



City of Nowthen
PLANNING & ZONING COMMISSION MEETING
TUESDAY, JANUARY 25, 2022
A G E N D A
7 PM

Called to Order

- Pledge of Allegiance
- Roll Call
- Approve/Amend tonight's meeting agenda of January 25, 2022.
- Approve/Amend meeting minutes of November 23, 2021.

1. **7:00 PM:**
Review of Planning and Zoning Commission Policy on Commission Structure, Meeting Order and General Procedure
2. **7:20 PM:**
Election of Planning and Zoning Commission Chair and Vice Chair
3. **7:30 PM:**
Presentation: The Basics of Planning

Upcoming Projects at February Meeting:

- Toft 2nd Addition Preliminary Plat – 7 industrial lots, 8 residential lots
- Continuation of Commercial/Industrial Architectural Standards and Performance Standards

Motion to Adjourn

CITY OF NOWTHEN

PLANNING AND ZONING COMMISSION POLICY ON COMMISSION STRUCTURE, MEETING ORDER AND GENERAL PROCEDURE

SECTION 1. PURPOSE

The purpose of this Planning and Zoning Commission policy is to provide a set of operating procedures for the Planning and Zoning Commission, and adhere to the established code of ethics and conduct as referenced in Section 20 of this policy.

SECTION 2. PLAN OF WORK

Upon the appointment and organization of the Planning and Zoning Commission, the Commission, subject to council approval, shall exercise its powers and duties given by Minnesota Statutes 462.351 through 462.364 and conferred upon by Chapters 10 and 11 of the City Code and the performance of its duties. Subject to council approval, the plan may be revised from time to time.

SECTION 3. ANNUAL REVIEW

This policy shall be reviewed annually and as needed by the Planning and Zoning Commission, and any changes or amendments agreed to by a majority vote of the Commission shall be recommended to the City Council for adoption. In addition, the City Council may review this policy and adopt amendments as needed.

SECTION 4. ANNUAL MEETINGS

The annual meeting of the Planning and Zoning Commission shall be the first regular meeting of each year. Such meeting shall be devoted to the election of officers for the ensuing year and such other business as shall be scheduled by the Planning and Zoning Commission.

SECTION 5. REGULAR MEETINGS

Regular meetings of the Planning and Zoning Commission shall be held in the City Hall or other Officially Noticed location at 7:00 PM on the 4th Tuesday of each month or as publicly noted at the city offices or websites. At such meetings, the Commission may consider all matters properly brought before the Commission. A regular meeting may be cancelled or rescheduled by the Commission at a prior meeting, or by the Chairperson or the City Council. Any regular meeting falling upon a holiday shall be held on a date agreed upon by committee members at the same time and place.

SECTION 6. SPECIAL MEETINGS

Special meetings of the Planning and Zoning Commission may be called by the Chairperson or Vice-Chairperson or City Council who shall designate the time, place and purpose of the meeting. Notice of special meetings must conform to the State Open Meeting Law. Written notice thereof shall be given to all members at the same time as notice of the special meeting except in the case of an emergency.

SECTION 7. QUORUM

In order for any meeting to be called to order, a quorum (one over half) of appointed members must be present. Quorum must be kept during the entire meeting in order for action to be taken on any matter before the Commission.

SECTION 8. MEETINGS AND THE OPEN MEETING LAW

In accordance with the Minnesota Open Meeting Law (Minnesota Statute Chapter 13D), all official meetings of the Planning and Zoning Commission shall be open to the general public. An "official" Planning and Zoning Commission meeting is any gathering, or simultaneous communication (via email, telephone or otherwise), between a quorum of Commission members for the purpose of considering the public business of the Planning and Zoning Commission. Informal gatherings and communications such as site visits and conference telephone calls, therefore, may constitute an official meeting. The Planning and Zoning Commission may exclude the public from its meeting only in certain very limited cases identified in the Open Meeting Law.

SECTION 9. VOTING AND RECOMMENDATIONS

At all meetings of the Planning and Zoning Commission, each member attending, with the exception of the City Council non-voting ex official liaison member, shall be entitled to cast one vote on matters before the Planning and Zoning Commission. In the event that any member shall have a conflict of interest, as determined by the City Attorney, concerning a matter then before the Commission, he/she shall disclose his/her interest and be disqualified from voting upon the matter, and the secretary shall so record in the minutes that no vote was cast by such member. The affirmative vote of a majority of members in attendance shall be necessary for the adoption of any resolution or other voting matter. The results of any vote shall be recorded, listing the identity of the person who made and seconded the motion, and the record of the vote on the motion (identifying the vote count and, unless the vote was unanimous, the names of those voting for or against the motion).

All recommendations shall be sent to the City Council by means of written reports, minutes and Findings and Fact, and shall include the record of the division of votes on each recommendation.

SECTION 10. REGULAR PROCEEDINGS

(A) At any regular meeting of the Planning and Zoning Commission, the following shall be the regular order of business:

1. The pledge of allegiance

2. Roll call
3. Meeting policy read
4. Approval/Amend Meeting Agenda
5. Approve/Amend Meeting Minutes of the Preceding Meeting(s)
6. Public Hearings
7. Other Business
8. Old/New Business (if applicable)
9. Adjournment

The order of business may be varied by the City Staff or presiding officer, but no public hearings shall be held at an earlier time than specified in the notice of hearing.

