fee. This is largely because regulations governing reverse corner lots have been made more flexible.
- 525.430 - In the authorized variances, added the parks and open space district to the zoning districts where sign variances are allowed.
- Clarified that buildings and uses that require a land use application under the 1999 zoning code will be regulated by the 1999 zoning code when a complete land use application is submitted prior to July 1, 2023.

Chapter 530 Zoning Districts

- Combined the proposed Downtown Service and Downtown Center districts into a single district; calling it the Downtown Center (DT1) district. The Downtown Destination district abbreviation convention changed to DT2.
- Ground floor commercial requirement changes
 - Decreased the maximum square footage requirement for property off Goods and Services Corridors in CM3 to no more than 2,000 square feet
 - Amended the eligible list of uses that would satisfy the ground floor commercial requirement in CM3 to include almost all allowed non-residential uses
 - Decreased the maximum square footage requirement for property off Goods and Services Corridors in CM4 and DD (DT2) districts to no more than 5,000 square feet
 - Added a few more uses that would satisfy the ground floor commercial requirement in the CM4 and DD (DT2) districts
 - Removed “high impact commercial” from the eligible list of uses that satisfy the active use requirement in CM3
 - Changed “active use” to “nonresidential use” in CM3
 - Added the “multiple buildings” provision back into the CM3, CM4, and DD (DT2) district commercial requirements: “Where a development has more than one principal building, nonresidential use space shall be distributed among buildings fronting Goods and Services Corridors”
 - Added clarifying language to the commercial (CM4, DD(DT2)), nonresidential use (CM3), and production (PR1) space requirements that address how commercial space beyond the requirement is treated: “(6) *Additional commercial space*. When a development provides commercial square footage beyond the minimum required, the additional square footage shall not be subject to the size, use, design, and operation requirements of this section.”

- Removed the following design criterion from both the commercial and community mixed use required commercial spaces as this may exceed our authority under the state building code: “Occupancy. The commercial use area shall be designed and built to accommodate nonresidential occupancy under the state building code.”
- Removed the increased window area provisions from the individual district standards.
- Made naming and abbreviation conventions for all districts consistent
- Updated the mapping of RM1 zoning on Goods & Services corridors with Urban Neighborhood future land use. More closely following the language in Minneapolis 2040, RM1 zoning would only be mapped on parcels with literal frontage on Goods and Services corridors rather than applying this zoning to the several parcels nearest these corridors.

Chapter 535 Overlay Districts

- Added common lot developments to the types of housing where the bedroom count is limited in lower density districts within the University Area Overlay District.
- Updated Split Zoning Overlay District language to replace references to the R4, R5, R6, and OR districts. Update refers to UN3 and residential mixed use districts.
- Renumbered sections throughout the chapter to ensure they were in chronological order and met other formatting rules
- Removed new minimum lot dimension requirements for 1-3 unit dwellings in the SH Shoreland Overlay District
- Updated the definition of “bluff” in the MRCCA to correct an error

Chapter 540 Built Form Overlay Districts

- Added effective date back in due to references in height and FAR exceptions for existing buildings
- Consolidated lot dimension requirements found in 6 sections with 10 tables into one section with 3 tables. This change also resulted in renumbering the remainder of Ch 540.
- Removed redundancies for residential lot dimension requirements found elsewhere in Ch 540 and in Ch 598 Land Subdivision ordinance, including removing the following to prevent creating a large number of nonconforming lots (it remains in the subdivision ordinance): “but not less than 50 feet for lots with no alley access”
- As a result of removing new minimum lot dimension requirements for 1-3 unit dwellings in the SH Shoreland Overlay District, a slightly modified version of the current “large lot provision,” which is based on average lot size, was added to the lot dimension requirements for 1-3 unit dwellings.
- Community services uses, in general: reduced the minimum lot area from 20,000 to 10,000 sq ft for properties in the UN3 and RM districts
- Community center: reduced the minimum lot area from 20,000 to 10,000 sq ft for properties in UN1 and UN2 districts and to 5,000 sq ft for properties in UN3 and RM districts
- Cleaned up the language in section 540.860(d)
- Section 540.890. Yard requirements in commercial mixed-use, downtown, production, and transportation districts: reformatted the section and updated the images
- Added electrical transformers as a permitted obstruction in required rear yards when adjacent to a public alley, with a restriction on how much of the required rear yard can be covered by transformers.
- Amended reverse corner lot provisions by adding a provision that the reverse front cannot be reduced to less than the required corner side yard in the district