(B) The following procedures will normally be observed for matters before the Planning and Zoning Commission, except for public hearings which follow the procedures detailed in Section 14; however, they may be rearranged by the City Staff or the Chairperson for individual items if necessary for the expeditious conduct of business:

1. Staff presents report and makes recommendation (if any).
2. The Planning and Zoning Commission may ask questions regarding the staff presentation and report (if any).
3. Proponents of the agenda item make a presentation (if any).
4. Any opponents make presentations (if any).
5. Applicant makes rebuttal of any points not previously covered (if any).
6. Planning and Zoning Commission asks any questions it may have of the proponents, opponents or staff (if any), and then takes a vote.

(C) Each formal action of the Planning and Zoning Commission required by law, rules, regulations or policy shall be embodied in a formal vote duly entered in full upon the Minute Book after an affirmative vote as provided in Section 5 hereof and need be accompanied by written findings of facts, whereas originals are filed at the City offices.

(D) Unless agreed to by a 2/3 vote of the Planning and Zoning Commission, no agenda items shall be taken up after 9:15 p.m.

SECTION 11. AGENDA AND DEADLINE FOR AGENDA

(A) **Purpose.** The agenda of a Planning and Zoning Commission meeting serves two important functions: it focuses Planning and Zoning Commission deliberations by determining what matters will be considered at the meeting, when each matter will be considered, and the context in which each matter will be considered; and, it serves as the public's only guide to what will be considered at the meeting, how the matter be dealt with, who will participate in the discussion, and when public comment may be made. The agenda should be prepared so as to best achieve these functions.

(B) **Deadlines.** The agenda shall be prepared by City Staff and shall be closed by the end of the day on the first Tuesday of each month. The commission members will

receive copies of the public hearing notice at the same time they are publicly noticed.

(C) **Submissions.** Any Planning and Zoning Commission member can place an item on the agenda by instructing the City Staff responsible for agenda preparation no later than the Tuesday prior to the meeting. No item shall be placed on the agenda unless the item is expressed in such a way as to clearly show the subject matter involved.

(D) **Agenda Additions During Regular Meetings.** Additional items may be added to the agenda at a Planning and Zoning Commission meeting subject to approval by a majority vote of the members present. The additional agenda items may be discussed, but no action may be taken if any member objects.

1. If a new item of business proposed to be added to the agenda requires staff review (such as rezonings, ordinance amendments, preliminary subdivision plans, and subdivision review procedures and guidelines), involves quasi-judicial procedures (such as a request for a hardship variance from Subdivision or Zoning Ordinance standards), or involves substantive matters of potential public interest (such as the Comprehensive Plan, or other major policies), the Commission may add the item to the agenda only for purposes of referring it to the staff or a Commission committee, or scheduling it for consideration at a later meeting (as appropriate). **The Commission may not discuss the substance of the matter or take any final action on the item except at a meeting where the item is included on the distributed agenda.**

(E) **Delivery of Agenda to Members.** At least six calendar days before the meeting, the City Staff shall provide each Commission member a meeting agenda and all materials related to items on the agenda (e.g., petition, application, plans, staff report, written comments received).

(F) **Order and Form of the Agenda.** The agenda organization shall generally conform to Section 10 above. In addition, the agenda shall generally organize matters to be addressed at the meeting so as to best promote opportunities for effective public input and the timely and efficient performance of Planning and Zoning Commission responsibilities. Items of business likely to attract the attendance of many interested persons (such as those involving notice to adjoining property owners and those involving other public notice) should generally be placed early on the agenda, thereby, minimizing the time citizens must wait for consideration of the item that brought them to the meeting.

SECTION 12. MINUTES

(A) **Purpose.** The minutes of the Planning and Zoning Commission's meetings represent the official record of the Commission's deliberations and actions. As such, they record the Planning and Zoning Commission's vote on actions and the reasons for the vote.

The minutes also communicate background on the Planning and Zoning Commission's recommendations to the City Council, provide perspective on issues, and provide a historical record of Commission proceedings. Furthermore, state law requires the Commission to keep full and accurate minutes of all official meetings, and requires that those minutes be retained and be available for public inspection by any person subject to the state public records law and the city records retention schedule.

(B) **Duties of Staff Preparing Minutes.** City Staff shall prepare minutes of all Planning and Zoning Commission meetings. The minutes shall state:

1. Which members were present and absent.
2. A summary of staff and committee reports and recommendations, applicants' presentations, public comments, and the Planning and Zoning Commission's discussion on each item.
3. The content of each principal motion before the Planning and Zoning Commission, the identity of the person who made and seconded the motion, and the record of the vote on the motion (identifying the vote count and, unless the vote was unanimous, the names of those voting for or against the motion). If the motion called for or recommended adoption of an ordinance or resolution, or the acceptance of a report, the official copies of such documents will be maintained in the files located at the City offices.

SECTION 13. RULES OF PROCEDURE FOR PLANNING AND ZONING COMMISSION MEETINGS

All meetings of the Planning and Zoning Commission shall be conducted in accordance with the Minnesota Mayors Association Rules of Order.

SECTION 14. PUBLIC HEARINGS

- (A) A public hearing is a noticed, official hearing, the express and limited purpose of which is to provide an equitable opportunity for the public to speak on matters before the Planning and Zoning Commission.
- (B) For certain matters considered by the Planning and Zoning Commission, a requirement that the Planning and Zoning Commission conduct a public hearing is prescribed by State Statute, the City's Municipal Code of Ordinances or by City Policy. The Planning and Zoning Commission, however, may elect to conduct a public hearing, although not specifically required, if the Planning and Zoning Commission determines that due to the unique nature of the matter, it is advisable.
- (C) The Planning and Zoning Commission may neither deliberate nor take a substantive vote during a public hearing, but may ask questions for the sake of clarification of speakers.
- (D) The Planning and Zoning Commission, upon resuming their regular meeting after

the close of the public hearing, may take action upon the matter discussed at the public hearing.

(E) Conduct of Persons Before the Planning and Zoning Commission

1. During all public hearings required by State law or ordinance, members of the public shall be given reasonable opportunity to speak. In order to promote meeting efficiency, the Chair may discourage duplicative testimony and may place reasonable time limits on the amount of time that individuals have to speak. Comments should be addressed to the item before the Planning and Zoning Commission. Where a comment is irrelevant, inflammatory, disruptive or prejudicial, the Chair may instruct the Planning and Zoning Commission to “disregard” the comment, which nevertheless remains in the public record.
2. During all regular and special meetings of the Planning and Zoning Commission, the public may be present but shall remain silent unless specifically invited by the Chair to provide comment.
3. During all proceedings, members of the public have the obligation to remain in civil order. Any conduct which interferes with reasonable rights of another to provide comment or which interferes with the proper execution of Commission affairs may be ruled by the Chair as “out-of-order” and the offending person directed to remain silent. Once, having been so directed, if a person persists in disruptive conduct, the Chair may order the person to leave the Planning and Zoning Commission meeting or hearing. Where the person fails to comply with an order to leave, the Chair may then call upon civil authority to physically remove the individual from the chamber for the duration of the hearing or deliberation on that item.
4. The Chairperson of the Planning and Zoning Commission may impose additional limits or rules upon members of the public as permitted by Section 16.

(F) Additional Rules of Procedure for Public Hearings

1. **Public Hearing Format.** Public hearings shall be conducted in the following manner:
 - (a) The presiding officer calls the public hearing to order and declares the time of opening.
 - (b) It is the intent of the Planning and Zoning Commission to open all public hearings at the predetermined and published time. From a practical standpoint, not all hearings can be opened at their designated time. The presiding officer may delay the start of a hearing until the business at hand is acted upon, in any manner, by the Planning and Zoning Commission. However, in no circumstances can a hearing be opened prior to the predetermined and published time.
 - (c) The presiding officer shall read, from the hearing notice, the details on the hearing sufficient to provide the public a general understanding of the

purpose and procedures for the hearing, and the fact that the hearing is their exclusive or primary opportunity to provide input to the city on the subject.

- (d) Staff and/or a consultant make a presentation or report on the subject matter for the hearing.
- (e) The applicant (if any) may make a presentation or report on the subject matter for the hearing.
- (f) The presiding officer asks Planning and Zoning Commission members if they have questions of the staff, consultant or applicant, if any.
- (g) The presiding officer announces that input will be received from the citizens, requesting that each speaker provide a name and address, noting any applicable time limits for comment from individual members of the public, any other applicable rules and explaining the procedure for enforcement of such rules.
- (h) After members of the public have spoken the presiding officer requests one of the following:
 - i. Close the public hearing, or
 - ii. Continue a public hearing. If the Planning and Zoning Commission votes to continue the hearing, the presiding officer shall, in consultation with City Staff, select and announce a time and date certain for the continued public hearing. No additional publication or notice requirements are needed if a hearing is continued to a later date. However, no public hearing may be continued more than once without renote and publishing the time, date and location of the hearing.
- (i) The Planning and Zoning Commission addresses the subject matter through deliberation, questions to citizens and staff, and reactions and statement of position on the subject.
- (j) If the public hearing is closed, the Planning and Zoning Commission may take action on the application before them. The Commission may formulate a recommendation which outlines the parameters under which an approval would be granted. The reasons and conditions shall be stated in the motion or resolution for approval or denial. Continuation of an action may occur in the event insufficient information is present to make a decision. The Planning and Zoning Commission shall delineate the missing information before continuing the item.

SECTION 15. OFFICERS AND MEMBERS

The officers of the Planning and Zoning Commission shall consist of a Chairperson, a Vice-Chairperson. In the absence of the Chair and Vice-Chair, the remaining members

shall elect a Temporary Chair for that respective meeting.

1. Members shall serve three (3) year terms with one-third (1/3) being appointed each January.
2. Members shall be residents of the City throughout the term of their term.