Chapter 545 Use Regulations

- Added a use standard for vehicle storage, including a reference to truck and commercial vehicle parking standards
- Found an additional reference to “sauna” as a sexually oriented use and removed it. Also added the use to the examples of retail sales and services businesses.
- Added reserved sections for letters U through Z in the list of allowed accessory uses. Renumbered the remainder of the chapter and renumbered cross references within the nonconforming uses section.
- Tobacco:
 - Renamed to “tobacco products shop” to align with Licensing.
 - Removed use from being permitted in PR1. They are not currently allowed in I1, a mostly equivalent district.
 - Removed tobacco shops from being allowed in CM2 Corridor Mixed Use District.
 - Corrected the tobacco products shop use standard to refer to Title 13 instead of Title 14.
- Added the maximum occupancy standards for emergency shelters in the UN1, UN2, and RM1 districts to the use standard, so that one doesn’t have to search for the standard in the Built Form Overlay Districts chapter.
- Clarified that “One (1) to three (3) dwelling units, as part of a mixed-use building” are allowed in all residential mixed use and commercial mixed use districts.
- Added EV Charging Hubs as a conditional use in the CM3 and CM4 districts
- Added the “*” to Office and Medical Facilities use categories for RM1, requiring them to be part of a mixed-use building when establishing the uses in that district.
- Added “limited production and processing” as a permitted use in CM4, DD (DT2) , and DC (DT1) districts.
- Added “glass, ceramics, and earthenware production, small scale” as a permitted use in the downtown and commercial mixed use districts rather than just the production districts. A recommended standard already would require that kilns in these facilities be powered by electricity or natural gas rather than wood burning.
- Clarified that growing and sales operations may also be enclosed in the commercial agriculture category description.
- Added art studio to the list of examples in the Lower-Impact Production and Processing category description.
- Reduced the spacing requirement for state credentialed care facilities from 1,000 to 350 feet.
- Removed 545.890(b) required merger of common ownership lots in the SH overlay district because it will either be eliminated altogether (not enforceable) or be kept as part of the new lot dimensions section in the SH ordinance
- Added “fraternity or sorority, existing on the effective date of the ordinance” as a conditional use in the UN2 district to prevent creating nonconforming uses
- Added cemeteries as a conditional use in RM1 to prevent two existing cemeteries from becoming nonconforming
- Changed “Off-site parking lots serving institutional and public uses” to “Off-site parking serving institutional and civic uses”
- Added “School, grades K-12 existing on the effective date of this ordinance” as a permitted use in the PK1 district to prevent creating nonconforming uses
- Added accessory uses for Parks
- Removed the specific use standards for scrap or salvage yards, since they have already been removed as an allowed use.
- Added “recycling center” to the use table, permitted in PR2.

- Removed the environmental justice and spacing standard from the general standards for post-consumer waste processing uses
- Added the quarter-mile spacing standard to the specific use standards for recycling facilities and waste transfer facilities
- Added a new entry for recycling centers in the specific use standards with the same standard related to outdoor storage with the paper/cardboard container exception as recycling facilities
- Added metalworking as part of an art studio to the exceptions list in the use description for moderate-impact production and processing
- Removed the note about lower- and moderate-impact production and processing uses from the exceptions list in the high-impact production and processing use description following public comment regarding this item being confusing and staff discussion regarding it being duplicative
- Removed commercial laundry from the moderate-impact production and processing use description and added it to the high-impact production and processing use description following discussion of use and emissions data with health dept. staff and planning staff
- Added commercial laundry to the exceptions list in the use description for general retail sales and services
- Added forge or foundry as part of an art studio to the exceptions list in the use description for high-impact production and processing
- Removed the specific use standards for art studios from the general retail sales and services section to reflect that they are categorized as a production use
- Added specific use standards for art studios in the lower-impact production and processing use category, including the standards for allowing more intense production processes as part of an art studio use
- Because the name had caused some confusion, changed the name of the use of “Concrete, asphalt, and rock crushing facility” to “facility for crushing and processing for recycling or disposal of concrete, asphalt, and rock.” Also updated other references to the use, including the definition.
- Updated language referring to hoopouses as an accessory use, replacing “extend the growing season” with “control the growing environment”.
- Replaced the current definition of “Recycling facility” with two newly distinguished uses: “Recycling center” and “Recycling facility.” Recycling center would be a less intense use that would not involve milling, shredding, crushing, or grinding; or the use of any chemical processing or cleaning.
- Changed maximum size of food and beverages uses in PR1 from 5,000 to 10,000 sq. ft.
- Added “heating and cooling facility” as an allowed use in urban neighborhood and RM1 districts and created a development standard stating that, in those districts, such a facility as principal use must be a ground-source heat pump or other technology that produces little or no off-site, non-visual impacts.
- Added grocery store as a line item in the use table for the purpose of assigning unique gross floor area maximums and increased the proposed maximum size of a grocery store in the RM1 district from 5,000 to 10,000 square feet.
- Removed small scale forge and foundry as a specific use from the use table
- Removed the specific use standards for small scale forge and foundry reflecting its removal as a principal use
- Removed small scale forge or foundry from the high-impact production and processing use category (forge and foundry remain in the description)
- Amended the environmental justice and spacing standard in the general standards for high-impact production and processing uses to the quarter-mile spacing requirement