SECTION 16. DUTIES OF OFFICERS

The Chair is a voting member of the Planning and Zoning Commission and may make motions. In addition, the duties and powers of the officers of the Planning and Zoning Commission shall be as follows:

(A) Chairperson

1. To preside at all meetings of the Commission.
2. To call special meetings of the Planning and Zoning Commission in accordance with these bylaws.
3. To sign documents of the Commission.
4. To see that all actions of the Commission are properly taken.
5. To cancel or postpone any regularly scheduled meetings.
6. To invoke a reasonable time limit for speakers during any public hearing in the interest of maintaining focus and the effective use of time.
7. To provide for the selection of one or two spokespersons to represent groups of persons with common interests during public meetings and hearings.
8. To order an end to disorderly conduct and direct law enforcement to remove disorderly persons from Planning and Zoning Commission meetings or hearings.
9. To schedule a second official public hearing meeting or other continued meeting in the event that a meeting or public hearing cannot be concluded by a reasonable hour in the judgment of the Chairperson.
10. The presiding officer has the responsibility to facilitate discussion by the Planning and Zoning Commission. This may occur in a variety of ways, including:
 - Interpret and apply rules of procedure.
 - Decide whether motions are properly made.
 - Decide whether motions are in order.
 - Decide whether questions of special privilege ought to be granted.
 - Decide when to recognize speakers.
 - Call for motions or recommend motions.
 - Expel disorderly persons from the meeting.

- Enforce speaking procedures.

(B) Vice-Chairperson

During the absence, disability or disqualification of the Chairperson, the Vice-Chairperson shall exercise or perform all the duties and be subject to all the responsibilities of the Chairperson.

(C) Administrative duties to be delegated to City Staff.

1. To give or serve all notices required by law or by these Bylaws.
2. To prepare the agenda for all meetings of the Commission.
3. To be custodian of Commission records.
4. To inform the Commission of correspondence relating to business of the Commission and to attend to such correspondence.
5. To handle funds allocated to the Commission in accordance with its directives, the law and city regulations.
6. To take the minutes of all meetings of the Commission for typing and filing into the appropriate minute book by City Staff.
7. To sign official documents of the Commission and other duties as required.
8. To confirm member attendance for upcoming meeting and advise the City Clerk, Committee Chairperson and Consultant if quorum will be met.

SECTION 17. VACANCIES

If a vacancy occurs among the members of this Planning and Zoning Commission by reason of death, resignation, disability or otherwise, notice shall be given to the City Clerk and Chairperson by the Secretary. City staff shall then advise City Council of the opening and upon Council approval, follow the guidelines for filling the vacancy.

SECTION 18. AMENDMENTS

This policy on rules of procedure may be amended at any meeting of the Planning and Zoning Commission provided that notice of said proposed amendment is given to each member in writing at least six (6) calendar days prior to said meeting. All amendments are subject to City Council review and approval before they take effect.

SECTION 19. COMMITTEES

- A. The Chair may appoint ad hoc committees unless the Commission or City Council shall otherwise direct. The Chair shall be an additional voting member of all committees. The Chair may appoint a Planning and Zoning Commission member to chair each ad hoc committee.
- B. All committees shall consist of at least three members, except as otherwise ordered by the Commission.
- C. The majority of the members of any committee shall constitute a quorum of such committee. If a quorum is not present at a meeting, the members present may

prepare reports and submit them to the Planning and Zoning Commission on behalf of the committee, in which case the report shall name the committee members who prepared it.

- D. Nothing in the foregoing shall be construed as waiving the ability of the Commission at any time to increase or curtail the duties of any committee and/or to direct or control its actions.

SECTION 20. COMPENSATION

Each Commission member shall receive \$20.00 for each regularly scheduled or special meeting.

SECTION 21. CODE OF CONDUCT

The Planning Commission shall adhere to the Code of Conduct as follows:

Purpose

To establish a code of conduct and associated remedies that commission members agree to abide by in carrying out their duties as appointed officials. This code of conduct does not supersede any existing or future statutory or constitutional rights, but simply outlines appropriate commission expectations, behavior and interactions with each other, city staff, citizens and all other groups encountered as a result of city business, so as to efficiently and effectively develop and carry out the mission, vision, goals and established policies of the city.

Roles/Responsibilities

Meetings – The chairman presides over meetings of the Planning and Zoning Commission. Speakers, including commission members, do not speak until recognized by the chairman.

Act in the Public Interest – Recognizing that service to our citizens must be our primary concern; commission members shall work for the common good of the people of Nowthen and not for any private or personal interest. Commission members will treat all persons, claims and transactions in a fair and equitable manner.

Preparation – Commission members are expected to be prepared for commission meetings and work sessions.

Agenda Preparation – The city clerk directs preparation of draft meeting agendas. The final agenda is determined by the city clerk prior to the meeting. At the commission meeting, agenda items may be added or deleted by commission members through a majority vote.

Conduct of Members

Staff Direction – The commission is only a recommending body and shall only make a recommendation to the city council to direct staff, contract employees and consultants. The mayor and city council members then may direct city staff, contract employees and consultants only through the city clerk, as determined by majority vote.

Respect for Staff Time – If a commission member is utilizing an inordinate amount of staff time, the city clerk is required to bring this to the attention of the city council for resolution.

Interactions – Commission members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of the city council, boards, commissions, committees, staff or the public.

Respect for Process – Commission member duties shall be performed in accordance with the processes and rules of order established by the city council.

Use of Public Resources – Public resources not available to the general public (e.g., city staff time, equipment, supplies or facilities) shall not be used by commission members for private, personal or political purposes.

Advocacy – To the best of their ability, commission members shall speak with one voice in representing the official policies and positions of the commission. When presenting their personal opinions or positions, members shall explicitly state that they do not represent the commission or the city.