- Updated the references to the downtown districts to DT1 and DT2 in the use standards for breweries and distilleries and sexually oriented uses
- Added the following use standard for glass, ceramics and earthenware production, small scale: “In the commercial mixed-use districts, the portion of the use dedicated to the production or processing of glass, glassware, ceramic, or earthenware products, including glassblowing and kiln facilities, shall not exceed five thousand (5,000) square feet.”
- Removed planned unit developments from the use group descriptions and use standards. Related use standard information was added to section 545.30.
- Updated references to “development standards” to “use standards”, as applicable.
- Added community provision facility as a permitted use in the urban neighborhood and residential mixed-use districts along with the following use standard: “In the urban neighborhood districts, day shelters shall be prohibited unless accessory to a religious place of assembly.”
- Removed Bulk Goods and Heavy Equipment Sales as a conditional use in CM2 and added it to TR1
- Removed outdoor recreation areas as a permitted use in RM2
- Added Food and Beverage uses as permitted uses in PR2 with a maximum gross floor area of 10,000 sq. ft.
- Added animal boarding as a permitted use in PR2
- Added grocery store as a permitted use in PR2 with a maximum gross floor area of 40,000 sq ft. (maximum size applied to PR1 as well)
- Added package delivery service, no on-site fleet as a permitted use in PR2
- Removed small engine repair as a permitted use in CM2 and added it in PR2
- Removed High-Impact commercial uses as conditional from the CM2 district and added them as conditional to the CM3 and CM4 districts
- Removed (prohibited) firearms dealers, electricity generation plant (natural gas, existing on the effective date of the ordinance) and municipal waste to energy plant (existing on the effective date of the ordinance) from the use table.
- Changed hospitality residence from a conditional use to a permitted use in districts where hotels are a permitted use
- Added Community Services uses as a conditional use in PK1, except child care center, community center, community garden, and community provision facility added as permitted uses
- Added film, video and audio production as permitted in CM4 and DT2

Chapter 550 Development Standards

- Amended fence standards. Increased maximum height in front yards from 3 to 4 feet but require that such fences be open and decorative rather than solid privacy fence.
- Simplified the minimum window area standards in the site plan review article.
- Added a definition of “kitchen” and “wet bar” as well as a provision, 550.360, indicating that a dwelling unit cannot have more than one complete kitchen.
- Outdoor storage/building materials sales/outdoor production and processing
 - Added the following standard to 550.420(g): “(E) Liquor, tobacco, tobacco-related products, and sexually oriented images and merchandise, and any merchandise otherwise prohibited from being sold outdoors shall be prohibited from being displayed and sold under this ordinance.”
- Added the following to section 550.100: “The maximum height of athletic field lights exceeding thirty-five (35) feet shall be as approved by conditional use permit provided the height of the

light poles shall not exceed eighty (80) feet in the urban neighborhood, residential mixed-use, commercial mixed-use and parks and open space districts.”