Improper Influence – Commission members shall refrain from using their position to improperly influence the deliberations or decisions of city staff, boards, commission or committees.

Positive Work Environment – Commission members shall support a positive, efficient and effective environment for residents, businesses and city employees.

Steward of City Funds – When the end of a commission member's service on the Planning and Zoning has been determined by means of not being reappointed or resignation, that commission member shall not subject the city to unnecessary trainings and mileage.

Communication

Sharing of Information – It is the responsibility of commission members to publicly share information with all other commission members that they have received from sources outside of the public decision-making process, which pertains to a topic under consideration. Whenever possible, new information or data obtained by commission members, pertinent to a topic being discussed, will be distributed through the city staff to the commission members. Upon reviewing the "new information" the commission may adopt a motion to postpone further consideration of the information until all members have had time to review and interpret this new information.

Focused Discussions – Commission members shall work to keep discussions and debates focused on the item under discussion without introducing extraneous or irrelevant information.

Request for Information- All commission members shall receive the same information at the same time when deemed ready for distribution by staff. If a commission member requests information in advance of others on the commission, the matter shall be resolved by a majority of the commission.

Coordination with City Staff – City staff should be involved when commission members meet with officials from other agencies and jurisdictions to ensure proper staff support as needed and to keep staff appropriately informed.

Citizen Questions – Commission members should refer questions and concerns from citizens to the city clerk or appropriate department director. City staff should report back to the city council on the resolution of the referral.

Confidential Information – Commission members shall respect and preserve the confidentiality of non-public, protected non-public, private, and confidential information provided to them concerning matters of the city. They shall neither disclose confidential information without proper legal authorization nor use such information to advance their personal, financial or private interests.

Notice of Attendance – If any commission member has knowledge or reason to believe that there will be a large or emotional attendance at an upcoming commission meeting or work session, they have an obligation to inform the city clerk as soon as they become aware of the potential situation.

Implementation

Orientation – This Code of Conduct shall be included in the regular orientations for new commission members.

Compliance and Enforcement – Commission members themselves have the primary responsibility to assure that the code of conduct is understood and followed and that the public can continue to have full confidence in the integrity of the Nowthen city government.

Remedies

It is the responsibility of the commission members to police its members. When inappropriate behaviors are observed, any member of the commission or city council can intervene. If inappropriate behavior is observed, the city council will discuss the behavior at a council work session. By direction of the council, it will be determined whether:

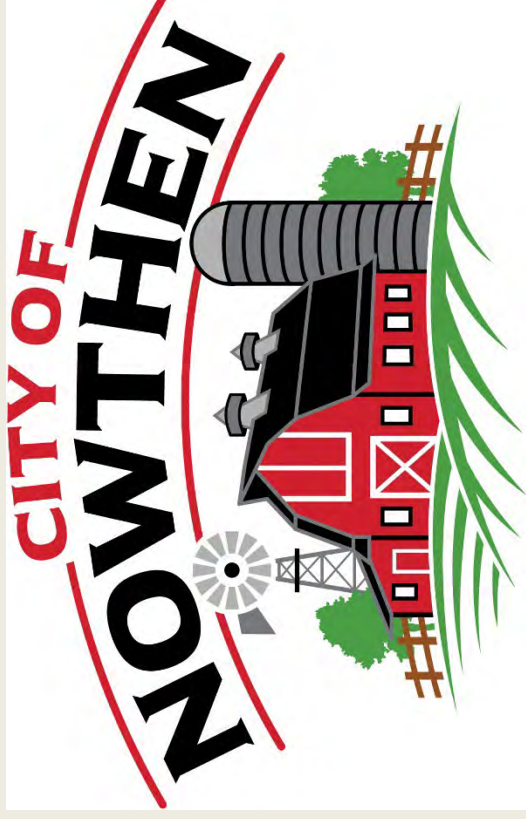
- a. A letter is sent to the offending commission member stating that they have been found operating outside the established code of conduct, requesting them to correct the behavior identified as inappropriate; or
- b. The commission member is formally sanctioned by resolution at a council meeting.

ADOPTED this 9 day of March 2021

Mayor

ATTEST:

City Clerk



BASICS OF PLANNING

Bob Ruppe, City Attorney

Liz Stockman, City Planner

BUILDING BLOCKS OF CITY PLANNING



**COMPREHENSIVE
PLAN**

CITY CODE

**Land Use
Plan &
Policies**

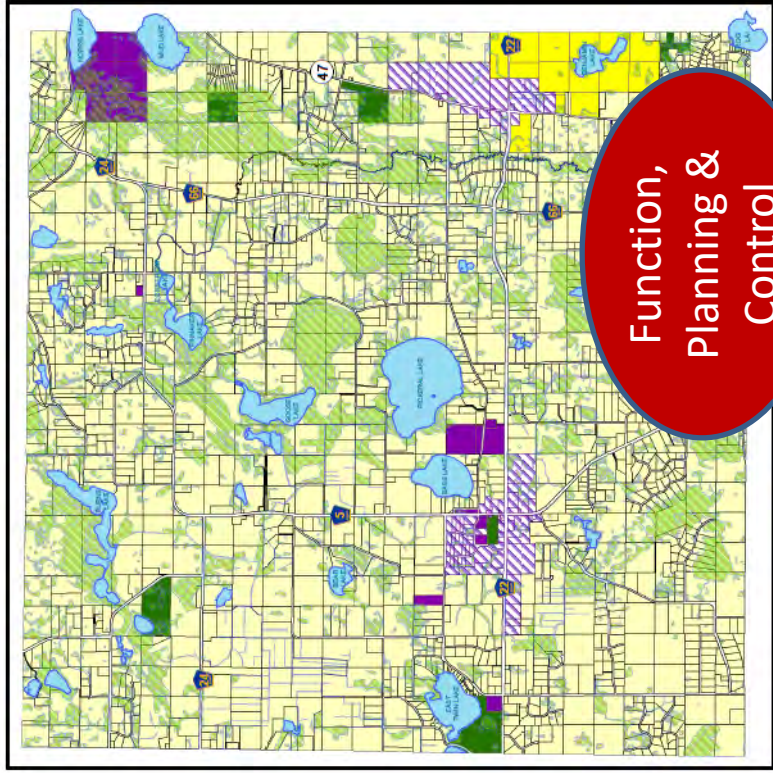
**Zoning &
Subdivision
Ordinances**

COMPREHENSIVE PLAN

- ❖ The Comprehensive Plan is the GUIDE for the City which is updated every 10 years
- ❖ Local communities coordinate their comprehensive plans with the Met Council's regional plans to achieve efficient growth and meet the needs of their residents.
 - Community Perspectives
 - Land Use & Development Policies
 - Natural Resources, Open Space, Parks & Trails
 - Transportation & Infrastructure
 - Community Facilities
 - Economic Development
 - Housing & Neighborhood Component
 - Implementation

❖ The City's Zoning Map is based on the 2040 Land Use Plan
 Plan....can't have one without the other.

CITY OF NOWTHEN
 2019 COMPREHENSIVE PLAN



2040 LAND USE PLAN

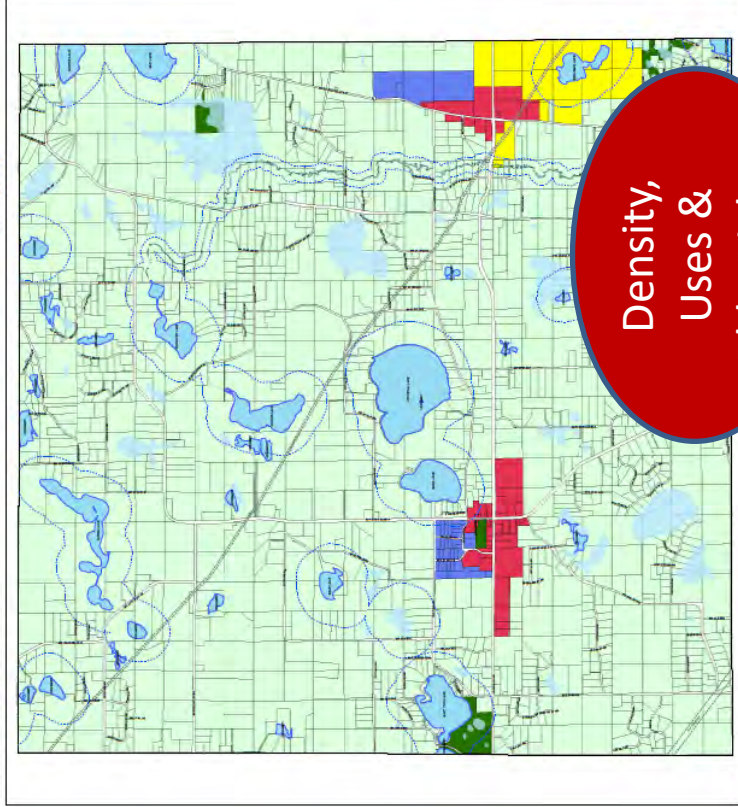
- Wetlands
- Rural Residential (Transition) (478/2.1%)
- 2040 2.0ac*
- Rural Residential (Permanent) (10452 acres / 88.4%)
- 840 2.5ac*
- Commercial / Industrial (628 acres / 2.9%)
- Public and Quasi Public (335 acres / 1.5%)
- Parks and Open Space (142 acres / 0.8%)



SOURCE: CITY OF NOWTHEN, ANOKA COUNTY,
 BURNSVILLE, MN
 MAP DATE: 3 MAR. 2019
 PROJECT: COMPREHENSIVE PLAN 19012019LANDUSE

CITY OF NOWTHEN
 Zoning Map

NOTICE: City files must be consulted to verify the zoning classification of property in addition to this map.