Chapter 555 Off-Street Parking Loading and Mobility

- Added truck and commercial vehicle parking standards that had inadvertently been left out.
- Updated loading requirements to better reflect new names of uses and use categories.
- Removed some individual uses from the maximum off-street parking table, allowing the maximum applicable to the broader use category to govern the issue.
- Added the CM1 and CM2 districts to the districts that limit surface parking street frontage to not more than 40 feet. Clarified that the limit applies per street frontage.
- Added “Brewery or distillery” as a specific use in the loading requirements table, lowering the requirement from High to Medium

Chapter 560 Signs

- In section 560.60, increased the allowed size of incidental notification (yard) signs from 2 to 3 sq ft with a maximum of two per zoning lot.

Chapter 565 Definitions

- Amended the definition of “greenhouse” to further clarify the inclusion of deep winter greenhouses
- Added a “brewery or distillery” definition
- Further clarified the definition of “common lot development”

Chapter 598 Land Subdivision Regulations

- Kept a part of section 598.240 pertaining to large lots that was previously proposed to be deleted

ATTACHMENT B

**Comparison of Nonconforming Uses versus
Conditional Uses Existing on the Effective Date of the Ordinance**

<i>Factor(s)</i>	<i>Nonconforming Use</i>	<i>Conditional Use Existing on the Effective Date of the Ordinance</i>
Allowed use	No	Yes, but the use must have been legally established
Included in Table 545-1 Uses Allowed	No, prohibited uses are not listed in the use table	Yes
Applicable use standards	Yes, general development and specific use standards can apply	Yes, general development and specific use standards can apply
Expansions or alterations	Facilities may be expanded if an expansion of nonconforming application is approved, but the use cannot be expanded beyond the boundaries of its zoning lot	Facilities may be expanded if a conditional use permit application is approved, but the use cannot be expanded beyond the boundaries of its zoning lot. This option would generally allow more flexibility with proposed expansions within the boundaries of the existing property.
Public hearing required for an expansion	Yes	Yes
Required findings for expansions	See expansion of nonconforming use findings below	See conditional use permit findings below
Alterations that do not require a public hearing	Limited equipment replacement, maintenance, and repair (see sections 545.860 and 545.880 below)	Minor changes in the placement and size of improvements
Discontinuance/loss of rights	Nonconforming rights are lost if the use is discontinued for more than a year	Conditional use permit becomes null and void if discontinued for more than a year or changed to an allowed use
Change of use	Changing to another nonconforming use may be authorized by the planning commission (see sections 545.870 and 525.310)	Can only be changed to an allowed use (or the same/similar use operated by a different owner)

Conditional Use Permit Findings

- (1) The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort, or general welfare.
- (2) The conditional use will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
- (3) Adequate utilities, access, drainage, necessary facilities, or other measures, have been or will be provided.
- (4) Adequate measures have been or will be taken to ensure a safe and effective interface with the public right of way and the nearby transportation system.
- (5) The conditional use is consistent with the applicable policies of the comprehensive plan.
- (6) The conditional use shall, in all other respects, conform to the applicable regulations of the districts in which it is located.

Expansion of Nonconforming Use Findings

- (1) A rezoning to legalize the use would be inappropriate.
- (2) The enlargement, expansion, relocation, or intensification will be compatible with adjacent property and the neighborhood. Further, because of improvements to the property, the proposal will improve the appearance or compatibility with the neighborhood.
- (3) The enlargement, expansion, relocation, or intensification will not result in significant increases of adverse off-site impacts such as motor vehicle traffic, noise, dust, and odors.
- (4) In districts in which residential uses are allowed, the enlargement, expansion, relocation, or intensification will not result in the creation or presence of more dwelling units or rooming units on the subject property than is allowed by the regulations of the district in which the property is located.
- (5) The enlargement, expansion, relocation, or intensification will not be located in the floodway district.

545.860. Equipment replacement. (a) *Equipment replacement.* Certain nonconforming production uses may complete equipment replacement as follows:

(1) *Permanent equipment replacement.*

a. A legal nonconforming scrap/salvage yard, metal milling facility, or facility for crushing and processing of concrete, asphalt, or rock, may replace existing equipment included on a certified list of shredding, milling, grinding, baling or packing equipment for the handling of scrap or salvage materials, or a certified list of crushing or grinding equipment for the handling of concrete, asphalt, rock or similar materials, properly submitted to the zoning administrator by August 31, 1992, in accordance with the requirements of the zoning code of 1963. With respect to the permanent replacement of such equipment, such facility may increase by up to ten (10) percent the rated compression capacity, shear force capacity or other appropriate power or capacity measurement approved by the zoning administrator for the piece of equipment being replaced. A piece of equipment shall be allowed only one (1) increase of up to ten (10) percent in any ten (10) year period.

b. A legal nonconforming production use with an air emission permit may replace or add equipment that will reduce the emission of any regulated pollutant, subject to compliance with all applicable zoning standards and compliance with other local, state, or federal laws.