ZONING

- C-1 - Commercial District (370 acres / 1.74%)
- I-1 - Industrial District (220 acres / 1.04%)
- CON - Conservancy District (156 acres / 0.74%)
- RRA - Rural Residential Agriculture (19,897 acres / 94.20%)
- RRT - Rural Residential Transition (478 acres / 2.26%)
- Shoreland Overlay District



SOURCE: CITY OF NOWTHEN, ANOKA COUNTY,
 BURNSVILLE, MN
 MAP DATE: Aug 11, 2022
 PROJECT: Planning Department 19012021ZONING

CITY CODE

- ❖ City Codes are all ordinances adopted by the City Council, including any building codes, fire or life safety codes, development codes and zoning ordinances, as same may be amended from time to time.
 - Chapter 1 Administration
 - Chapter 2 Committees/Commissions
 - Chapter 3 Health & Safety
 - Chapter 4 Transportation & Infrastructure
 - Chapter 5 Public Property & Infrastructure
 - Chapter 6 Licenses
 - Chapter 9 Building Regulations
 - Chapter 10 SUBDIVISION
 - Chapter 11 ZONING

SUBDIVISION ORDINANCE

Division of land
(lot splits or
plats), street
design,
easements &
park/trail
dedication

ZONING ORDINANCE

Zoning districts,
allowed principal
& accessory
uses, setbacks,
home
occupations,
Variances &
Special Use
Permits

Staying out of

trouble!



DO NOT ADVOCATE!

- When processing a zoning application, you cannot advocate a position until all information has been submitted.
- Do not declare a position on the issue before the item is properly before your commission/council.
- Do not sign petitions or campaign in favor or against an issue that is the subject of a zoning application.
- Courts will invalidate a decision if a member has declared a position before record is complete.

THE 60-DAY RULE

- ❖ Minn. Stat. § 15.99 requires written requests relating to zoning, septic systems and/or the expansion of MUSA to be approved or denied within 60 days from the date of application.
 - A failure to deny a request within the time frame is an automatic approval of the request. But only to the extent that the town, city or county has authority to grant such request.
 - The municipality can show that it met the time requirement if it can document that its decision was sent within 60 days after receipt of the written application.
 - *City staff will make sure that the 60-day rule is followed.*

THE RECORD

- ❖ **The Open Meeting Law:**
 - All meetings considering request must be open under the Open Meeting Law
 - The Open Meeting Law applies to City Council, Planning Commission and Board of Adjustment meetings.
 - Presence of a quorum of a body discussing public business constitutes a “meeting” under the Open Meeting Law.
 - Informal site visits, where a quorum of the body is present, can result in Open Meeting Law violations. Give notice of such visits.

THE RECORD

- **Procedural Due Process:**
 - Under state and federal law the right to due process means the right to notice and an opportunity to be heard.
 - The right to procedural due process does not normally include the right to cross examine witnesses.
 - The right to procedural due process can be analogized to a right to a fundamentally fair process.

THE RECORD

- **Conduct of the Public Hearing:**
 - Remember that every application considered and denied could become a lawsuit.
 - At the hearing allow an applicant to inspect documents, present evidence, and fully present the case.
 - Establish rules of procedure as necessary to maintain control of the hearing, provide for appropriate public input under the circumstances, and keep the length of hearings reasonable.

THE RECORD

- **Conduct of the Hearing:**
 - The applicant has the burden to present evidence to show he or she meets the requirements of the ordinance for the permit required.
 - Make a record of the basis for denial or approval.
 - Make all pertinent documents part of record of the proceedings.
 - Listen to public sentiment and opposition, but do not let it drive your decision. Respond appropriately to facts presented.
 - Any exhibits (documents, photographs) presented should be made a part of the record.
 - Do not stretch the terms of your ordinance to justify the granting or denial of a permit.
 - Record the public hearing!

THE RECORD

❖ Findings of Fact/the Decision:

- Findings of fact are necessary as part of a permit denial or approval.
- Findings of fact should constitute an exercise of application of the record evidence to the standards set forth in the ordinance.
- Findings of fact should use the applicable decisional standards.
- Findings of Fact need to be contemporaneous with the decision and must be based on the record.
- Findings prepared within a reasonable amount of time from the zoning decision and based on reasons given when motion was approved are OK if a full record exists.

THE RECORD

- **Making the Record:**
 - In almost all cases, an adequate record precludes the applicant from introducing new data during an appeal of the municipality's decision.
 - During judicial review, a court will review the "record", and determine whether the decision of the Council was reasonable in light of record evidence.
 - Tape record or video the public hearing so that a permanent verbatim record of the proceedings is available if the issue goes to court.

THE RECORD

- **Importance of the Record:**
 - The standard of judicial review in all zoning matters is whether the zoning authority's action was reasonable (is the decision reasonably supported by the evidence in the record?)
 - Great deference is given to the decisions of municipalities in zoning matters, such that the role of the judiciary is limited and sparingly invoked. Court will not substitute its judgment for that of the municipality.
 - If the record is not good, the Court will likely allow the record to be supplemented with testimony at a trial. This will get ugly—depositions, discovery, GREAT EXPENSE!

CONFLICTS OF INTEREST

❖ Common Law Conflict of Interest

- Direct Pecuniary Interest Prohibited. Under common law, a public official is disqualified from voting on a matter if the official has a “direct” financial interest in the outcome of the matter.
 - Purpose. The purpose of this rule is to ensure that a decision will not be an arbitrary reflection of an official’s own financial interests.

CONFLICTS OF INTEREST

- ❖ Common Law Conflict of Interest.
 - Curing a Common Law Conflict.
 - A common law conflict of interest may be cured by abstaining from the vote.
 - Validity of Action. An action taken may be valid if the vote of the disqualified official did not affect the outcome of the decision.
- ❖ Even when a conflict of interest does not exist, the “appearance” of a conflict has the potential to tarnish the decision-making process.

Variances

What is a Variance?