(2) *Temporary equipment replacement.*

a. *In general.* Equipment may be temporarily leased and used at such facility during mechanical breakdowns or the overhaul or repair of existing equipment included on the certified list of shredding, milling, grinding, baling or packing equipment, or on the certified list of crushing or grinding equipment, for periods of less than thirty (30) continuous days and not exceeding sixty (60) total days in any one (1) calendar year, subject further to the requirement that the rated compression capacity or other appropriate power or capacity measurement of the temporary equipment shall not exceed by more than ten (10) percent the rated capacity measurement of the equipment temporarily replaced.

b. *Hardship.* Upon application to the zoning administrator showing that the operation of this section would create a substantial hardship, the period allowed for temporary leasing and use of equipment at the facility may be extended for the time reasonably required to complete the necessary equipment repair or replacement, not exceeding a total additional period of sixty (60) days.

(3) *Drive-through banking facilities.* Any lawfully nonconforming drive-through banking facility may replace teller-served equipment with automatic teller machines, or vice versa, provided the number of drive-through lanes shall not be increased, and subject to all other applicable regulations of this zoning ordinance.

545.870. Change of use. A nonconforming use may not be changed to any use other than a use permitted in the district in which the use is located, unless approved by the city planning commission in accordance with the process and findings specified in Chapter 525, Administration and Procedures.

545.880. Maintenance and repair. (a) *In general.* Normal maintenance and repair, including cosmetic changes and replacement, restoration and improvement, may be performed on any nonconforming structure or on any conforming structure containing a nonconforming use, provided however, that no such maintenance or repair shall result in an expansion, relocation, or enlargement of the use or structure or increase the extent of the nonconformity, except as otherwise provided by this chapter.

(b) *Replacement.* Following damage or destruction, replacement of a nonconformity shall mean that the structure and site, if reinstated with a nonconformity as allowed under the terms of this chapter, shall be reconstructed to match the pre-existing conditions that preceded damage or destruction. Reasonable conditions may be imposed by the zoning administrator to mitigate any newly created impact on adjacent property. Nonconformities that are completely or substantially reconstructed that include changes to building placement or design shall be subject to section 545.840, Expansion or alteration of nonconforming uses and structures.

(c) *Safety of operation.* Except as governed by section 545.860, for the purpose of this section, maintenance and repair shall include the replacement of above ground storage tanks where safety of operation of the installation requires such replacement, and other replacements of, or substitutions for, indoor machinery or equipment not involving structural alterations which will increase the bulk of the building or structure, and replacement of underground tanks, provided any such replacement of an underground tank complies with the provisions of this ordinance and all other applicable regulations.

(d) *Exceptions.* The zoning administrator may authorize minor changes in the placement and size of improvements provided such changes decrease the extent of the nonconformity.

525.310. – Changes of nonconforming use. (a) *Purpose.* Change of nonconforming use applications determine whether an existing legally nonconforming use can be replaced by and changed to another

nonconforming use by evaluating the intensity and compatibility of the existing use compared to the proposed use.

(b) *Procedure and decision-making body.* The city planning commission shall hold a public hearing and make decisions on changes of nonconforming use as provided in section 525.220, subject to appeal to the city council as specified in section 525.280.

(c) *Required findings or criteria.* A change of nonconforming use may be granted only when the city planning commission establishes that the proposed nonconforming use is compatible with adjacent properties and is of equal or less intensity than the existing nonconforming use. The evaluation shall include but not be limited to the following factors:

- (1) Hours of operation.
- (2) Signs.
- (3) Motor vehicle traffic generation.
- (4) Nature of business operations.
- (5) Number of employees.
- (6) Building bulk.
- (7) Aesthetic impacts.
- (8) Lighting, noise, odor, heat, glare, and vibration.