- Official permission to use your property in a way otherwise prohibited by the zoning ordinance.
- Most common with setback issues—not enough room to set the house back from the road, property line or the lake.
- Landowner must apply for and receive a variance from the City after a public hearing.

Current Legal Standard

- The variance may be granted if:
 - There are “practical difficulties” in complying with the zoning ordinance.
 - The variance will not alter the essential character of the locality.
 - Circumstances unique to the property not caused by the landowner or his predecessor.
- Also requires that the variance be:
 - In harmony with the general purposes and intent of the zoning ordinance.
 - Consistent with Comprehensive Plan.

What are “Practical Difficulties”?

- Defined in statute as the “property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.”
- No guidance as to what is a “reasonable manner.”

- Likely means at least one of the following:
 - Proposed use is similar to existing uses in the neighborhood.
 - Proposed use is permitted in other zoning districts elsewhere in the town.
 - Has few, if any, adverse impacts on other properties.
- Courts will have to decide just what this means.

Conditions

- City can also put conditions on the variance, but they must be “directly related to” and “roughly proportionate” to the impact created by the variance.



Conditional
Use Permits
“CUP”

What is a Conditional Use Permit (CUP)?

- Permitted use, provided applicant meets the qualifications and conditions imposed by ordinance and City Council.
- Allows greater control over uses that may conflict with neighboring properties or generate traffic, noise, or other problems.

- Once granted, it runs with the land and can stay forever as long as conditions are not violated—no set termination date.
- Can be revoked after a hearing if conditions are violated.
- Once issued, conditions cannot be modified except with the agreement of the property owner.

Processing a CUP Application

- The applicant must meet all general conditions contained in the CUP section of the Town's zoning ordinance.
- The applicant must meet all specific conditions contained in the zoning district which authorizes the CUP.

Imposing Conditions

- City can impose conditions in the CUP permit.
- Conditions must be related to the impacts created by the proposed CUP.
- Cannot require that a legal non-conforming use be terminated—that is a taking requiring compensation.
- City does not need the applicant's consent to impose a condition.

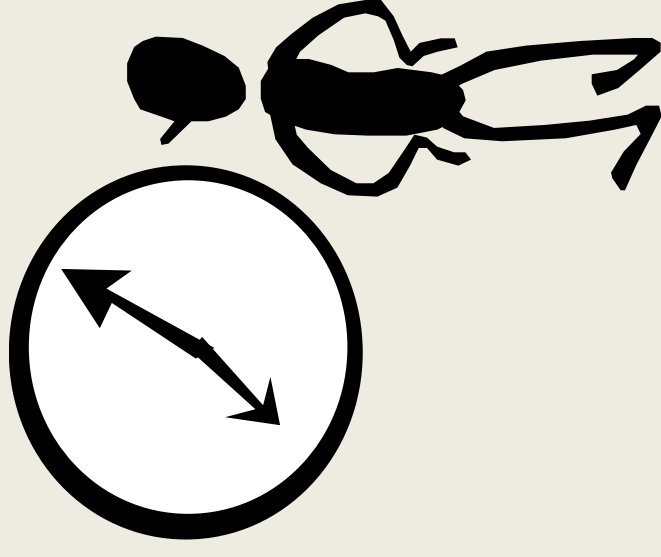
Quasi-Judicial Hearing

- Planning Commission/City Council sits in a quasi-judicial capacity when processing a CUP.
- Must determine whether applicant meets the criteria contained in the ordinance.
- If criteria met, CUP must be issued, but can contain conditions imposed by City.
- Decision must be based on the facts in the record.

Interim Use Permits “IUP”

What is an Interim Use Permit (IUP)?

- Very similar to a CUP, except that it is issued for a limited period of time.
- Can end on a date certain or an event. Examples:
 - IUP for a gravel pit may permit extraction of 50,000 cubic yards before it terminates.



- Examples (Continued)
 - IUP for a second home on a property to care for elderly parents may terminate when parents no longer live in the second home.
 - IUP for farmers' market expires on November 15, 2020.
- May be renewed upon expiration with the same or new conditions as determined by the City Council.

Caution!

- Minnesota Statutes require that the user agree to the conditions imposed on the applicant in granting the IUP.
- The law is unclear as to what happens if the applicant disagrees with conditions imposed by the zoning authority.

Why use an IUP?

- Allows for more control over potentially conflicting uses.
- Allows a use now that may not be appropriate at that location in the future.
- Gives the Town a chance to impose additional conditions if conflicts arise.


- Maximizes the productivity of property by allowing temporary uses that would otherwise not be allowed as a CUP.



How do you implement an IUP?

- Establish an IUP section in your zoning ordinance, similar to the existing CUP general conditions section.
- Review each zoning district to see what permitted and conditional uses should be changed to IUPs.
- Define the IUP uses within each zoning district and set out any specific conditions.

How do you administer an IUP?

- They are treated very similar to CUPs.
- Applicant needs to apply for an IUP.
- Must hold a public hearing after due notice.
- Need findings of fact to approve or deny.
- Decision can be appealed to District Court.
- Final approval should be recorded at County Recorder's office. 
- Copies of IUPs should be kept in a separate book so that they can be reviewed to make sure they do not last longer than allowed.

THANK YOU!

QUESTIONS?